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THE

HISTORY OF CIVILIZATION,

FROM THE FALL OF THE ROMAN EMPIRE
TO THE FRENCH REVOLUTION.

BY F. GUIZOT,

AUTHOR OF "HISTORY OF THE ENGLISH REVOLUTION OF 1640."

TRANSLATED BY WILLIAM HAZLITT, ESQ.

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HISTORY

OF

CIVILIZATION IN FRANCE.

LECTURE THE FIRST.

Object of the course—Elements of national unity—They exist and begin to be developed in France towards the end of the 10th century—Thence dates French civilization—The feudal period will be the subject of this course—It includes the 11th, 12th, and 13th centuries, from Hugh Capet to Philippe de Valois—Proof that these are the limits of the feudal period—Plan of the course: History; 1st, of society; 2nd, of the human mind, during the feudal period—The history of society resolves itself into, 1st, history of civil society; 2nd, history of religious society—The history of the human mind resolves itself into, 1st, history of learned literature; 2nd, history of national literature in the vulgar tongue—Importance of the middle ages in the history of French civilization—The present state of opinions concerning the middle ages—Is it true that there is danger in historical impartiality and poetical sympathy for this period?—Utility of this study.

In commencing the last course, I was obliged to determine its subject, and to explain the motives of my choice. At present I have not anything of the kind to do. The subject of our study is known; the route is traced. I endeavoured to place you in the presence of the origins of French civilization under the two first races; I propose to follow it through all its vicissitudes, in its long and glorious development up to the eve of our own times. I now, therefore, again take up the subject where we left it, that is to say at the end of the tenth century, at the accession of the Capetians.

As I told you in concluding the past course, it is there that French civilization commences. Hitherto you will recollect, we have spoken of Gaulish, Roman, Gallo-Roman, Frankish, Gallo-Frankish, civilization; we were obliged to make use of foreign names which did not belong to us, in order to express with any fulness, a society without unity, without fixedness, without entirety. Dating from the end of the tenth century, there is no longer anything of this kind; it is now with the French, with French civilization, that we have to occupy ourselves.

And yet it was at this very epoch that all national and political unity was disappearing from our land. All books say this, and all facts show it. It was the epoch when the feudal system, that is to say, the dismemberment of the people and of power, entirely prevailed. At the eleventh century, the soil which we call France was covered with petty nations and petty sovereigns, almost strangers one to the other, almost independent of each other. Even the very shadow of a central government, of a general nation, seemed to have disappeared.

How comes it that really French civilization and history commences exactly at the moment when it was almost impossible to discover a France?

It is because, in the life of nations, the external visible unity, the unity of name and government, although important, is not the first, the most real, not that which truly constitutes a nation. There is a more profound, more powerful unity: that which results, not from the identity of government and destiny, but from the similarity of social elements, from the similarity of institutions, manners, ideas, sentiments, languages; the unity which resides in the men themselves whom the society unites together, and not in the forms of their junction; moral unity, in point of fact, far superior to political unity, and which alone can give it a solid foundation.

Well, it is at the end of the tenth century that the cradle of this at once unique and complex being, which has become the French nation, is placed. She required many centuries and long efforts to extricate herself, and to produce herself in her simplicity and grandeur. Still, at this epoch, her elements existed, and we begin to catch glimpses of the work of their development. In the times which we studied in the last

course, from the fifth to the tenth century, under Charlemagne, for example, external political unity was often greater and stronger than at the epoch with which we are about to occupy ourselves. But if you go thoroughly into the matter, into the moral state of the men themselves, you find there is an utter absence of unity. The races are profoundly different, and even hostile; the laws, traditions, manners, languages, likewise differ and struggle; situations, social relations have neither generality nor fixedness. At the end of the tenth and at the commencement of the eleventh century, there was no kind of political unity like that of Charlemagne, but races began to amalgamate; diversity of laws according to origin is no longer the principle of all legislation. Social situations have acquired some fixedness; institutions not the same, but throughout analogous, the feudal institutions prevailed, or nearly so, over all the land. In place of the radical, imperishable diversity of the Latin language and the Germanic languages, two languages began to be formed, the Roman language of the south, and the Roman language of the north, doubtless different, but still of the same origin, of the same character, and destined one day to become amalgamated. Diversity also began to be effaced from the soul of men, from their moral existence. The German is less addicted to his Germanic traditions and habits; he gradually detaches himself from the past to belong to his present situation. It is the same with the Roman; he thinks less of the ancient empire, of its fall, and of the sentiments which it gave rise to in him. Over conquerors and conquered, the new, actual facts, which are common to them, daily exercise more influence. In a word, political unity is almost null, real diversity still very great, and yet at bottom there is more of true unity than there has been for five centuries. We begin to catch glimpses of the elements of a nation; and the proof is, that from this epoch the tendency of all these social elements to conjoin, to assimilate and form themselves into great masses, that is to say, the tendency towards national unity, and thence towards political unity, becomes the dominant characteristic, the great fact of the history of French civilization, the general and constant fact around which all our study will turn.

The development of this fact, the triumph of this tendency, has made the fortune of France. It is by this especially that she has outstripped the other nations of the continent in the career of civilization. Look at Spain, Italy, even Germany: what is it that they want? They have progressed far more slowly than France towards moral unity, towards the formation into a single people. Even there where moral unity has been formed, or nearly so, as in Italy and Germany, its transformation into political unity, the birth of a general government, has been slackened or almost entirely stopped. France, more happy, arrived more rapidly and more completely at that double unity, not the only principle, but the only pledge of the strength and grandeur of nations. It was at the end of the tenth century that it, so to speak, commenced its progress towards this important result. It is, therefore, from this epoch that French civilization really dates; it is there that we may begin to study it under its true name.

The feudal period, that is, the period when the feudal system was the dominant fact of our country, will be the subject of the present course.

It is comprehended between Hugh Capet and Philippe de Valois, that is, it embraces the eleventh, twelfth, and thirteenth centuries.

That these are the true limits, the career of the feudal system, it is easy I think to establish.

The peculiar general character of feudalism, as I have just repeated, and as every one knows, is the dismemberment of the people and of power into a multitude of petty nations and petty sovereigns; the absence of any universal nation, of any central government. Let us see the limits in which this fact is contained. These limits will necessarily be those of the feudal period.

We may, if I do not deceive myself, recognise them especially by three symptoms.

1. To what enemies did feudalism succumb? Who opposed it in France? Two powers; royalty on the one hand, on the other, the commons. By royalty a central government was formed in France; by the commons was formed an universal nation, which grouped itself around the central government.

At the end of the tenth century, royalty and the commons were not visible, or at all events scarcely visible. At the

commencement of the fourteenth century, royalty was the head of the state, the commons were the body of the nation. The two forces to which the feudal system was to succumb had then attained, not, indeed, their entire development, but a decided preponderance. By this symptom we may then say that there the feudal period, properly so called, stops, since the absence of any universal nation, and of all central power, is its essential characteristic.

Here is a second symptom which assigns the same limits to the feudal period.

From the tenth to the fourteenth century, wars, which were then the principal event of history, have, at least the greater part of them, the same characteristic. They are internal, civil wars, as it were in the bosom of feudalism itself. It is a suzerain who endeavours to acquire the territory of his vassals; vassals who dispute among themselves certain portions of the territory. Such appear to us, with the exception of the crusades, almost all the wars of Louis le Gros, of Philip August, Saint Louis, and Philippe le Bel. It is from the very nature of the feudal society that their causes and effects arise.

With the fourteenth century the character of war changed. Then began the foreign wars; no longer a vassal against suzerain, or vassal against vassal, but nation against nation, government against government. On the accession of Philippe de Valois, the great wars between the French and the English broke out—the claims of the kings of England, not upon any particular fief, but upon the whole land, and upon the throne of France—and they continued up to Louis XI. They were no longer feudal, but national wars; a certain proof that the feudal period stopped at this limit, that another society had already commenced.

Lastly, if we address ourselves to a third kind of indication, if we interrogate the great events which we are accustomed, and with reason, to look upon as the result, as the expression of feudal society, we shall find that they are all included within the epoch of which we speak. The crusades, that great adventure of feudalism and its popular glory, finished, or nearly finished, with Saint Louis and the thirteenth century; we hear afterwards but a futile echo of them. Chivalry, that poetical daughter, that ideal, so to speak, of the feudal

system, is equally inclosed in the same limits. In the fourteenth century it was on the decline, and a knight errant already appears a ridiculous personage. Romantic and chivalrous literature, the troubadours, the trouveres, in a word, all the institutions, all the facts which may be looked upon as the results, the companions of feudalism, alike belong to the eleventh, twelfth, and thirteenth centuries. That, therefore, is evidently the feudal period; and when I confine it to these limits, I do not adopt an arbitrary, purely conventional classification; it is the fact.

Now, how shall we study this epoch? What method will best make it known to us?

It will, I hope, be borne in mind, that I have regarded civilization as the result of two great facts; the development, on the one hand of society, on the other, of individual man. I have therefore always been careful to retrace external and internal civilization, the history of society and the history of man, of human relations and of human ideas, political history and intellectual history.

We shall follow the same method here, we shall examine the feudal period from this twofold point of view.

From the political point of view, in confining ourselves to the history of society, we shall find from the tenth to the fourteenth century, as from the fifth to the tenth, two societies closely bordering on each other, dovetailed, as it were, into one another, yet essentially distinct: the civil society and the religious society, the church and the state; we shall study them separately, as we have hitherto done.

Civil society is to be considered, first, in the facts which constitute it, and which show us what it has been; secondly, in the legislative and political movements which emanate from it, and upon which its character is imprinted.

The three great facts of the feudal period, the three facts whose nature and relations comprehend the history of civilization during these three centuries, are—1, the possessors of fiefs, the feudal association itself; 2, above and by the side of the feudal association, in intimate relation with it, and yet reposing upon other principles, and applying itself to create a distinct existence, royalty; 3, below and by the side of the feudal association, also in intimate relation with it, and yet also reposing upon other principles, and labouring to

separate itself, the commons. The history of these three facts, and of their reciprocal action is, at this epoch, the history of civil society.

With regard to the written monuments that remain to us, there are four principal ones: two collections of laws which modern learning, wrongly I think, would call codes; and two works of jurisconsults. The legislative monuments are—1. The collection of the ordinances of the kings of France, and especially the *establissements* of Saint Louis. 2. His *assises* of the Frank kingdom of Jerusalem, drawn up by order of Godefry de Bouillon, which reproduce the image of the feudal society more completely and more faithfully than any other document.

The two works of jurisconsults are—1. The *Coutume de Beauvaisis*, by Beaumanoir. 2. The *Traité de l'ancienne Jurisprudence des Français; ou Conseils à un Ami*, by Pierre de Fontaines.

I shall study with you these monuments of the feudal legislation as I have studied the barbarian laws and capitularies, by carefully analysing them, and attempting to thoroughly comprehend their contents, and to exactly understand their nature.

From civil society we shall pass to religious society; we shall consider it, as we have already done, 1. In itself, in its peculiar and internal organization. 2. In its relations with civil society, with the state. 3. Finally, in its relations with the external government of the universal church—that is, with papacy.

The history of society, if I do not deceive myself, will thus be completed; we shall then enter into the history of the human mind. At this epoch it resides in two great facts, two distinct literatures: 1. A learned literature, written in Latin, addressed solely to the learned classes, lay or ecclesiastical, and which contains the theology and philosophy of the time. 2. A national, popular literature, entirely in the vulgar tongue, addressed to the whole community, particularly to idlers and to the lower classes. Whosoever neglects either of these two facts, whoever does not thoroughly understand these two literatures, who does not see them marching abreast, rarely close to each other, rarely acting upon one another, but both powerful and holding an important place, who does

not see all this, will have but an incomplete and false idea of the intellectual history of this epoch, of the state and progress of mind.

Such, in its whole, is the plan of the present course.

Here, most assuredly, is a vast field opened to our study. There is here enough long to excite and nourish learned curiosity. But is so great an epoch of our history—is France in the rudest crisis of her development—in a word, the middle ages, are they with us a mere matter of learning, a mere object of curiosity? Have we not the most universal and pressing interest in thoroughly understanding it? Has the past no other value attached to it than for erudition? has it become totally foreign to the present, to our life?

Two facts, if I mistake not, two contemporary visible facts, prove that such is not the case.

The imagination at the present day is evidently gratified in carrying itself back towards this epoch. Its traditions, its manners, its adventures, its monuments, have an attraction for the public which cannot be mistaken. We may, upon this subject, interrogate letters and the arts; we may open the histories, romance, poems of our time; we may enter the furniture and curiosity shops; everywhere we shall see the middle ages cultivated, reproduced, occupying the thought, amusing the taste of that portion of the public which has time to spare for its intellectual wants and pleasures.

At the same time there is manifested, on the part of some enlightened and honourable men, sincere friends to the learning and progress of humanity, an increasing aversion towards this epoch and all which recals it. In their eyes, those who there seek inspirations, or merely poetical pleasure, carry literature back towards barbarism; in their eyes, those who, from a political point of view, and amidst an enormous mass of error and of evil, seek to find in it anything of good, those, whether they wish it or not, favour the system of despotism and privilege. These unrelenting enemies of the middle ages deplore the blindness of the public who can take any pleasure in going back, merely in imagination, amidst those barbarous ages, and seem to predict, if this despotism continues, the return of all the absurdities, of all the evils, which then weighed upon nations.

This clearly proves that the middle ages are quite other

than a matter of learning to us; that they correspond to interests more real, more direct than those of historical erudition and criticism, to sentiments more general, more full of life than that of mere curiosity.

How can we be surprised at this? The twofold fact which I spoke of is exactly the result, and as it were a new form of the two essential characteristics of the middle ages, the two facts by which that epoch has held so great a place in the history of our civilization, and influenced posterior ages so powerfully.

On the one hand, it is impossible to overlook the fact that there is the cradle of modern societies and manners. Thence date—1. Modern languages, and especially our own. 2. Modern literatures, precisely in all that there is in them of the national, the original, of the foreign to all mere learning, to all imitation of other times, of other countries. 3. The greater portion of modern monuments, monuments in which, for many centuries, the people have assembled, and still continue to assemble, churches, palaces, town-halls, works of art and public utility of every kind. 4. Almost all historical families, families who have played a part and placed their name in the various phases of our destiny. 5. A large number of national events, important in themselves, and for a long time popular, the crusades, chivalry; in a word, almost everything which for centuries has filled and agitated the imagination of the French people.

