

however, of that day was not the Justinian Code, for that was compiled near a hundred years after the expulsion of the Romans.* It consisted of the several Constitutions of the preceding Emperors and of the writings of certain Civilians. The Constitutions had been collected in three Codes—the Gregorian, Harmonian, and Theodosian, but the latter, published by the Emperor Theodosius, confirmed and adopted the two former, and as the writings of the Civilians consisted of such only as were sanctioned by the Code of Theodosius, there is reason to believe that it was the Theodosian Code only which was called the Roman Law.†

The power of the Roman Empire, in Gaul, was totally annihilated about the year 450 of the Christian era. Rome, weakened by the extent of her dominion, and yet more by the degeneracy of her citizens, debased in sentiments, depressed in talents and enervated in courage,‡ fell a sacrifice to the more hardy and enterprising Nations of the North, and the Government of all that extent of Territory, which has since been denominated France, was transferred to Barbarians—to the Franks and their associate Tribes—the Goths and Burgundians,§ and from the accession of the first Chieftain of the Franks (Merovée) France dates the origin of her Monarchy, divided into three Dynasties or races of Kings—the Merovingian—the Carolingian—and the Capetian. The first comprehends Merovée and his descendants, who possessed the Throne from the year 450 to the year 770, when they were succeeded by Charles the son of Pepin, afterwards called Charlemagne, and his descendants, who constitute the Carolingian race, in whose possession it remained until the year 987 when it passed to the Capetian race, who continued in possession, until the death of the late unfortunate Monarch, Louis the 16th, a descendant from Hugh Capet, the first of the Capetian dynasty.||

There was not among the Barbarians, by whom the Romans were expelled, any general government, they were subject in their own District to the Chieftain who could do them the

most good or the most injury,* and when they conquered Gaul, they took possession of the country as a band of independent clans.† Their first object was to secure their new acquisitions, and with this view, the leaders distributed among the soldiery, the lands which they had conquered, with a condition of continued military service annexed to the grant, an idea which appears to have been suggested by the peculiar situation in which they were placed, and to have been put in practice as the best means of furnishing that immediate mutual assistance, which was indispensably necessary for the defence and preservation of their conquest. Large districts or parcels of land were accordingly allotted to the chieftains and to the superior officers, who were called Leuds,‡ (Lords or Seigneurs), and their allotments, which were called feuda (fiefs or fees) were subdivided among the inferior officers and soldiers upon the general condition that the possessor should do service faithfully, both at home and abroad, to him by whom they were given.§ Every feudatory was, therefore, bound, when called upon, to defend his immediate superior, from whom he had received, and of whom he held, his estate: that superior to defend his superior, and so upwards to the Prince; while, on the other hand, the Prince and every seigneur was equally bound to defend his vassals or dependants who held their estates of him; so that the duty of the whole was severally and reciprocally to defend the conquest they had made together, and every part of it.|| This singular institution, which is now called the feudal system, by degrees became general in France, and by the new division of property which it occasioned, with the peculiar maxims and manners to which it gave rise, gradually introduced a species of laws before unknown.

The whole of France, however, was not so distributed nor so holden—all was not seized by the conquerors. Such of the ancient inhabitants as were allowed to remain in the country kept their estates as they held them before; many, also, of the invaders who were not yet attached to any particular chieftain, took possession of vacant lands and enjoyed them in the same

* Fleury, p. 10.

† Fleury, p. 12.

‡ Gibbon's Decline and Fall, vol. 1, p. 94. 1 L. C. Denisart's Discours Préliminaire, p. 59.

§ Esprit des Loix, Lib. 30, c. 6, vol. 2, p. 354.

|| See the Histories of France by Duhaillan, Mezeray, &c.

* Dalrymple's Essay on the Feudal System, p. 5.

† Ibid. p. 6.

‡ Dalrymple, p. 11. Loyseau des Seigneuries, §§ 60 & 61, cap. 1.

§ Loyseau des Seigneuries, cap. 1, §§ 62 to 66.

|| Wright on Tenures, p. 8.