

manner,* and there were some even among the soldiery who, considering the portions which fell to their lot as recompences due to their valour, and as settlements acquired by their own swords, took and retained possession of them in full property as freemen.† From these causes, there were many estates which were allodial, which the possessors enjoyed in their own right and did not hold of any superior lord, to whom they were bound to do homage or perform service.‡ Every tenant of this description was called *liber homo*, in contradistinction to "*vassalus*," or one who held of a superior,§ yet they were not by any means exempt from the service of the state—they were subject to the command of the Dukes, or Governors of Provinces, and the Counts, or Governors of Towns, who were officers of the King's appointment; and the duty of personal service was considered so sacred, that they were prohibited from entering into holy orders unless they had obtained the consent of the Sovereign.||

At their first incursions, the Barbarians, like the aborigines of Gaul, were governed by traditional customs. Their manners were uncivilized; war and hunting were the only subjects of pursuit in estimation, and, as they had no fixed habitations, no other property than cattle, their common disputes arose either from personal quarrels or acts of depredation. These were usually decided in public meetings of the people, held annually, at the close of winter, in general upon the information of witnesses, but in doubtful cases by the ordeal of fire or water, or by combat.¶

The polished minds of Romans, found nothing worthy of imitation in such conquerors, but the conquerors, savages as they were, perceived much in the Romans which they could not but admire. They particularly viewed a written Code of laws, as a novelty possessed of many advantages, and not only permitted the Roman jurisprudence to survive the destruction of the Roman Government, but, in imitation of what they approved, reduced their own usages to

writing, particularly the Salique Law, which was the peculiar Law of the Franks.* The Theodosian Code, and the Laws, Customs and usages of the Barbarians, became therefore equally the Laws of France,† and as all Laws were held to be purely personal, and were not for this reason confined in their operation to any certain District, the Barbarian was tried by the law of his tribe, the Roman by the Roman Code, the children followed the Law of their Father, the wife that of her husband; the widow came back to that to which she was originally subject, and the freedman was governed by the law of his Patron.‡ Yet, notwithstanding these general provisions, every individual was permitted to make election of the law by which he chose to be governed, it was only required that he should make it publicly, and such elections were frequent.§ The clergy in particular, who were chiefly Romans, considered the privilege of being governed by the Roman Law to be so valuable, that when any person entered into holy orders it was usual for him to renounce the Law to which he had been formerly subject, and to declare that he would, from henceforth, be governed by the Roman Code.|| Many customs, also, peculiar to the victors, were continued after the conquest of Gaul. It had particularly been their practice to meet in council, at the close of every winter, upon the state of their respective nations; and during the first and second Dynasties, several meetings of the Sovereign and of the Chiefs, in church and state, with the addition of the commons, (from the reign of Charlemagne) were held, in the open air, annually in the month of March or May, and from thence denominated *champs de mars*, or *champs de mai*.¶

In these Assemblies, Laws were passed for the government of the Kingdom at large, and Canons established for the regulation of the church. Taxes were imposed, Regencies were appointed, and the Sovereign elected until the Crown became hereditary, and then the successor was proclaimed, if his right to the Throne was not controverted, and, if it was, it was

* Dalrymple p. 10 and 11.

† Robertson's Charles V. vol. I., p. 214. Lefevre de la Planche, *Traité du Domaine*, vol. I., p. 117, et seq.

‡ Robertson's *ibid.*, vol. I, p. 214.

§ Robertson's *ib.*, p. 216. Dalrymple, pp. 10 and 11.

¶ Cust. of Paris, art. 182.

|| Capitular's Liber 1st, sec. 114.

¶ Fleury, pp. 12, 13.

* Fleury, p. 21.

† *Esprit des Lois*, Liber 28, cap. 4, vol. 2, p. 240.

‡ *Esprit des Lois*, Liber 28, cap. 2.

§ *Esprit des Lois*, Liber 28, cap. 2. Fleury, p. 18.

|| Robertson's Charles V. Vol. 1, p. 315.

¶ Fleury, p. 39.