This is evidently the heroic age of modern nations, among others, of France. What more natural than its poetical affluence and attraction?

By the side of this fact, however, we encounter another no less incontestable: the social state of the middle ages was constantly insupportable and odious, and especially so in France. Never did the cradle of a nation inspire it with such antipathy; the feudal system, its institutions and principles, never obtained that unhesitating adhesion, the result of habit, which nations have often given to the very worst systems of social organization. France constantly struggled to escape from them, to abolish them. Whosoever dealt them a blow, kings, jurisconsults, the church, was sanctioned and became popular; despotism itself, when it seemed a means of deliverance from them, was accepted as a benefit.

The eighteenth century and the French revolution have been for us the last phase, the definitive expression of this fact of our history. When they broke forth, the social state of the middle ages had long been changed, enervated, dissolved. Yet it was against its consequences and recollections that, in the popular mind and intention, this great shock was more especially accomplished. The society which then perished, was the society which the Germanic invasion had created in the west, and of which feudalism was the first and essential form. It was, in truth, no longer in existence: yet it was against it that the revolution was directed.

But precisely because of this fact, precisely because the eighteenth century and the revolution were the definitive explosion of the national antipathy to the social state of the middle ages, two things were inevitably destined to happen, and in fact did happen: 1. In their violent efforts against the memory and remains of this epoch, the eighteenth century and the revolution would necessarily fail in impartiality towards it, and would not recognise the good which might be met with in it; and it would in like manner overlook its poetical character, its merit, and its attractions as the cradle of certain elements of the national life. The epochs in which the critical spirit dominates, that is to say, those which occupy themselves more especially with examining and demolishing, generally understand but little of the poetical times, those times when man complacently gives himself to the impulsion of his manners and the facts which surround him. They understand more especially little of what there is of the true and poetical in the times against which they make war. Open the writings of the eighteenth century, those at least which really have the character of the epoch, and contributed to the great revolution then accomplished; you will see that the human mind there shows itself very little sensible of the poetical merit of any social state much differing from the type which they then conceived and followed, especially of the poetical merit of the rude and unrefined times, and, among those times, of the middle ages. The *Essai sur les mœurs et l'esprit des nations* is in this way the most faithful image of the general disposition of the age: look there for the history of the middle ages: you will see that Voltaire incessantly applied himself to the task of extracting all that is gross,

absurd, odious, calamitous, in this epoch. He was right, thoroughly right in the definitive judgment which he gave of it, and in his efforts to abolish its remains. But that is all that he sees of it; he thinks only of judging and abolishing, in his historical writings, that is to say, in his works of polemical criticism; for Voltaire has done other things than criticism. Voltaire was also a poet, and when he gave himself up to his imagination, to his poetical instincts, he found impressions greatly differing from his judgment. He has spoken of the middle ages elsewhere than in the *Essai sur les mœurs et l'esprit des nations*, and how has he spoken of it?

"Oh! l'heureux temps que celui de ces fables,
Des bons démons, des esprits familiers,
Des farfadets, aux mortels secourables!
On écoutait tous ces faits admirables
Dans son chateâu, pres d'un large foyer.
Le pere et l'oncle, et la mere et la fille,
Et les voisins, et toute la famille,
Ouvraient l'oreille à monsieur l'aumônier,
Qui leur faisait des contes de sorcier.
On a banni les démons et les fées;
Sous la raison les graces étouffées
Livrent nos cœurs à l'insipidité;
Le raisonner tristement s'accrédité;
On court, hélas! après la vérité:
Ah! croyez moi, l'erreur a son merite."

Voltaire is wrong to call the poetical side of these old times *erreur;* Poetry there doubtless associated herself with many errors; but in herself she was true, although of a truth very different from philosophical truth, and she answered to very legitimate wants of human nature. This incidental observation, however, is of but little importance; what is necessary to be remarked, is the singular contrast between Voltaire the poet, and Voltaire the critic. The poet acutely feels for the middle ages impressions to which the critic shows himself an entire stranger; the one deplores the loss of those impressions which the other applies himself to destroy: nothing, surely, better manifests that want of political impartiality and poetical sympathy in the eighteenth century, of which I just now spoke.

We are now in the reaction against the tendency of the age which preceded us. This fact is evidenced in the direction now taken, at least for the most part, by historical studies, by works of general literature following the public taste, and also in the indignation of the exclusive partisans of the eighteenth century. Is this indignation legitimate? Is the danger denounced from this reaction so great? is there any danger at all?

In a literary point of view I shall not absolutely deny it. I would not say that there is not some exaggeration, something of mania in this return of the imagination towards the middle ages, and that good sense and good taste have not a little suffered from it. The reaction, followed with much talent, appears to me, upon the whole, a groping rather than a regeneration. In my opinion, it proceeds from very distinguished men, sometimes sincerely inspired, but who often deviate in seeking a good vein, rather than from people who have found one, and are working it with confidence. But in truth, in the actual state of society and mind, the evil cannot become very grave. Are not publicity and criticism always at hand in the literary world as well as in the political world, and always ready to render everywhere the same services, to warn, restrain, to combat, in fine to prevent us from falling under the exclusive domination of a coterie or system? They do not spare the new school; and the public, the genuine and general public, while receiving it with gentleness, does not seem disposed to become subjected by it. It judges it, and sometimes even rebukes it rather roughly. Nothing, therefore, seems to me to indicate that barbarism is about to resume sway over the national taste.

Besides, we must take life where life manifests itself; the wind, from whatever quarter it blows; talent, wherever it has pleased Heaven to bestow it. For we need above all things in the literary world talent and life. The worst that can happen to us here is immobility and sterility.

Is danger to political impartiality the character of the reaction which they deplore? This must be absolutely denied. Impartiality will never be a popular tendency, the error of the masses; they are governed by simple, exclusive ideas and passions; there is no fear of their ever judging too favourably of the middle ages and their social state. Present interests,

national traditions in this respect preserve, if not all their potency, at least sufficient influence to prevent all excess. The impartiality which is spoken of will scarcely penetrate below the regions of science and of philosophical discussion.

And what is it in these regions themselves, and among the very men who most pique themselves on it? Does it impel them in any way towards the doctrines of the middle ages? to any approbation of their institutions—of their social state? Not in the least degree. The principles upon which modern societies rest, the progress and the requirements of reason and of human liberty, have certainly not firmer, more zealous defenders, than the partisans of historical impartiality; they are first in the breach, and more exposed than any others to the blows of their enemies. They have no esteem for the old forms, the fanatic and tyrannical classification of feudal France, the work of force, which ages and enormous labours have had such difficulty in reforming. What they claim is a full and free judgment of this past of the country. They do not believe that it was absolutely destitute of virtue, liberty, or reason, nor that we are entitled to contemn it for its errors and fallings off in a career in which, even in the present day, after such progress, so many victories, we are ourselves advancing so laboriously.

There is evidently therein no danger either for the liberty of the human mind, or for the good organization of society.

Might there not be, on the other hand, great advantages in this historical impartiality, this poetical sympathy for ancient France?

And first, is it nothing to have a source of emotions and pleasures opened to the imagination? All this long epoch, all this old history, in which one hitherto saw nothing but absurdity and barbarism, becomes for us rich in great memories, in noble adventures, in events and sentiments in which we feel a vivid interest. It is a domain restored to that need of emotion, of sympathy, which, thanks to God, nothing can stifle in our nature. The imagination plays an immense part in the life of men and of nations. In order to occupy it, to satisfy it, an actual energetic passion is necessary, like that which animated the eighteenth century and the revolution, a rich and varied spectacle. The present alone, the present without passion, the calm and regular pre-

sent, does not suffice for the human soul; it feels narrow and poor in it; it desires more extension, more variety. Hence the importance and the charm of the past, of national traditions, of all that portion of the life of nations in which imagination wanders and freely enjoys itself, amidst a space far more vast than actual life. Nations may one moment, under the influence of a violent crisis, deny their past—even curse it; they cannot forget it, nor long or absolutely detach themselves from it. On a certain occasion, in one of the ephemeral parliaments held in England under Cromwell, in that which took the name of one of its members, a ridiculous personage, in the Barebone parliament, a fanatic arose, and demanded that in all the offices, in all public establishments, they should destroy the archives, the records, all the written monuments of old England. This was an excess of that fever which sometimes seizes nations, amidst the most useful, the most glorious regenerations; Cromwell, more sensible, had the proposition rejected. Is it to be supposed that it would long have had the assent of England, that it would truly have attained its end?

In my opinion, the school of the eighteenth century has more than once committed this mistake of not comprehending the whole of the part which imagination plays in the life of man and of society. It has attacked, cried down, on the one hand, everything ancient, on the other, all which assumed to be eternal, history and religion: that is, it has seemed to dispute, to wish to take from men the past and the future, in order to concentrate them in the present. The mistake explains itself, even excuses itself by the ardour of the struggle then on foot, and by the empire of the passion of the moment, which satisfied those requirements of emotion and of imagination, imperishable in human nature. But it is no less serious, and of serious consequence. It were easy to show the proof and effects of this in a thousand details of our contemporaneous history.

It has, moreover, been made matter of complaint, and with reason, that our history was not national, that we were in want of associations, of popular traditions. To this fact some of the faults of our literature, and even of our character, have been imputed. Should it then be extended beyond these natural limits? Is it to be regretted that the past should again become something for us, that we should again take some interest in it?

In a political point of view, and in an entirely positive aim, this were a valuable advantage. The power of associations in fixing and fertilizing institutions is very great. Our institutions are beneficial and powerful; they rest upon truly national interests, upon ideas which have penetrated deeply into minds. Still they are young; they do not claim the authority of a long experience, at all events not of a long national experience. It was in the name of reason, of philosophy, that they first appeared: they took birth in doctrines: a noble origin, but for some time subject to the uncertainties, the vicissitudes of the human mind. What more useful than to make them thus strike root in the past; to unite the principles and guarantees of our social order to principles half seen, to guarantees sought in the same path through ages? Facts are at present popular; facts have favour and credit. Well, let the institutions, the ideas which are dear to us, be strongly established in the bosom of facts, of the facts of all time; let the trace of them be everywhere found; let them everywhere reappear in our history. They will thence derive force, and we ourselves dignity; for a nation has higher esteem for itself, and has greater pride in itself, when it can thus, in a long series of ages, prolong its destiny and its sentiments.

Lastly, another advantage, an advantage of an entirely different nature, but no less considerable, must result to us from impartiality towards the middle ages, and from an attentive and familiar contemplation of that epoch.

That the social reform which is brought about in our times, under our eyes, is immense, no man of sense can deny. Never were human relations regulated with more justice, never has the result been a more general well-being.

Not only is social reform great, but I am convinced that a correspondent moral reform has also been accomplished; that, perhaps, at no epoch has there been, upon the whole, so much propriety in human life, so many men living regularly, that never has less public force been necessary to repress individual wills. Practical morality, I am convinced, has made almost as much progress as the well-being and the prosperity of the country.

But under another point of view we have, I think, much to gain, and we are justly reproachable. We have lived for

fifty years under the influence of general ideas, more and more accredited and powerful, under the weight of formidable, almost indescribable events. Thence has resulted a certain weakness, a certain effeminacy in minds and in characters. Individual wills and convictions want energy and confidence in themselves. They think with a common opinion, they obey a general impulse, they give way to an external necessity. Whether to resist or to act, each has but little idea of his own strength, little confidence in his own thoughts. The individuality, in a word, the inward and personal energy of man, is weak and timid. Amidst the progress of general liberty, men seem to have lost the proud sentiment of their own liberty.

Such were not the middle ages; the social condition of those ages was deplorable; human morality very inferior, according to what is told us, to that of our times. But in men, individuality was strong—will, energetic.

There were then few general ideas which governed all minds, few events which, in all parts of the territory, in all situations, weighed upon characters. The individual displayed himself upon his own account, according to his own inclination, irregularly, and with confidence; the moral nature of man appeared here and there with all its ambition, all its energy. A spectacle not only dramatic and attractive, but instructive and useful; which offers us nothing to regret, nothing to imitate, but much to learn from, were it only by constantly recalling our attention to that wherein we are deficient, by showing us what a man may do when he knows how to believe and to will.

Such merits certainly will justify the care which we shall take in our study; and it will, I hope, be seen, that in being just, fully just towards this great epoch, there is for us no danger and some benefit.

SECOND LECTURE.

Necessity for studying the progressive formation of the feudal system—It is often forgotten that social facts form themselves but slowly, and in forming themselves. undergo many vicissitudes—Analysis of the feudal system in its essential elements. They are three in number: 1. The nature of territorial property; 2. Amalgamation of sovereignty and property; 3. Hierarchical organization of the feudal association—State of territorial property from the 5th to the 10th century—Origin and meaning of the word *feodum*—It is synonymous with *beneficium*—History of benefices, from the 8th to the 10th century—Examination of the system of Montesquieu concerning the legal gradation of the duration of benefices—Causes of the increase of the number of benefices—Almost all landed property became feudal.

It has been shown that the feudal period embraces the eleventh, twelfth, and thirteenth centuries. Before entering upon it, before studying it in itself and according to the plan which I have drawn out, it is necessary that we should have some distinct idea of the origins of feudalism; it is necessary to follow it, and to present it to our minds in all the various phases of its progressive formation, from the fifth to the tenth century.

I intentionally say, its progressive formation. No great fact, no social state, makes its appearance complete and at once; it is formed slowly, successively; it is the result of a multitude of different facts, of different dates and origins, which modify and combine themselves in a thousand ways before constituting a whole presenting itself in a clear and systematic form, receiving a special name and standing through a long life.

This is so simple, so evident a truth, that, at first sight, it seems useless to call it to mind; it is, however, necessary to do

so, for it has been and is constantly forgotten. An historical epoch is generally studied when it has ceased, a social condition when it has disappeared. It is, then, in their entirety, under their complete and definitive form that that epoch and that condition are presented to the mind of the observer or the historian. He is easily led to suppose that it has always been thus; he easily forgets that those facts, which he contemplates in all their development, commenced, increased, and while increasing underwent numerous metamorphoses; and he proposes to see, and everywhere seeks them, such as he knew and conceived them at the time of their full maturity.

Numerous and various errors arise from this inclination, in the history even of beings whose unity and whose permanence is the greatest and most visible in the history of men. Why are there so many contradictions and uncertainties concerning the character and moral destinies of Mahomet, of Cromwell, or of Napoleon? Why those problems concerning their sincerity or hypocrisy, their egoism or patriotism? Because people want to see them, as it were, simultaneously, and as having co-existent in them dispositions and ideas which were successively developed; because they forget that, without losing their essential identity, they greatly and constantly changed; that the vicissitudes of their external destiny corresponded to internal revolutions, often unseen by their contemporaries, but real and powerful. If they followed them step by step, from their first appearance in the world until their death, if they were present at that secret work of their moral nature amidst the mobility and activity of their life, they would perceive many of those incoherences, those absurdities which surprise them, disappear, or at least become attenuated; and then only would they truly know and understand them.

If it be thus in the history of individual beings, the most simple of all, and whose duration is so short, with how much more reason is it in the history of societies, of those general facts, so vast, so complex, and which extend through so many centuries! It is here especially that there is danger of overlooking the variety of origins, the complication and slowness of formation. We have a striking example of this in the matter which occupies us. Few historical pro-

blems have been more differently and eagerly debated than that as to when and how the feudal system commenced. To speak only of French scholars and publicists, Chantereau-Lefevre, Salvaing, Brussel, de Boulainvilliers, Dubos, Mably, Montesquieu, and many others: each forms a different idea of it. Whence arises this diversity? It is that they have almost all proposed to find the feudal system entire even in its very cradle, to find it such as they see it is at the epoch of its full development. Feudalism has, as it were, entered at once into their mind; and it is in this condition, at this stage of its history, that they have everywhere sought it. And as, notwithstanding, each of them has applied himself more particularly to such and such a characteristic of the feudal system, and has made it to consist in one particular element rather than another, they have been led into immensely different ideas of the epoch and mode of its formation; ideas which may be easily rectified and reconciled as soon as people will consent not to forget that feudalism took five centuries in forming, and that its numerous elements, during this long epoch, belong to very different elements and origins.

It is according to this idea, and never losing sight of it, that I shall endeavour to trace the history of its progressive formation, rapidly and as a preparation to the study of feudalism itself.

To succeed in this, it is necessary—first, to determine the principal facts, the essential elements of this social condition; I mean the facts which properly constitute it, and distinguish it from all others. Secondly, to follow these facts through their successive transformations, each isolately and in itself, and in the junctions and combinations which at the end of five centuries resulted in feudalism.

The essential facts, the constituent elements of the feudal system, may, I think, be reduced to three.

1. The particular nature of territorial property, real, full, hereditary, and yet derived from a superior, imposing certain personal obligations on its possessor, under pain of forfeiture, in a word, wanting in that complete independence which is now its characteristic.

2. The amalgamation of sovereignty with property, I mean the attribution to the proprietor of the soil over all the

inhabitants of that soil, of the whole or nearly the whole of those rights which constitute what we now call sovereignty, and which are now possessed only by the government, the public power.

3. The hierarchical system of legislative, judicial, military institutions, which united the possessors of fiefs among themselves, and formed them into a general society.

These, if I am not mistaken, are the truly essential and constitutive facts of feudalism. It would be easy to resolve it into a larger number of elements, to assign to it a greater number of characteristics; but these, I think, are the principal, and contain all the others. I shall therefore confine myself to them, and sum them up by saying, that properly to comprehend the progressive development of feudalism, we have to study: first, the history of territorial property, that is, the state of lands; secondly, the history of sovereignty and of the social state, that is, the state of persons; thirdly, the history of the political system, that is, the state of institutions.

I enter at once into the matter; the history of territorial property will now occupy us.

At the end of the tenth century, when feudalism was definitively constituted, its territorial element, as you know, bore the name of *fief* (*feodum, feudum*). A writer replete with sense and learning, Brussel, in his *Examen de l'usage general des Fiefs aux* 11, 13, *et* 14 *siècles*, says, that the word *fief* (*feodum*) did not originally mean the land itself, the body of the domain, but only what in feudal language is called the *tenure* of the land, that is, its relation of dependence towards such or such a suzerain:

"Thus," says he, "when king Louis le Jeune notifies by a charter of the year 1167, that count Henry of Champagne has granted the *fief* of Savegny to Bartholomew, bishop of Beauvais, it is only to be understood from this, that count Henry had granted the dependence of Savegny to the bishop of Beauvais; so that this land which had hitherto been held immediately from the count of Champagne was thenceforward only to hold of him as a sub-fief."

I think that Brussel is mistaken. It is very improbable that the name of feudal property meant at first only the quality, the attribute of that property, and not the thing itself. When the first lands which became fiefs were given, it was

not suzerainty alone which was conferred; the donors evidently gave the land itself. At a later period, when the feudal system and its ideas had gained some firmness and development, then they might have distinguished the *tenure* of the domain, have given one apart from the other, and designated it by a particular word. It may be that at this epoch the word *fief* was often used for the *tenure*, independently of the body of the land. But such could not have been the primitive meaning of *feodum;* the domain and the tenure were surely originally confounded in language as in fact.

However this may be, the word is only found at a late period in the documents of our history. It appears for the first time in a charter of Charles le Gros, in 884. It is there repeated three times, and almost at the same epoch it is also met with elsewhere. Its etymology is uncertain; many have been assigned to it. I shall point out but two of them, as those alone which I consider probable. According to some (and this is the opinion of most of the French jurisconsults, of Cujas among others), the word *feodum* is of Latin origin; it comes from the word *fides*, and means the land in consideration of which people were bound to fidelity towards a suzerain. According to others, and especially according to German writers, *feodum* is of German origin, and comes from two ancient words, of which one has disappeared from the German languages, while the other still exists in many, particularly in the English, from the word *fe*, *fee*, reward, recompence, and from the radical *od*, property, goods, possession; so that *feodum* means a property given in recompence, by way of pay or reward.

The Germanic origin seems to me far more probable than the Latin origin: first, because of the very construction of the word, and next, because that, at the time when it was introduced into our territory, it was from Germany that it came; lastly, because, in our ancient Latin documents, this kind of property bears a different name—that of *beneficium*. The word *beneficium* very frequently occurs in our historical documents from the fifth to the tenth century, and these evidently indicate the same condition of territorial property which, at the end of the eleventh century, took the name of *feodum*. For a long time after this epoch, the two words are synonymous; so that in the very charter referred

to, of Charles le Gros, down to a charter of the emperor Frederic I., of 1162, *feodum* and *beneficium* are used indifferently.

In order, therefore, to the study of the history of the *feoda* from the fifth to the tenth century, it is necessary to look at that of the *beneficia*. What we say of benefices will apply to fiefs, because the two words, at different dates, are the expression of the same fact.

From the earliest times of our history, immediately after the invasion and establishment of the Germans upon Gallic soil, we find benefices appear. This kind of territorial property is contradistinguished from another, which bears the name of *alodium*. The word *alod*, *alodium*, means an estate which the possessor holds of no one, which imposed no obligation upon him towards any one.

There is reason to suppose that the first freeholds were lands which, under various forms, and without general or systematic division, were appropriated amongst themselves by the conquering Germans, Franks, Burgundians, or Visigoths, at the time of their establishment. These were entirely independent; they were gained by conquest, by lot, not from a superior. They were called *alod*, that is to say, according to some, *lot*, *chance*; according to others, full, independent property, (Al-od.)

The word *beneficium*, on the contrary, meant from its origin (it is on the very face of it) an estate received from a superior by way of recompence, of favour, and which required certain duties and services towards him. You know that the German chiefs, to attract or attach their companions to them, made them presents of arms, of horses, supported them and maintained them in their train. The gifts of estates, the benefices, succeeded, or at least were added to presents of moveables. But thence there was to result, and in fact soon did result, a considerable change in the relations between the chief and his companions. The presents of arms, horses, banquets, retained the companions around the chief, and made them lead a life in common. The gifts of estates, on the contrary, were an infallible cause of separation. Among the men to whom their chiefs gave benefices, many soon wished to establish themselves upon those benefices, to live

also upon their own estates, there to become in their turn the centre of a small society. Thus, by their very nature, the new gifts of the chief to his companions dispersed the band, and changed the principles as well as the forms of the society.

There was a second difference, fertile in results: the quantity of arms, horses, in a word, of personal presents, which a chief might make to his men was unlimited. It was a matter of pillage; a new expedition always procured the means of giving. It could not be so with presents of estates. There was doubtless much to share in the Roman empire, but still the mine was not inexhaustible; and when a chief had given away the lands of a country where he was fixed, he had nothing more to give, in order to gain other companions, unless by constantly recommencing the wandering life, by constantly changing residence and country, a habit which gradually disappeared. Thence a twofold fact is everywhere visible, from the fifth to the ninth century. On the one hand, the constant efforts of the givers of benefices to resume them when it suited them, and to make them a means of acquiring other companions; on the other, the equally constant effort of the beneficiaries to insure themselves the full and unalterable possession of the estates, and to free themselves from their obligations towards the chief from whom they held them, but with whom they no longer lived, and whose whole fate they no longer shared.

From this twofold effort there resulted a continual instability in properties of this kind. Some resumed them, others retained them by force, and all accused each other of usurpation.

This was the fact; but what was the right? what was the legal condition of benefices, and of the tie formed between the givers and the receivers? Let us see the system of most political historians, especially of Montesquieu, Robertson, and Mably.

They think the benefices were: 1, entirely revocable; the giver could take them back when he pleased; 2, temporary, conceded for a fixed time, a year, five years, ten years; 3, for life, granted during the life of the beneficiary; 4, lastly, hereditary. Arbitrary revocability, temporary concession, life possession, and hereditary property, such, in their opinions, are the four conditions through which beneficiary property

passed from the fifth to the tenth century; such was the progression of facts from the conquest to the complete establishment of feudalism.

I think this system is alike controverted by historical testimonies and by moral probabilities. And first, how can we conceive to ourselves the absolute, arbitrary revocability of benefices. In the expression alone, there is something repugnant to the very nature of human relations. Unless those relations be the work of force, as is the case between master and slave, the prisoner of war and the conqueror, it is not probable, it is not possible, that all the advantage, all the right should belong to only one of the interested parties. How could a free man, a warrior, who voluntarily united himself to a chief, have subjected himself to this condition, that the chief might do as he pleased with regard to him, and, for example, take from him to-morrow, without motive, of his mere whim, the domain which he has given him to-day? In the voluntary relations of free creatures, whatever the inequality may be, there is always a certain reciprocity, certain mutual conditions; *à priori*, entire and arbitrary revocability, cannot have been, at any epoch, the legal and recognised state of benefices.

Historical testimonies agree with moral probabilities. Let us see in what terms Montesquieu describes the system, and upon what text he founds it :

"It cannot be doubted but that at first fiefs were revocable. We see in Gregory of Tours that there was taken from Sunegisile and Galloman, all which they held from the fisc, and that they had only left to them what they held in property.[1] Gontran, raising his nephew Childebert to the throne, had a secret conference with him, and pointed out to him those to whom he should give fiefs and those from whom he should take them away.[2] In a formula of Marculf, the king gives in exchange, not only benefices which his son held, but also those which another had held.[3] The law of the Lombards contradistinguishes benefices from property.[4] Historians, formulæ, the codes of different barbarous nations,

[1] L. ix., c. 38. [2] L. vii., c. 33. [3] L. i., f. 30.
[4] L. iii., tit. 8, 33.

all the monuments which remain to us, are unanimous. Lastly, those who wrote the Book of Fiefs,[1] inform us that at first the lords could withdraw them at will, then they were assured for a year, and afterwards they were given for life."[2]

With the exception of the last authority, that of the Book of Fiefs, of which I shall immediately speak, it is evident that all these texts prove a fact, and not a law, the actual, not the legal condition of benefices. Doubtless the king, or any giver of benefices who found himself more powerful than the receiver, took back his gifts when he felt the desire or need.

The instability, the violent struggle was incessant: but that it was the legal state of this kind of property, that the possessors of fiefs acknowledged the right of the givers to take them back when they pleased, there is no evidence to show. On the contrary, we find the beneficiaries everywhere exclaiming against the iniquity of such spoliation, and maintaining that the benefices should only be taken from them when they, on their side, were wanting in the promised faith, when they had been unfaithful towards the patron of whom they held them. On condition of the fidelity of the beneficiary, the possession of the benefice should be stable and peacable: that is the law, the moral rule established in minds. I will select a few texts out of a hundred:

"Let all which has been given to a church, to the priests, or to any other person, by the munificence of the said princes of glorious memory, rest fixedly with them."[3]

"If any land be taken from any one, *without fault on his part*, let it be returned to him."[4]

"Charles the Great suffered no lord, from any impulse of anger, to withdraw his benefices from his vassal without reason."[5]

"We will that our faithful hold as settled that no person henceforward, of whatever rank or condition he be, shall be

[1] L. i., tit. 1. [2] *Esprit des Lois*, l. xxx., c. 16.

[3] Baluze, *Recueil des Capitulaires*, vol. i., col. 8. Ordonnance of Clotaire, 1st or 2nd.

[4] Bal., vol. i., col. 14; Treaty of Andelot, in 587.

[5] *Vie de Charlemagne*, by Eginhard.

robbed or despoiled of his benefices by our arbitrary will, or by the artifice or unjust avidity of any other person without a just judgment dictated by equity and reason."[1]

With regard to the Book of Fiefs, drawn up at a far posterior epoch, from the twelfth to the thirteenth century, and by the jurisconsults of the time, it most probably committed the same error as Montesquieu : it converted the fact into a law.

The very first step, then, of that systematic progression which it is said the beneficiary property observed in its development, bears no inquiry. I pass to the second. Did it for some time assume the legal form of a concession with a fixed term, a kind of bailment or farming?

Unless I am mistaken, there is something in the very nature of such a concession which is repugnant to a social state so irregular and violent as that of the times of which we speak. Contracts for a fixed term, for precise conditions, and of short duration, are delicate combinations, difficult to get observed, which can only be put in practice in advanced and well regulated societies, and where there exists a power capable of enforcing their execution. If we look closely into the civil life of barbaric nations, or nations bordering upon barbarism, if we run our eye over the Formulæ of Marculf, almost all the agreements which we find there are either of a prompt, immediate execution, or concluded for perpetuity, or at least for life. We find very few agreements for a limited time; such agreements are more complicated, and they would be deficient in guarantees. Guarantees also would have been wanting to temporary benefices; and, the term of concession arrived, the giver would have had great difficulty in regaining possession of his domain.

We however find, from the sixth to the ninth century, benefices which appear temporary. Their origin, I think, was this:

In the Roman legislation, the gratuitous concession of the usufruct of a property for a limited, and generally a short time, was called *precarium*. After the fall of the empire, the churches often leased out their properties for a fixed rent, by a contract also called *precarium*, the term of which

[1] *Capit. de Charles le Chauve*, in 844; Bal., vol. ii., col. 5.

was commonly one year. In some instances, doubtless to insure the protection or divert the hostility of a neighbouring power, a church gratuitously conceded to him this temporary enjoyment of some domain. In some instances, also, the concessionary, availing himself of his power, did not pay the agreed rent, and yet retained the concession. Undoubtedly the use or abuse of these *precaria*, or temporary benefices of church property, were frequent enough; for, in the course of the seventh century, we find the kings and mayors of the palace employing their credit, or rather their authority, with the churches, to obtain usufructs of this kind for their clients: "At the recommendation of the illustrious Ebroin, mayor of the palace, the said John obtained from the monastery of St. Denis the domain called *Taberniacum*, by precarious tenure."[1] When Charles Martel seized a portion of the domains of the church to distribute them among his warriors, the church exclaimed against the sacrilege, the spoliation, and she had good right so to do. Pepin, become chief of the Franks, needed to reconcile himself with the church; she demanded her domains. But how to return them to her? It would be necessary to dispossess men of whom Pepin had even more need than he had of the church, and who would more efficaciously defend themselves. To extricate himself from this embarrassment, Pepin and his brother Carloman decreed the following capitulary:

"With the consent of the servants of God and of the Christian people, and because of the wars which threaten us, and the attacks of nations which surround us, we have decided that, for the maintenance of our warriors, and with the help of the indulgence of God, we shall retain for some time, as *precaria*, and subject to the payment of a rent, a portion of the properties of the churches; on this condition, that each year there shall be paid to the proprietary church or monastery one *solidus*, that is to say, twelve deniers for each farm; and that if he who enjoys the said property die, the church shall re-enter into possession. If we are constrained to it by necessity and so order it, the *precarium* shall be renewed, and a second shall be drawn up. But let them heed that the churches or monasteries whose properties shall be thus

[1] *Recueil des Historiens de France*, vol. v., p. 701.

lent *in precario* do not suffer want: if that happens, let the church and the house of God be again put in full possession of their property."[1]

Here you perceive between the church and the new possessors of her domains there is a kind of transference placed under the guarantee of the king. Pepin indeed, and his first successors, took much trouble to make it observed; their capitularies incessantly order men to pay the rent due to the churches, or to give up the domains, or to renew the *precaria*. Most of these domains, as you may suppose, were never given up, and the rent was very irregularly paid. Thence, however, arose temporary benefices, lands held for a fixed time, generally for five years. But this fact cannot be considered as a legal state of beneficiary property in general, as one of the degrees through which it passed. It is rather an accident, a special form of certain benefices; and a very unimportant form, for the conditions which it imposed were scarcely ever respected.

From being temporary, it is said, benefices became of life duration: this is their third degree. It is far more than a degree in their history — it is their veritable, primitive, habitual state, the common character of this kind of concession. It was thus willed by the very nature of the relations which benefices were destined to perpetuate. Before the invasion, when the Germans wandered upon the Roman frontiers, the relation between the chief and the companions was purely personal. The companion assuredly engaged neither his family nor his race; he engaged only himself. After the establishment, and when the Germans had passed from the wandering life to the state of proprietors, it still continued the same; the tie between the giver and the beneficiary was still considered personal and for life; the benefice must have been so too. Most of the documents of the epoch, in fact, expressly say as much, or take it for granted. I shall cite but a few texts of various dates, from the sixth to the ninth century; they will place the matter beyond doubt.

In 585, " Wandelin, who had brought up the young king,

[1] *Capit. du Roi Carloman*, in 743 ; Bal., vol. i., col. 149.

Childebert, died; all the property which he had received from the fisc returned to the fisc." [1]

In 660, under Theodoric, king of Austrasia, "after the death of Warratun, who had enjoyed it, the domain called *Latiniacum* returns to our fisc." [2]

In 694, under Childebert II., "the domain called *Naprini-acum*, which had been ceded to the illustrious Pannichius, returned to our fisc after his death." [3]

"Let those who hold a benefice from us be careful to improve it." [4]

"Whoever holds a benefice from us must take care, *as much as may be done with the aid of God*, that none of the slaves which form part of it die from hunger, and must not sell the products of the soil on his own account, until he has provided for their subsistence." [5]

"In 889, king Eudes conferred a domain upon Ricabod, his vassal, in benefice and usufruct, with this clause, that if Ricabod had a son, the benefice should pass to that son, but only for his life." [6]

Neither, then, is this a crisis of the development of beneficiary property, a degree through which it passed; it was its general and primitive condition.

At all epochs, however, amidst life benefices we find hereditary benefices. There is no reason to be surprised at this; and the so prompt tendency to hereditary possession which manifests itself in the history of benefices is not to be solely attributed to the avidity of the possessors: it arose from the very nature of territorial possession. Succession was its normal, almost necessary state, the end towards which it tended, even from its birth. Out of many reasons, I shall mention but two. From the time that a man possesses and improves an estate, whatever the manner of his possession or of his improvement, he employs upon it means which he does not draw from the soil, but from himself; by the labours which he spends upon it, by the buildings with which he covers it, he adds a certain value to the estate, and, to speak in the

[1] *Gregoire de Tours*, l. viii., c. 22.
[2] Mabillon, *de Re Diplomaticâ*, l. vi., p. 471.
[3] Mabillon, p. 476.
[4] *Capit. de Charlemagne*, in 813; Bal., t. i., col. 507.
[5] Ibid., a. 794; Bal., t. i., col. 264. [6] Mabillon, *ut sup.*, p. 556.

present language of political economy, he invests therein a certain capital, which, if he at any time leaves, he cannot entirely nor conveniently carry away — a capital which becomes more or less incorporated with the soil, and which cannot be entirely separated from it. Thence arises, and by the instincts of reason and justice, a certain natural tendency of all territorial property to become hereditary; a tendency especially powerful when society, still rude, knows not how to estimate the value which the possessor who is leaving it has added to the soil, and to indemnify him by other means.

Another cause concurred to the same effect. Except in extraordinary states of society, man cannot be constantly moving about and leading a wandering life in the country which he calls his native land; it is a need, a moral inclination with him to fix himself somewhere, to plant himself in a certain place: in the bosom of the political country a domestic country is necessary to him, to which he may attach himself, where he may establish his family. It is therefore the constant effort of the cultivator, of the possessor, to become perpetual proprietor.

Accordingly, by its very nature, and independently of all external circumstance, beneficiary property tended to become hereditary. This tendency, in fact, manifests itself even at the very origin of benefices, and at all epochs, it sometimes attained its end. The treaty of Andelot, concluded in 587, between Gontran and Childebert II., in speaking of the beneficiaries of queen Clotilde, sets forth:

"Let the lands which it pleases the queen to confer upon any one belong to him in perpetuity, and at no time be taken from him."[1]

The Formulæ of Marculf contain the following, which proves that hereditary concession, as early as the end of the seventh century, was a common practice.

"We have conceded to the illustrious —— the domain called ——. We order, by the present decree, which is always to endure, that he shall keep the said domain in perpetuity, shall possess it as proprietor, and shall leave possession of it to his descendants, or to whom he will."[2]

Dating from Louis le Debonnaire, concessions of this kind

[1] Bal., vol. i., col. 13.

[2] L. i., b. 14.

became frequent; examples abound in the diplomas of this prince and of Charles le Chauve. At length the latter, in 877, formally recognises the hereditability of benefices, and, at the end of the ninth century, this was their common and prevalent condition; as in the sixth and seventh centuries the occupation for life had been the general fact.

Still, even at the ninth century, and although hereditary right prevailed, it was not yet an evident law, nor was it regarded as indubitable. The following is a fact which will clearly show what the state of mind was in this respect:

In 795, Charlemagne had given to a man named John, who had conquered the Saracens in the country of Barcelona, a domain called Fontes, situated near Narbonne, "in order that the said John and his descendants may enjoy it without trouble or rent, as long as they remain faithful to us and to our sons." In 814, Charlemagne died; in 815, the same John presented himself to Louis le Debonnaire with the hereditary donation which he held from Charlemagne, and solicited its confirmation. Louis confirmed it, and added other land, "to the end that the said John, his sons, and their posterity, may enjoy it in virtue of our gift." In 844, the emperor Louis and the beneficiary John, are dead; Teutfried, son of John, presents himself to Charles le Chauve, with the two anterior gifts, asks him to confirm them anew, and Charles does so, "to the end that thou and thy posterity possess their property without any rent."

Thus, despite the hereditary right of the title, whenever the beneficiary or the giver died, the possessor of the benefice thought it necessary that he should be confirmed in his possession; so strongly was the primitive idea of the personality of this relation and the right which resulted from it, engraved upon minds.[1]

At the end of the tenth century, when we enter truly into the feudal period, we no longer find anything of the kind; the right of fiefs, inheritance, is no longer called into doubt by any one, it has no longer any need of confirmation.

As I said, historical testimonies agree with moral probabilities. Beneficiary property, from the fifth to the tenth century, did not pass through four successive and regular

[1] *Essai sur l'Histoire de France*, p. 145.

states—arbitrary revocability, temporary concession, life-long, and hereditary concession. These four states are met with at all epochs. The primitive predominance of life concession, and the constant tendency to inheritance which in the end triumphed, these only are the general conclusions which may be deduced from monuments, the true characters of the transition from benefices to fiefs.

At the same time that this transition was brought about, and beneficiary property became hereditary and stable, it also became general—that is, territorial property almost everywhere took this form. At first, you will recollect, there was a large number of freeholds, that is to say, properties entirely independent, which were not held from any one, and which owed nothing to any one. From the fifth to the tenth century, freehold property, without entirely disappearing, became gradually less extensive, and the beneficiary condition became the common condition of territorial property. The following are the principal causes of this:—

It must not be supposed that when the barbarians seized upon the Roman world, they divided the territory into lots more or less considerable, and that each, taking one for himself, established himself upon it. Nothing of the kind happened. The chiefs, the men of importance, appropriated a large extent of land to themselves, and most of their companions, their men, continued to live with them in their houses, always attached to their person. Freemen, Franks, Burgundians, &c., living upon the estates of others, is a fact which is met with at every step in the monuments of the sixth, seventh, and eighth centuries.

But the inclination and desire for territorial property were not long in spreading. In proportion as the habits of the wandering life left them, a greater number of men wished to become proprietors. Besides, money was rare; land, so to speak, was the most common, the most disposable coin; it was employed to repay all sorts of services. The possessors of large domains distributed them among their companions by way of payment. We read, in the capitularies of Charlemagne,

"Let any steward (*villicus*) of one of our domains, who possesses a benefice, send a substitute into our domain to

overlook in his stead the works and all the care of our land." [1]

"Let those of the keepers of our horses (*poledrarii*), who are free men, and possess benefices in the locality of their employment, live upon the product of their benefices." [2]

And every great proprietor, ecclesiastic or layman, Eginhard or Charlemagne, paid in this way most of the free men whom he employed. Thence arose the rapid division of landed property, and the multitude of petty benefices.

A second cause, usurpation, also greatly increased their number. Powerful chiefs, who had taken possession of a vast territory, had little means of actually occupying and preserving it from invasion. It was easy for neighbours, for the first comer, to establish himself upon it, and to appropriate to himself such and such part of it. It so happened in many places. In the anonymous life of Louis le Debonnaire, we read:

"In 715, Charlemagne, sending back his son Louis into Aquitaine, asked him how it happened that, being a king, he was so parsimonious as to offer nothing to any one, not even his blessing, unless it was asked of him. Louis informed his father that the great men of the kingdom occupying themselves only with their own interests, and neglecting the public interests, the royal domains were everywhere converted into private properties; hence it happened that he himself was king only in name, and in want almost of everything. Charlemagne wishing to remedy this evil, but fearing that his son would lose somewhat of the affection of the great men, if he were to take again through wisdom what he had allowed them to usurp through improvidence, sent his own messengers into Aquitaine, Willbert, afterwards archbishop of Rouen, and count Richard, inspectors of the royal domains, and ordered them to procure the restoration to the king of the domains which had formerly belonged to him, which was done." [3]

And when, in 846, the bishops gave advice to Charles le Chauve, as to the best means of elevating his dignity and power:

[1] *Capit. of Charlemagne, de Villis;* Bal., vol. i. col. 333.
[2] Ibid., c. 338. [3] *Historiens de France*, t. iv., p. 90.

"Many public domains," say they to him, "have been taken from you, some by force, and some by fraud; and because men have made false reports, and unjust demands of you, they have retained them by way either of benefices, or freeholds. It appears to us useful and necessary that you should send into the countries of your kingdom, firm and faithful messengers, taken from each order; they shall carefully draw up a list of the estates which, in the time of your father and grandfather, belonged to the royal domain, and of those which formed the benefices of vassals; they shall examine what each now withholds of them, and shall render a true account thereof to you. When you find that there is reason, utility, justice, or sincerity, whether in the donation or in the taking possession, things shall remain in their present state. But when you see that there is unreasonableness, or rather fraud, then, with the counsel of your faithful, reform this evil in such a manner that reason, prudence, or justice be not overlooked, and that at the same time your dignity be not debased, nor reduced by necessity to that which is unbecoming it. Your house cannot be filled with servants to do their duties, if you have not the means of recompensing their merits, or of alleviating their poverty."[1]

The greater part of the lands thus usurped certainly did not re-enter into the domain of the first possessor, king or subject. It was too difficult to dispossess the usurpers; but they undertook to hold them as benefices, and to observe the obligations attending them. A new, and I think very influential cause, of the extension of beneficiary property.

There were also many deserted, uncultivated lands; men driven from their dwellings, or still leading a wandering life, or monks, established themselves upon them and cultivated them. When they had become valuable, some powerful neighbour often demanded them, in order afterwards to concede them, by way of benefices, to those who occupied them.

Lastly, a fourth cause powerfully contributed to make the beneficiary condition the common condition of territorial property; by a practice known under the name of *recommendation*, numerous freeholds were converted into benefices. The proprietor of a freehold presented himself before some neigh-

[1] Bal., vol. ii., col. 31.

bour, some powerful man, whom he wished to select as a patron, and holding in his hand either a clod of turf, or a branch of a tree, he ceded to him his freehold, which he immediately resumed by way of benefice, to enjoy according to the rules and duties, but also with the privileges of this new condition.

This practice was allied with the ancient German manners, with the primitive relation of chief and companions. Then also free men recommended themselves to another man, that is, they selected a chief for themselves. But this was an entirely personal and perfectly free relation. When it pleased him, the companion quitted his chief and took another; the engagement entered into between them was purely moral, and rested on their will alone. Immediately after the territorial establishment, the same liberty continued to exist; they could recommend themselves, that is to say, they could select for a patron whom they wished, and might change him at their will. Still, in proportion as society became a little strengthened, attempts were made to introduce some regularity into these proceedings and relations. The law of the Visigoths declares:

"If any one has given arms, or aught else, to a man whom he receives into his patronage, let those gifts remain to him who received them. If the latter choose another patron, let him be free to recommend himself to whom he wills; this cannot be interdicted to a free man, for he belongs to himself; but let him return to the patron from whom he separates all which he has received from him."[1]

And we read in a capitulary of Pepin, son of Charlemagne, and king of Italy:

"If any one, occupying the portion of land which has fallen to him, choose another lord, whether the count, or any other man, let him have full liberty to leave him; but let him not retain or carry away any of the things which he possesses, and let all revert to the domain of his first lord."[2]

Matters soon proceeded still farther. Men were in the transition from the wandering life to the sedentary life. It was above all things necessary to put an end to the fluctuation, the

[1] *Laws of the Visigoths*, l. v., tit. 3, c. 1.
[2] *Capit. de Charlemagne*, in 813; Bal., vol. i., col. 510.

disorder of situations; in this direction tended the effort of superior men who aimed at the progression of society. Charlemagne undertook to determine, on the one hand, under what circumstance the client might quit his patron; and on the other, to impose upon all free men the necessity of recommending themselves to a patron, that is to say, of placing themselves under the authority and responsibility of a superior. We read in his capitularies:

"Let no man who has received the value of a solidus from his lord quit him, unless his lord has sought to kill him, or to strike him with a stick, or to dishonour his wife or daughter, or to despoil him of his heritage."[1]

"If any free man quit his lord against the will of the latter, and go into the kingdom of another, let not the king receive him into his patronage, and not allow his men to receive him."[2]

"Let no one buy a horse, a beast of burden, an ox, or anything else, without knowing him who sells it, or of what country he is, where he lives, and who is his lord."[3]

In 858, the bishops wrote to Louis le Germanique: "We bishops, sacred to the Lord, we are not, like the laity, obliged to recommend ourselves to any patron."[4]

Charlemagne did not obtain all he wished; for a long time still an extreme fluctuation pervaded this class of relations. Yet his genius was not mistaken as to the true need of the time, his labours had ever in view the natural course of things. The necessity and fixedness of the recommendation of persons and lands prevailed more and more. Many freehold proprietors were weak, not in a state to defend themselves; they had need of a protector; others became weary of their isolation: free and masters, it is true, in their domain, they had no tie, no influence beyond it; they held no place in that hierarchy of beneficiaries which was become the general society. They wished to enter into it, and to participate in the movement of the period. Thus was brought about the metamorphosis of the greater part of the freeholds into benefices; a metamorphosis less complete in the South

[1] *Capit. de Pepin*, king of Italy, in 795; Bal., vol. i., col. 597.
[2] *Capit. de Charlemagne*, in 806; Bal., t. i., col. 443.
[3] *Capit.* of the year 806, vol. i., col. 450.
[4] Ibid., vol. i., col. 118.

of France, where the feudal system did not pervade all things, and where many freeholds continued to exist, but which was not the less general, and which made the beneficiary condition the common condition of territorial property.

Such was the state in which it found itself at the close of the tenth century, after going through the vicissitudes which I have attempted to trace; and not only did most lands become fiefs at this epoch, but the feudal character gradually penetrated into all kinds of properties. At that time almost everything was given in fief: the *gruerie* or forest jurisdiction; the right of hunting therein; a share in the *pèage* (toll-money,) or in the *rouage* (wine-toll,) of a place; the convoy or escort of merchants going to fairs; the office of judge in the palace of the prince or high lord; the mint-offices in those of his towns where money was coined; the letting of the places in which fairs were held; the houses where the public stoves were; the *common ovens* of towns; lastly, down to the *swarms of bees* which might be found in forests.[1] The whole civil order, in a word, became feudal. We shall see the same revolution in the political order.

[1] *Usage Général des Fiefs*, by Brussel, t. i., p. 42.

THIRD LECTURE.

Of the amalgamation of sovereignty and property, the second characteristic of the feudal system—True meaning of this fact—Its origin—It comes neither from the Roman society nor from the German band—Is it the result of conquest only?—Of the system of feudal publicists on this subject—Two forms of society in Germany, the tribe and the band—Social organization of the tribe—Domestic sovereignty is there distinct from political sovereignty—Twofold origin of domestic sovereignty among the ancient Germans—It arose from family and from conquest—What became of the organization of the German tribe, and especially of domestic sovereignty after the establishment of the Germans in Gaul—What it retained of the family spirit gradually diminished; what it retained of conquest became dominant—Recapitulation and true character of feudal sovereignty.

We have studied the first of the great facts which constitute and characterise the feudal system; I mean the special nature of landed property, in its progressive development from the fifth to the tenth century. I now approach the second of these facts, the amalgamation of sovereignty and property.

It is first of all necessary to come to an understanding as to the meaning of these words, and as to the limits of the fact itself. Our business here is solely with the sovereignty of the possessor of the fief in his domains, and over their inhabitants. Beyond the fief, and in his relations with other possessors of fiefs, superior or inferior, and whatever the inequality between them, the lord was not a sovereign. No one in this association possessed the sovereignty. There other principles and other forms prevailed, which we shall study in treating of the third characteristic of the feudal system, that is to say, the hierarchical organization of the general society which the possessors of fiefs formed among themselves.

When I speak of the amalgamation of sovereignty and of property, I repeat that I speak solely of the sovereignty of the possessor of the fief within his own domains, and over their inhabitants not themselves possessors of fiefs.

The fact thus limited, its certainty is incontestable. At the eleventh century, feudalism once well established, the possessor of the fief, great or small, possessed all the rights of sovereignty in his domains. No external or distant power gave laws there, established taxes, or administered justice; the proprietor alone possessed all this power.

Such at least, in principle and in the common thought, was feudal right. This right was often overlooked, then disputed, and lastly usurped by the superior and powerful lords, among others by the kings. It did not the less exist, nor was it the less claimed as primitive and fundamental. When the publicist friends of feudalism complain that the sovereignty of the simple lords was usurped by great barons, and that of the great barons by kings, they are quite accurate; such was the case. Originally, in the right, in the spirit of the system, each lord exercised the legislative, judicial, and military powers in his domains; he made war, coined money, &c.; in a word, he was a sovereign.

Nothing of the kind existed before the full development of the feudal system immediately after the invasion, in the sixth and seventh centuries. We then see the germ, the first rudiments of feudal sovereignty; but by its side, and even above it, there still exist imperial royalty, military royalty, the Roman administration, the assemblies and jurisdiction of free men. Various powers and systems coexisted and struggled with each other. The sovereignty was not concentred within each fief, and in the hands of its possessor.

How was the fact brought about from the fifth to the tenth century? How were all other sovereignties abolished, or at least effaced, in order to leave only that of the lord within his domain and over its inhabitants?

Assuredly it was not from Roman society that this fact could have taken its origin, for that contained nothing resembling it. So far from sovereignty there being inherent in property, and disseminated, as here, over the face of the country, it was not even politically divided; it resided wholly and completely in the centre of the empire, and in

the hands of the emperor. The emperor alone made laws, imposed taxes, possessed the jurisdiction, regulated war and peace, in fact governed, either of himself or by his delegates. The remains of the municipal system still visible in cities, consisted of some administrative privileges, and in a certain degree of independence, which did not extend to the limits of sovereignty. A master, agents, and subjects—such was the entire social organization of the Roman empire, always excepting slaves, who remained under the domestic jurisdiction.

It is evidently not from the bosom of Roman society that feudal sovereignty could have taken birth.

Nor could it have arisen from the German bands which invaded the Roman empire. There nothing resembling the amalgamation of sovereignty and power can be met with; for property (I mean landed property), is incompatible with the wandering life, and with regard to persons, the chief of such a band possessed no sovereignty over his companions; he had no right to give them laws, to tax them, or of himself to administer justice to them. There reigned common deliberation, personal independence, and a great equality of rights, although the principle of an aristocratical society germinated there, and at a later period was to develop itself.

Did the amalgamation of sovereignty and property take rise from conquest alone? and did the conquerors divide the territory and its inhabitants between them, to reign as sovereign each in his portion, in the sole right of the strongest?

This is what many publicists have believed and maintained. Correctly speaking, in truth, this is the idea which constitutes the basis of the system of all the defenders of the feudal regime, of M. de Boulainvilliers, for example. They do not formally express it; they do not say openly that force alone founded the sovereignty of the possessors of fiefs; but this is their principle, the only possible principle of their theory. The soil had been conquered, and with the soil, the inhabitants; thence the amalgamation of sovereignty and property. Both of them passed, and legitimately passed, to the bravest. Unless M. de Boulainvilliers takes this fact for granted, the whole of his system falls to the ground.

In fact as in right, M. de Boulainvilliers and the publi-

cists of this school are mistaken. The amalgamation of sovereignty and property, that great characteristic of the feudal system, was not so simple, so purely material, so brutal, thus to speak, a fact so foreign both to the organization of the two societies which the invasion brought into contact, the Roman society and the German society, or to the general principles of social organization.

Let us seek its true origin; you will see, I think, that it is more complex, more remote, than the simple right of conquest.

When I spoke, in the last course, of ancient Germany, I distinguished the two societies, or rather the two modes of social organization, differing in their principles and their results, which were visible there; on the one hand, the tribe or horde, and on the other, the band.

The tribe was a sedentary society, formed of neighbouring proprietors, living on the produce of their lands and their herds.

The band was a wandering society, composed of warriors united around a chief, either for some special expedition, or to seek fortune at a distance, and living by pillage.

That these two societies co-existed among the Germans, and were essentially distinct, Cæsar, Tacitus, Ammianus Marcellinus, all the monuments, all the traditions of ancient Germany prove to us. Most of the nations mentioned by Tacitus, whose names fill his treatise *Upon the Manners of the Germans*, are tribes or confederations of tribes. The greater part of the invasions which ended in the destruction of the Roman empire, especially the first, were effected by wandering bands, who had quitted the German tribes to seek booty and adventures.

The ascendancy of the chief over his companions formed the band, and pressed it around him. This was its origin. It was governed by common deliberation; personal independence and warlike equality played a great part in it.

The organization of the tribe was less irregular and less simple.

Its primitive element, its political unity, to speak in the language of publicists, was not the individual, the warrior, but the family, the chief of the family. The tribe, or the portion of the tribe which inhabited the same territory, was

composed of families, of the proprietary heads of families established near each other. The proprietary heads of families were its true citizens, the *cives optimo jure* of the Romans.

The dwellings of the families of the German tribe were not contiguous, and at a distance from the lands to be cultivated, as they are in our towns and villages; each chief of a family was established amidst his own lands; his family, and all who cultivated them with him, whether free or not, relations, labourers, or slaves, were established on them like himself, dispersed here and there, like their dwellings, over the face of the domains. The domains of the different chiefs of the family were adjacent, but not their dwellings.

It is in this way that the villages of the Indian tribes are still constructed in North America; in Europe, most of the villages of Corsica, and still nearer to us, at our very door, a large number of the villages of Normandy. There also the dwellings are not contiguous; each farmer, each small proprietor, lives in the midst of his fields, in an inclosure, called *masure*, *mansura*, dwelling, the *mansus* of our ancient documents.

I dwell upon these circumstances, because they arise from the social organization of the tribe, and assist its proper comprehension. The general assembly of the tribe was formed of all the proprietary heads of families. They met, under the direction of the most aged, (*grau*, *grav*, the count, become at a later period, the lord,) to discuss together of common affairs, to administer justice upon important occasions, to occupy themselves with religious ceremonies in which the whole tribe was interested, &c. The political sovereignty belonged to this assembly.

By political sovereignty, I mean the government of the general affairs of the tribe. To that, in fact, the jurisdiction of the assembly was confined; it did not penetrate into the domains of the chief of the family; with him no authority had a right to interfere. By title of proprietor and chief of the family, he alone was sovereign there.

In the domains of the proprietary head of a family, and under his authority, lived: 1, his family, properly so called, his children and their families, grouped around him; 2, the labourers who cultivated his lands, some free, others enjoying

only a half-freedom. These *Coloni* held certain portions of his domains from the chief of the family, and cultivated them on their own account, subject to a certain ground-rent. They did not by this acquire any right of property over these lands; yet they and their children established themselves there; they possessed and cultivated them hereditarily. Between them and the proprietary head of the family there were formed those ties which rest upon no title, confer no legal right, and nevertheless are true ties, a moral element of society; 3, after the bond-labourers came the slaves, properly so called, employed either in the house or to cultivate, for the chiefs of the family, those lands which he had not ceded to any one, and which generally lay immediately around his habitation.

Such was the extent of the family, and, so to speak, the contents of the domain. All this internal population, of very different conditions, was placed under the jurisdiction of the proprietary head of the family; no public power interfered; *every man was master in his own house;* such was already the maxim of the ancient German society. Proprietor and magistrate, the chief of the family was even priest, it appears, for that portion of domestic worship which could subsist at that epoch.

What was the origin of this organization of the tribes in Germany? Should we see in it a first step, and, in some measure, an anticipated repetition of what happened at the sixth century, after the establishment of the Germans upon the Roman territory—that is to say, the result of a conquest? These proprietary chiefs of families, are they conquerors come from afar, and who have seized the soil and its inhabitants? Those labourers who cultivate the soil on payment of a rent, and under the authority of the proprietor, are they the conquered, dispossessed entirely or in part, and reduced to an inferior condition?

Or is this an example of the social organization which has been called the patriarchal system, which arose among pastoral and agricultural nations, from the progressive extension of the natural family and from the agricultural life, of which the annals of the East, especially those of the Arabs and the Hebrews, offer the model; which at every step remind us of the narratives of the Bible, and which also appeared, at least under

its most essential features, in the bosom of the Roman republic, in the situation of the *pater familias*, at once proprietor, magistrate, and priest, in the midst of his domain, of his children, and of his slaves?

This last explanation is that which most of the German writers have adopted and maintain. Passionate admirers of the ancient institutions, of the ancient manners of their country, they find in this organization of the tribes, not a complete and regular model, but all the good principles of the social system. In the family, the domestic magistracy; beyond the family, political liberty; the chiefs of the family governing the inferior classes by the ascendancy of property and position, and then regulating in common the affairs of the tribe; is not this, say they, the best union of power and liberty? What system better respects the natural elements, the necessary conditions of the social order? Can we see there the work of conquest and of force? Must we not, on the contrary, there recognise the simple and spontaneous development of human relations?

I, for many reasons, cannot entirely adopt this system.

And, first, the Germans appear to me to carry into their researches and ideas upon this subject a disposition of mind which I must characterise with some precision, for, unless I am mistaken, it exercises a great influence over them.

When, under some broad point of view, or under some essential relation, a social state appears to them good and beautiful, they conceive for it an exclusive admiration and sympathy. They are generally inclined to admire, and to be overcome with passion; the imperfections, the interruptions, the bad side of things, strike them but little. Singular contrast! In the purely intellectual sphere, in the research for and combination of ideas, no nation has more extension of mind, more philosophical impartiality. When the question is of facts which address themselves to the imagination, which arouse moral emotions, they easily fall into prejudices and narrow views; their imagination then wants fidelity, truth; they are without poetical impartiality—in fact, they do not see things from all points of view, and such as they really are.

This disposition has often governed them in the study of ancient Germany, of its origins, its national manners. What

they found there great, moral, truly liberal, has struck them, has filled them with enthusiasm; and here their inquiry has stopped; to this has their imagination been limited. It is with these elements only that they have reconstructed their primitive society.

There is a second cause of error. Most of the national documents which the Germans make use of in order to study the ancient Germanic institutions, are of an epoch far posterior to that which occupies them, far posterior to the second, third, fourth, and fifth centuries. Before the conversion of Germany to Christianity—that is to say, before the eighth century—there existed no really national monuments, for then the German languages were not written. Of these times there only remain vague, incomplete traditions, preserved by writers of a period far less remote. Till then, we know the Germans only through Latin writers, or through the western chroniclers; there are consequently many anachronisms in the picture which the Germans trace of the ancient social state of their country. They refer to the third and fourth centuries facts derived from monuments of the ninth, tenth, and eleventh centuries. I do not say that there is not in these monuments some revelation, some echo of the ancient Germanic society; but these inferences from premises antecedent to them three, four, five, and six centuries, are extremely delicate and difficult. We run great risk of deceiving ourselves in such inductions, and when we undertake this work with an exclusive and passionate turn of imagination, the chance of error becomes infinitely greater.

Lastly, numerous positive texts, Cæsar, Tacitus, Ammianus Marcellinus, attest that before the great invasion, between the Rhine, the Elbe, and the Danube, nations of the *same race* and of *different race* often expelled, enslaved, exterminated one another, and that the organization of the ancient German tribe, especially the situation of the agricultural labourers, was more than once the result of conquest. I have already had occasion, in our last course, to point out some of these texts;[1] I shall here repeat the most explicit of them:

"The slaves in general," says Tacitus, "are not arranged in their several employments in household affairs, as is the

[1] Lecture VII. vol. i.

practice at Rome; each has his separate habitation or home. The master considers him as an agrarian dependent, who is obliged to furnish, by way of rent, a certain quantity of grain, of cattle, or of wearing apparel. The slave does this, and there his servitude ends. All domestic matters are managed by the master's own wife and children. To punish a slave with stripes, to load him with chains, or condemn him to hard labour, is unusual; they kill their slaves sometimes, not out of ordinary severity or discipline, but from violence or sudden impulse, as they would kill an enemy."

"In the neighbourhood of the Teucteres were formerly the Bructeres; it is said, however, that now the Chamaves and the Angrivarians possess the district, having, in concert with the adjoining tribes, expelled and entirely extirpated the ancient inhabitants."

"The Marcomanians are the most eminent for their strength and military glory; the very territory they occupy is the reward of their valour, they having dispossessed its former owners, the Boians."[1]

Go through the treatise *On the Manners of the Germans*—at every step you will find phrases and words which indicate the same fact.

In the social state of ancient Germany, and especially in that of the sedentary and agricultural tribe, I therefore believe the share of conquest, of force, much greater than the German historians generally suppose it to be. I believe the domestic sovereignty of the chief of the proprietary family was much more tyrannical, the conditions of the labourers much worse than they imagine. This, in my opinion, is indicated not only by moral probabilities, not only by the Latin writers whom I have just spoken of, but down to the national documents which the Germans call to the support of their ideas; among others, by all the wrecks of the ancient Germanic poetry. I regret that I have not time to dwell upon this. It would, I think, be easy to prove how far their pictures of their ancient condition is from the truth.

Still, having brought all these restrictions to bear upon the favourite system of the Germans in this matter, I think with them, that the organization of the German tribe, and

[1] *De Morib Germ.*, c. 25, 33, 42.

the relations of the various classes of the inhabitants, is not wholly attributable to conquest, to force. The sovereignty of the proprietary chief of the family, in his domains, was not exclusively that of the conqueror over the conquered, of the master over the slaves or demi-slaves; there was, in fact, something of the patriarchal system; the family, its relations, its habits, its sentiments, were, in part at least, the source of this state of society.

And first, the mere fact that this is a general opinion in Germany, a public belief, prevalent in all classes, is at once a strong presumption that it was so. A nation does not deceive itself to such a degree as to its origins, and the feeling with which they inspire it. That antipathy which we elsewhere encounter towards the ancient social state of the country, does not exist in Germany. The first relations between the superior and inferior classes, between proprietors and cultivators, have not left those mournful traditions, those unhappy recollections, with which our history is filled. The German population has not constantly struggled to escape from its origins, to abolish its old institutions. There is, then, evidently something besides conquest and tyranny.

The common opinion is right, it is conformable with facts. The general invasion of the country by foreigners, the struggle of races, the struggle of languages, the profound hostility of social situations, nothing, or scarcely anything of all this was found in Germany, at least in a great part of Germany. The feudal system was established there, played an important part there, and still weighs heavily upon the people, although less so than elsewhere. There was at all times many free and proprietary peasants, many independent properties, not in the least fettered with the bonds of feudalism.

We therefore cannot refuse to recognise in the organization of the ancient German tribe, and chiefly in the domestic sovereignty of the proprietary chief of the family, another origin than conquest, another character, a character more moral, more free than that of force. This origin is the patriarchal system, of a system analogous to it; this character is that of the life of the family. Very probably, the German tribe was originally the development, the extension of one and the same family; very probably a large portion of the inha-

bitants of the domain, many of these hereditary labourers, subject to a rent, were relations of the proprietary chief of the family. There was herein, very probably, somewhat of that social organization which has long subsisted in the *clans* of the Scotch Highlands, and the *septs* of Ireland; an organization which the novels of Sir Walter Scott have rendered familiar to all minds; which, at the first glance, and judging from external appearances, resembles the feudal system, but is still radically different, for it evidently arose from the family; it perpetuates its ties through centuries, and maintains affectionate sentiments in spite of the profound inequality of social conditions; it has rights recognised and respected, where political guarantees are entirely wanting; in fine, morality and liberty in a system where, without this origin and its influence, there would have been only oppression and degradation.

Such, also, was doubtless the influence which, in the Germanic tribe, had introduced something of the relations and manners of the clan.

From these details there result, if I mistake not, two great facts:

1. In the German tribe, the sovereignty, as to all the general affairs of the tribe, belonged to the assembly of the proprietary chiefs of the families; as to all which passed in the interior of such domain, to the chief of the family himself; that is to say, that there was a political, collective sovereignty, and a sovereignty domestic, individual, and inherent to property.

2. The domestic sovereignty of proprietors had a twofold origin, a twofold character. On the one hand, the ties and habits of the family; the proprietary chief was a chief of the clan, surrounded by his relations, whatever might be the distance of relationship and the diversity of condition; on the other hand, conquest and force: there also had been portions of territory occupied at the sword's point, conquered, dispossessed, and reduced to servitude or nearly so.

Thus, in this organization of the ancient Germanic tribe, there are seen the three great social systems, the three great origins of sovereignty: first, the association among equal and free men, where political sovereignty is developed; secondly, the primitive natural association, that of the family, where the

sole and patriarchal sovereignty prevails; thirdly, the compulsory association, the result of conquest, and subject to despotic sovereignty.

Upon the narrow and obscure theatre of the tribe of the Cherusci or of the Hermundures, or other such, there existed then, as early as the third century, all the essential principles, all the great forms of human society.

Let us now transport ourselves to the sixth century, after the invasion, between the Rhine, the ocean, the Pyrenees, and the Alps, and let us see what necessarily happened then.

And first, it was not the German tribes, but the band which went into the Gallo-Roman territory, seized upon it, and established itself there. Of the two original societies of Germany, that which was not resident, but wandering, whose basis was the individual, not the family, and which was devoted, not to an agricultural life, but to warfare; this became one of the primitive elements of our civilization.

In Germany, it was the agricultural tribe, among us it was the warlike band, which is seen at the cradle of society.

Once established, it is true, once impelled to quit the wandering for the sedentary life, and pillage for property, the Germanic band must have wished to reproduce the institutions, the habits of its native country; the organization of the tribe must have been the source, the model of the system which it attempted to adopt.

This, in fact, was what happened. We see the German band, in proportion as it fixes itself upon our territory, attempting to transplant thither the social condition which I have just described, more especially that twofold sovereignty: political, in general affairs, belonging to the assembly of the chiefs of the family; domestic, in the interior of the domains of each proprietary chief of a family, and exercised by him alone.

But what changes must the change of situation and of external circumstances have introduced into the new society?

Let us first see what political sovereignty became.

In Germany, the tribe was generally established upon a

contracted territory. The tribes reciprocally confined and narrowed themselves, surrounding themselves, as Cæsar says, with vast deserts, for better security. The chiefs of families lived near to one another, and could easily meet to treat of their common affairs. The sovereignty of the general assembly was natural and possible.

After the invasion into the empire an immense territory was thrown open to the expeditions and eager avidity of the conquerors. They dispersed themselves throughout it in every direction. The chief of them occupied vast domains. They were too far from each other to meet often, and deliberate in common. The political sovereignty of the general assembly became impracticable, was doomed to perish, and, in fact, did perish, giving place to another system, to that hierarchical organization of proprietors, of which I shall speak, in discussing the feudal association and its institutions.

The domestic sovereignty, that of the proprietary chief of the family over the inhabitants of his domains, had equal alterations to undergo.

It was not with his relations, with his clan alone, that the German chief had effected his conquests, and found himself established in his new domains. The band which had followed him was composed of warriors of various families of the tribe, often men of different tribes. Tacitus expressly says as much: "If the tribe in which they were born becomes torpid in the laziness of a long peace, the principal among the young men go to seek nations who are engaged in war; for repose is unknown to this people; the warriors acquire celebrity only in the midst of danger, and it is only by war, by enterprises, that they can preserve a sufficient troop of companions." [1]

The ties between the chief and his companions were thus often the ties of war, not of family. Hence arose a great change in the character of their relations in the new establishment. There was no longer that community of habits, traditions, sentiments, which might exist in Germany among the proprietary chiefs and the labourers of their domains; in its place was the comradeship of warriors, a principle of association which was far less strong, far less powerful, far less moral.

[1] *De Mor. Germ.*, c. 14.

The proprietary chief, moreover, found himself, in Gaul, surrounded by a foreign, hostile population, of different race, language, manners, and from whom he had incessantly to guard himself. The Roman Gauls were still the inhabitants, the cultivators of his domains; while in Germany the greater part were Germans like himself. A new and powerful cause of weakness in that patriarchal character, which domestic sovereignty had in Germany.

In his new settlement he was not long surrounded even by those of his countrymen who had formed part, if not of his family, at least of his band. Yet, as I have already had occasion to say several times, this band broke not up immediately into individuals, eager to separate, and to go and inhabit each his own domain. The principal chiefs occupied vast territories, and many of their companions continued to live with them in their homes. Accordingly we find in the documents of the sixth, seventh, and eighth centuries, and even later, a great number of free men, of German origin, and designated under the names of *arimanni*, *erimanni*, *herimanni*, *hermanni*, among the Lombards,[1] and of *rachimburgi*, *rathimburgi*, *regimburgi*,[2] among the Franks. Many German

[1] The *arimanni* incessantly recur in the Lombard laws, and in the Italian monuments, from the 7th to the 12th century. Their name is written *erimanni*, *eremanni*, *harimanni*, *haremanni*, *herimanni*, *hermanni*, variations more especially arising from the difficulty of writing the Teutonic sounds; and all leads us to suppose that the *Germani*, named in many acts, of which many refer to the 9th century, are no others than the *arimanni* or *hermanni*; so that the national name of the Germans would have no other origin than that of *herimanni*, free men. People differ as to the etymology of this latter word: according to some, it comes from *heer*, (army, war,) and the *heermanni* are warriors; according to others, it comes from *ehre*, (honour,) and means free men *par excellence*, citizens invested with all the rights of political liberty, the *cives optimo jure* of the Roman law. This latter explanation is adopted by Mier (*Osnabrückische Geschæchte*, in the preface *et passim*,) and by M. de Savigny.—*History of the Roman Law*, &c.. vol. i., p. 160, 175.

[2] The *rachimburgi*, often mentioned in the Salic law, are so also in many formulæ of the time, and even in acts of the 10th century: the variations of orthography are still more numerous than for the *arimanni*; we find, *rachimburgi*, *rathimburgi*, *racimburgi*, *racineburgi*, *recyneburgi*, *racimburdi*, *regimburgi*, *raimburgi*. Most of the learned derive this word from *racha*, (cause, process,) or from *recht*, (right, justice,) which would exclusively represent the *rachimburgi* under the character of judges. M. de Savigny thinks, with the celebrated historian *Muller*, that it comes from the ancient Teutonic word,

writers, M. de Savigny among others, have thought to recognise, under these names, a condition, a particular class, the ancient free men and independent proprietors, the true citizens of the German tribe before the invasion; and they have thence inferred the prolonged continuation of the ancient social organization of the Germans in their new country. I think they are mistaken. I have carefully examined this question in my *Essais sur l'Histoire de France.* I shall here quote my words; I have no reason to change them:

"The names of *arimanni* and of *rachimburgi* are evidently applied to free men; they mean even (as everything leads us to suppose) the free men in general, the acting citizens. The Lombard *arimanni* sit in courts or public assemblies in quality of judges, march to war under the orders of the count, appear as witnesses in civil actions; the Frank *rachimburgi* exercise the same right.

"It is equally certain that these words do not mean magistrates, men invested with special functions, judicial or otherwise, and distinct, by this title, from the rest of the citizens. In numerous documents, the *arimanni* are mentioned as witnesses, or simple warriors; the same name is given to the free citizens of towns. The Frank *rachimburgi* also appear when there is no public function to fill; the word *rachimburgi* is often translated by that of *boni homines.* Everything shows that these names are applied to free men, to citizens in general, and not to any special magistrate, to any public power.

"But these freemen, these ahrimans, these rachimburgs, were they distinct from the leuds or beneficiaries, as from slaves? Did they form a class of independent citizens, united only among themselves and to the state, whose social condition, in a word, was other than that of the men who, under the name of *recommended, leudes, faithful, antrustians,* or *vassals,* had entered into a particular association, and lived in the dependence and under the protection of a superior?

"The monuments and facts alleged even by the defenders of this opinion prove that it is ill founded, and that the leudes,

rek, (great, powerful,) which forms the termination of so many German proper names, and occurs again in *reich* (rich); so that the *rachimburgi,* called also *boni homines,* would be merely powerful, notable men, the *ricos hombres* of the Spaniards.—*History of the Roman Law,* &c., vol. i., p. 184.

the vassals of a lord, were called ahrimans or rachimburgs, as much as if veritable citizens alone were spoken of, men who were strangers to all individual independence.

"A man comes to place himself under the faith of the king, declares himself his faithful, his vassal; he comes, says the formula, *cum arimannia sua*—that is to say, followed by his warriors. Here, then, are ahrimans who are already leudes, the vassals of a man, and about to become the arriere-vassals of the king. They do not the less remain ahrimans—that is to say, free men, for that is all that this word means; it indicates liberty in general, and not a social condition distinct from that of the leudes, of the vassals.

"In a diploma of the tenth century, the emperor, Otho I. gives a fortress to a convent, 'with all the freemen, commonly called ahrimans.' In the eleventh century, the emperor Henry IV. made a similar donation to a monastery, and the ahrimans who inhabit the domain are here also included. Concessions of this kind were long common; many documents prove it, and a council of the tenth century forbade counts 'to give the ahrimans of their counties in benefice to their men.' In fact, the counts, originally at least, had no right by that title only to dispose of the lands of their county, nor of the freemen who inhabited it. It was for the latter themselves to choose the superior to whom they wished to be attached.

"The quality of ahriman, therefore, did not exclude that of leude, of vassal; ahrimans were the leudes of the man upon whose lands they lived, and when these lands were given in benefice they became the leudes of the new beneficiary.

"I do not find any texts with regard to the rachimburgs, where it is evident that this denomination was applied to leudes as well as to men absolutely free. Often employed in the Salic law, it is more rare than that of ahriman in the monuments of posterior ages; but all things authorise us to form the same judgment as to the meaning of this term that we see formed upon analogous terms. Both the one and the other mean men free and in possession of the rights attendant upon liberty, but not a particular class of citizens placed in a condition distinct on the one hand from that of slaves, and on the other from that of the leudes, or vassals."[1]

[1] *Essais sur l'Histoire de France*, p. 237—241.

Not only did the ahrimans, the rachimburgs, not form a class distinct on the one hand from that of the bond labourers, or slaves, on the other from that of the leudes, or vassals, but they could not fail soon to range themselves under one or other of these two conditions. How, in the house with, and by the side of, a chief who had become a great proprietor, and who was in possession of a thousand means of influence, and whose superiority increased daily, how, I say, could they long preserve that equality, that independence, which the companions of the same band formerly enjoyed? It is evident that it could not be. Those freemen who after the invasion still lived for some time with their chief, before long were divided into two classes; some received benefices, and, become proprietors in their turn, entered into the feudal association, with which we shall occupy ourselves at a later stage of our progress; the others, always fixed within the interior of the domains of their ancient chief, fell either into an entirely servile condition, or else into that of labourers cultivating a part of the land, liable to certain payments or rents.

You see what must result from this sovereignty of the ancient Germanic tribe which I have just described. In the new territorial establishment, it experienced a profound alteration; it lost its character of the family; it could not continue to attach itself to the common sentiments, to those traditions, those ties of parentage which, in ancient Germany, united the proprietary head of the family with most of the inhabitants of his domains. This element of the organization of the Germanic tribe disappeared, or nearly so, when it was transplanted into Gaul. The element which became dominant was that of conquest, of force; and its predominance was the necessary result of the situation in which the proprietary heads of families found themselves in Gaul, a situation radically different from that in which they were placed in Germany.

Thus, this fusion of sovereignty and power, which we have remarked as one of the great characteristics of the feudal system, was not, properly speaking, new; it was not the result of conquest only; an analogous fact existed in Germany, in the heart of the German tribe: there also the proprietary head of the family was sovereign within his domains;

there also took place the fusion of sovereignty and property. But in Germany this fusion was accomplished under the influence of two principles; on the one hand, under the influence of the spirit of family, of the organization of clan; on the other, under the influence of conquest, of force. These two principles had, in the domestic sovereignty of the proprietary chief of the family in Germany, parts altogether unequal and which it would be difficult to estimate. In Gaul, the share of the patriarchal system, of the organization of the clan, became greatly impaired; that of conquest, of force, on the contrary took a great development, and became, if not the only, at least the dominant principle of that fusion of sovereignty and property which is, I repeat, one of the great characteristics of the feudal system.

There is therefore nothing, or at least nothing important to conclude from this fact in Germany, with regard to this fact in our country. I do not say that there is nothing remaining among us of the ancient German habits; I do not say that the spirit of the family, the idea that all the inhabitants of one domain, of one territory, are connected in some moral relations, and in a kind of parentage, had no influence in the French feudal system. I only say that this influence was very confined, very inferior to that of conquest.

Such, if I mistake not, was the transformation of this fact from the fourth to the tenth century. Thus, on its removal from Germany did it become wholly different in our country. In our next lecture we shall occupy ourselves with the third characteristic of the feudal system, that is to say, the relations of the possessors of fiefs among themselves, and the hierarchical organization of their society in itself.

FOURTH LECTURE.

General association of the possessors of fiefs among themselves; third characteristic of the feudal system—From the very nature of its elements this association must have been weak and irregular—It, in fact, always was so—Fallacy of the view which the apologists of this system trace of the feudal hierarchy—Its incoherency and weakness were especially great at the close of the 10th century—The formation of this hierarchy from the 5th to the 10th century—Three systems of institutions are seen together after the German invasion: free institutions, monarchical institutions, aristocratical institutions—Comparative history of these three systems—Decline of the two first—Triumph of the third, which yet remains incomplete and disordered.

The two first characteristics of the feudal system, the special nature of landed property, and the fusion of sovereignty and property in each fief, we are well acquainted with. We know how they were formed; we have seen them take birth and grow, from the fifth to the tenth century. Let us now leave the interior of the fief, let us examine the relations of the possessors of fiefs among themselves, the progressive development of the organization which united them, or rather which was reputed to unite them in one and the same society. This, as you know, is the third of the great facts which constitute the feudal system.

I said the organization which was reputed to unite them: the union, in fact, of the possessors of fiefs among themselves, their organization into a general society was far more a principle than a fact, far more nominal than real. The very nature of the elements of such an association lead us to presume this. What is the tie, the cement of a great society? It is the need which one of the partial, local associations which compose it has of the others; the necessity in which they are placed of having recourse to one another, in order to exercise their rights, for the accomplishment of the various public

functions, for legislation, for the administration of justice, of finances, of war, &c. If each family, each town, each territorial circumscription finds within itself, in its own bosom, everything of which it has any need in a political point of view; if it forms a complete, petty state, which has nothing to receive from elsewhere, nothing to give elsewhere, it will not adhere to other families, to other towns, to other local circumscriptions; there would be no society between them. The dispersion of sovereignty and government into the various parts, among the different members of the state, that it is which constitutes the state; that is, the external tie of general society, which brings and retains together its elements.

Now, the fusion of sovereignty and property, and its concentration within the domain, in the hands of its possessor, had exactly the effect of isolating the proprietor of the fief from other similar proprietors; each fief formed, as it were, a small, complete state, whose inhabitants had nothing, or almost nothing, to seek beyond it, which sufficed to itself, in matters of legislation, administration, of justice, taxes, war, &c. In a society formed of such elements, it was an inevitable consequence that the general tie should be weak, rarely felt, easily broken. The possessors of fiefs had, it is true, common affairs, reciprocal rights and duties. There was, moreover, the inclination natural to man, of continually extending his relations, of aggrandizing, of animating his social existence more and more, of constantly seeking, as it were, new citizens, and new ties with them. In fine, at the epoch with which we occupy ourselves, the Christian church, a society always one, and strongly constituted, incessantly laboured to introduce something of its unity, its entirety, into the civil society; and this work was not fruitless. But it is not the less evident that, from the nature of its elements, and especially from the fusion of sovereignty and property, from the almost entire *localisation* of power, if such a term be allowed, the general association of the possessors of fiefs must have had very little compactness, very little activity; that but very little entirety or unity could have prevailed in it.

And such, in fact, was the case; history fully confirms the inductions drawn from the very nature of this social state. Its apologists have applied themselves to the bringing promi-

nently forward the reciprocal rights and duties of the possessors of fiefs; they have vaunted the skilful gradation of the ties which united them among themselves, from the weakest to the most powerful, in such a way that none were isolated, and yet that each remained free and master of himself. According to them, the independence of individuals was never more happily reconciled with the harmony of the whole. A chimerical idea, a purely logical hypothesis! Doubtless, in principle, the possessors of fiefs were united to each other, and their hierarchical association appears skilfully organized. But in fact, this organization was never real and efficacious; feudalism could never draw from its bosom a principle of order and unity sufficient to form a general, and, however little, regulated society. Its elements, that is to say, the possessors of fiefs, were always in a state of disunion and war among themselves, continually obliged to have recourse to force, because no supreme, truly public, power was present to maintain between them justice and peace, that is, society; and to create such a power, to fuse all its scattered and even hostile elements into a single and true society, it was necessary to have recourse to other principles, to other institutions, to institutions and principles foreign and even hostile to the feudal system. As you already know, it was by royalty on the one hand, and on the other by the idea of the nation in general, and of its rights, that political unity has prevailed among us, that the *State* has been constituted; and it was always at the expense of the possessors of fiefs by the weakening and progressive abolition of the feudal system, that we have approached this end.

It, therefore, must not be expected that we shall find that systematical and general organization of the possessors of fiefs among themselves, which I have pointed out as the third great characteristic of the feudal system, clearly and entirely realized in facts. The character belongs to it, and distinguishes it from every other social state; but it has never had its full development, its efficacious and regular application; the feudal hierarchy has never been really constituted, has not lived according to the rules and forms which the publicists assign to it. The special nature of landed property, the fusion of sovereignty and property, are simple, evident facts, which are shown in history, just as they are conceived in theory. But the feudal society in its entirety

is an imaginary edifice, constructed after the event in the minds of learned men, and the materials only of which have existed in our territory, always unconnected and imperfect.

If such was its state during the course of the feudal period, how much more must it have been so at the commencement of this period, towards the end of the tenth century. Feudalism had then scarcely arisen out of the chaos of barbarism; it was arising from it as a kind of *pis-aller*, as the system nearest allied to that which was coming to a close, as the sole form which the growing society could take. The incoherence, the want of entirety, would necessarily be much greater than at a later period. The feudal association would be still farther removed from that state of unity, of regularity, which it never attained. The close of the tenth and the commencement of the eleventh century, are, in fact, in the feudal epoch, the period when feudalism appeared most disordered, the most destitute of general organization. We there see the possessors of fiefs forming themselves into an infinity of small groups, of which some count, duke, or mere seigneur, became the chief, according to the chances of place or events, remaining almost strangers to each other. Sometimes these local associations seemed to preserve relations among themselves, to adhere to a common centre; but we soon find that this appearance is fallacious. We see, for example, the name of the king of France still inscribed by such or such a lord of Aquitaine at the head of his acts, but it is the name of a king already dead; they render homage to royalty, but are ignorant as to who is its actual depositary. At no epoch was the parcelling out of territory among the possessors of fiefs so great, and their independence so complete; at no epoch had the hierarchical tie which should have united them so little reality.

In studying, therefore, from the fifth to the tenth century, the progressive formation of this third characteristic of the feudal system, we shall not arrive at results so prompt, so positive, as in the study of the two first. We shall not see the feudal organization appear, and clearly develop itself before our eyes, as was the case with regard to the special nature of landed property, and the amalgamation of sovereignty and property; we shall see but the germs, we shall witness only the first efforts at formation of that system which was never thoroughly perfected; we shall encounter here and there

upon our own soil, the materials of that edifice which was never regularly constructed, or, more correctly speaking, we shall see every other social edifice fall, every other system vanish. From the fifth to the tenth century, no principle of social and political unity was able to preserve or acquire the empire; all those which formerly prevailed were conquered, abolished; and it was above their ruins that the rude and incomplete attempts at feudal organization appeared. It is, therefore, less the progressive formation of the general association, of the possessors of fiefs, than the progressive destruction of every other great social system, which I shall endeavour to retrace.

Immediately after the invasion and establishment of the Germans in Gaul, three principles of social organization, three systems of institutions co-exist and are present together: 1, the system of free institutions; 2, the system of aristocratical institutions; 3, the system of monarchical institutions.

The system of free institutions has its origin: 1st, in Germany, in the general assembly of the proprietary chiefs of family of the tribe, and in the common deliberation and personal independence of the warriors who formed the band: 2nd, in Gaul, in the remains of the municipal system, in the heart of cities.

The system of aristocratical institutions has its origin: 1st, in Germany, in the domestic sovereignty of the proprietary chiefs of family, and in the patronage of the chief of the band over his companions: 2nd, in Gaul, in the very unequal subdivision of landed property, concentrated in the hands of a small number of great proprietors, and in their domination of the mass of the population, labourers or slaves, who cultivate their domains, or serve them in their houses.

The system of monarchical institutions has its origin: 1st, in Germany, in military royalty, that is to say, the command of the chief of the band, and in the religious character inherent to certain families: 2nd, in Gaul, in the traditions of the Roman empire, and in the doctrines of the Christian church.

These are the three great systems of institutions, the three principles essentially different, which the fall of the empire and the German invasion brought into the presence of each other, and which were to concur in the formation of the new society.

What were, from the fifth to the tenth century, the desti-

nies of these three systems each in itself, and in their amalgamation?

Let us first speak of the system of free institutions.

It perpetuates and manifests itself from the fifth to the tenth century: 1st, in the local assemblies, where the conquerors established in various parts of the territory assembled, and together discussed their affairs; 2nd, in the general assemblies of the nation; 3rd, in the remains of the municipal system, in the heart of cities:

That the local assemblies of the ancient Germans called *mâls*[1] in their language, and *placita* in Latin, continued after the invasion, cannot be doubted; the text of their laws give evidence of it at every step. The following are some instances:

"If any one convened to the *mâl* does not repair thither, let him be condemned to pay 15 *solidi*, unless he has been kept back by some lawful impediment."[2]

"If any one has need of witnesses in order that they may give testimony at the *mâl*, he who has need of them must convene them."[3]

"Let the assembly (*conventus*) be according to ancient custom in each hundred, before the count or his envoy, and before the hundred-man."[4]

"Let the court (*placitum*) take place every Saturday, or such day as shall please the count, or the hundred-man, in every week, when there is but little tranquillity in the province: when there is greater tranquillity, let the assembly take place every fortnight in each hundred, as it is ordered here above."[5]

"Let the court be held every calend, or every fortnight if necessary, to inquire into causes, in order that peace may reign in the provinces."[6]

These assemblies were composed of all the free men settled in the territorial circumscription; all had not only the right, but were obliged to repair thither.

[1] From the ancient German word, *mahl*, which signifies *meeting, assembly*, and is still found in many words, as *mahlzet*, repast, time of meeting; *mahlstatt*, place where the tribunal meets, &c.

[2] Salic Law, t. 1, c. 1, b. 16.

[3] Law of the Rip., t. 1, c. 1, t. lxvi., c. i., &c.

[4] Law of the Allem., t. xxxvi., c. 1.

[5] *Ibidem*, c. 2.

[6] Law of the Boiares, t. xv., c. 1.

"If any free man neglect to come to the court, and do not present himself to the count, or to his delegate, or to the hundred-man, let him be condemned to pay 15 *solidi*. Let no person, whether vassal of the duke or of the count, or otherwise, neglect to come to the court, to the end that the poor may not be prevented from prosecuting their causes." [1]

"Let all free men meet on the days fixed, where the judge shall direct, and let no person dare omit coming to the court. Let all who live in the county, whether vassal of the king or duke, or any other, come to the court, and let him who shall neglect to come be condemned to pay 15 *solidi*."[2]

It is not easy to enumerate the attributes, the occupations of these assemblies, for they discussed everything in them, all the common interests of the men who were assembled at them; but their principal business was to administer justice: all causes, all disputes were carried thither, to be submitted to the decision of free and notable men, of the *rachimburgs*, whose duty it was to declare, to show what was the law.

"If any rachimburgs sitting in any *mâl* have not declared the law, when a cause shall have been debated between two persons, he who prosecutes the cause must say to them three times, 'Tell us the Salic law;' if they will not say it, he who prosecutes the cause must say to them again, 'I require you to declare the law between my adversary and me.' The day being named for this purpose, seven of these rachimburgs shall each pay nine sols. If they do not then choose to declare the law . . . . nor give assurance of payment, then let a second day be appointed them, and then let each of them be condemned to pay 15 sols." [3]

"If any one is prosecuting his cause, and the rachimburgs have not chosen to declare the Ripuarian law between the parties, then let him against whom they have pronounced an adverse sentence, say, 'I summon you to tell me the law.' Let those who have not chosen to declare it, and have afterwards been convicted of it, each of them pay 15 sols fine." [4]

"If any one gain his cause in the mâl and by law . . . the rachimburgs must explain to him the law by which the cause has been decided. The plaintiff must act according to law,

[1] Law of the Allem., t. xxxvi., c. 4.
[2] Law of the Boiares, t. xv., c. 1.
[3] Salic law, t. lx.
[4] Law of the Rip., t. lv.

invite the officer to go to the house of the other, in order to take of his goods what he legally owes in respect of the cause."[1]

Not only did they administer justice in the *mâls*, not only did they deliberate there upon common affairs, but most civil affairs, most contracts were there completed, and thence only acquired the publicity, the authenticity which it is the duty of the notaries and public officers to give them in the present day:

"If any one sell anything to another, and if the buyer wish to have an act of sale, he must demand it in full *mâl*, immediately put down the price, receiving the articles, and then let the act be written. If the article be of little value, let the act be attested by seven witnesses; if of much value, by twelve."[2]

Such was the state of local assemblies in the first ages following the invasion; they were not long so real and genuine as the texts seem to indicate. You may observe that, according to these very texts, it was more especially among the Germans still established upon the frontiers, or even in the interior of Germany, that the national *mâls* appear active and frequent. The laws of the Germans, of the Boiares, of the Ripuarian Franks, speak of them more frequently and in a more authoritative tone than those of the Salian Franks, further advanced into the interior of Gaul, and amidst the Roman population. There, indeed, the local *mâls* soon fell into disuse, into such disuse that, at the end of the Carlovingian race, the local chiefs, counts, viscounts, or others, convoked them in order to have the right of fining the free men who did not attend them. A capitulary of Louis le Debonnaire is entitled:

"Of vicars and hundred-men who, more out of cupidity than to administer justice, frequently hold courts and thus trouble the people too much."[3]

And Charlemagne, in order to remedy this abuse, had already reduced to three a year, the number of those local courts which the first barbarous laws convoked every month, every fortnight, or even every week.

[1] Salic Law, tit. lix.
[2] Law of the Rip., t. lix., c. 1.
[3] Bal., i., 1, coll. 617.

"With regard to the local courts which free men are to attend, the decrees of our father must be observed; namely, that only three general courts are to be held in the year, and that no person shall be forced to attend them, except the accused or the accuser, or him who is called to give evidence. With regard to other courts held by hundred men, let none be convoked to them, except him who pleads, him who judges, and him who gives evidence."[1]

Who were these judges who were bound to attend local assemblies, when most free men were exempt from them? The *scabini*, or sheriffs, the real magistrates, charged by the prince with administering justice, instead of the citizens, who refused the burden. That is the true meaning of the word *scabini* (in German *schœffen*, judges,) which many writers have confounded with the *rachimburgi* of the Salic law; and this innovation of Charlemagne suffices to prove into what decay the ancient local *mâls*, that is to say, the system of free institutions applied to civil life, had fallen at this period:

"Let no person be convoked to the court, but the plaintiff and the defendant in each cause, except seven *scabini*, who must be present at all hearings."[2]

With much stronger reason, the same decay would strike this system in the political sphere, in the general assemblies of the nation. Among men living at a distance from one another, and who had no longer the same interests, and the same destiny, these great meetings became difficult and artificial. Accordingly, the *champs de Mars*, the *placita generalia*, became more and more rare and futile under the Merovingians. In the earliest ages we still frequently meet with them, because the warriors often made new expeditions in common; the band still met to attempt new adventures. Gradually, as the sedentary life prevailed, the general assemblies disappeared, and those which bear the name are of an entirely different nature; they have no longer either one or the other of these two characteristics. Sometimes they are solemn meetings, where people came, in virtue of an ancient custom, to bring to the chief or king presents which form a part of his wealth; sometimes the kings, after having struggled

[1] *Capit. of Louis le Debon.*, in 819; Bal., t. i., col. 616.
[2] *Capit. of Charlemagne*, in 803; Bal., t. i., col. 394—465.

against their leudes, their beneficiaries, the one to resume, the other to retain their fees, entered into a negotiation with them, which led to meetings of which the name calls to mind the ancient national assemblies, but which, in fact, are only conferences, congresses, where great proprietors, petty sovereigns, discuss their interests and arrange their disputes. Such were, in 587, the assembly which concluded the treaty of Andelot; in 615, under Clotaire II. that of Paris, whence issued the ordinance which bears its name, and many other meetings in no way national, in no way resembling the assembly of the tribe, or the German band, but which were yet called *placita generalia*.

With the first Carlovingians, the general assemblies renewed their primitive character, the military character. The establishment of the second race was, as you know, up to a certain point, a second invasion of Western Gaul by the German bands. We accordingly see these bands meet periodically to prosecute their expeditions further, and to secure their conquests by new ones. This was the predominant feature of the *Champs-de-Mars*, become the *Champs-de-Mai* of Pepin le Bref. We meet under his reign with more than ten great meetings of this kind. Under Charlemagne they are still more frequent, and their character assumes higher dignity. They are no longer mere military meetings, great national reviews. Charlemagne made them a means of government. Most of you, I think, remember what I said in the last course upon this subject, and the fragments which I quoted from the small treatise of Hincmar, *De Ordine Palatii*, where he gives a detailed account of these assemblies, of their composition, and of their labours. Charlemagne convoked almost all his agents, and, to speak the language of our times, the functionaries of his empire, dukes, counts, viscounts, vicars, hundred-men, scabini, &c. His object was to learn through them what was passing around, to communicate his wishes to them, to discipline them to his will, and thus to introduce some entirety, some order, into that immense and incessantly agitated body, of which he claimed to be the soul. These, assuredly, are not the ancient assemblies of the German warriors, those assemblies where personal independence prevailed, and where Clovis was constrained to allow each to take his share of the booty.

Under Louis le Debonnaire, the *placita generalia* are still frequent, but disorder and war penetrate them, and make instruments of them. Under Charles le Chauve, they resume the characteristic of which I have just spoken; they are no longer anything but conferences, congresses, where the king struggles with greater or less success against vassals who isolate themselves more and more, and whom he can neither retain nor repress. After Charles le Chauve, and towards the close of the Carlovingian race, even these congresses ceased. Sovereignty decidedly became local; royalty had no longer even the simple claim to figure as the centre of the state. To the ancient national assemblies the feudal courts were about to succeed, the assembly of the vassals around the sovereign.

With regard to the wrecks of the Roman municipal system, the third element of the free institutions of this epoch, I shall not repeat what I have already said in our last course; nor shall I anticipate what I shall have to say when we are occupied with the regeneration of the commons. I confine myself to calling to mind, that the *curia*, its rights and institutions, have never disappeared from our territory, especially in the south of Gaul, and that we may equally attest their decay and their perpetuity from the fifth to the tenth century.

Such was the fate of the system of free institutions in this long interval. You see that all its principles grew more and more enervated, that all its means of action were broken. Had the monarchical institutions any better fortune?

I have said that among the Germans royalty had a twofold origin; that it was military and religious.

As being military, royalty was elective; a famous chief proclaimed an expedition to draw around him companions; he had no right, no coercive means; whoever chose came; warriors rallied round a chief of their choice; he was their king while it pleased them to follow him: this was election, if not according to political forms, at least in its principle and its liberty.

In as much as it was religious, royalty was hereditary; for the religious character was the property, so to speak, of certain families descended from heroes, from national demi-gods, from Odin, Tuisco, &c.; and this character could be neither lost nor transferred. There is scarcely any Germanic nation

in which we do not meet with these royal families; the Gothic and Anglo-Saxon princes descend from Odin; among the Franks, the Merovingians, in virtue of an analogous origin, alone wear long hair.

In passing over the Roman soil, Germanic royalty there found other principles, other elements which were profoundly to modify its character; there imperial royalty dominated, an institution specially symbolical, and a symbol purely political. The emperor had succeeded to the Roman people; as the representative of the Roman people, he appropriated its rights, its majesty; by this title he called himself sovereign. Imperial royalty was the personification of the republic; and as Louis XIV. said, *L'Etat c'est moi*, the successor of Augustus might say, *The Roman people, it is I.*

Beside imperial royalty arose Christian royalty, also a symbolical institution, but a symbol of a different nature, a symbol purely religious. The king, according to Christian ideas, was the delegate and representative of the Divinity. I just now spoke of the religious origin of barbarous royalty: it had, however, nothing symbolical about it; the families which passed for the descendants of the national demi-gods were thus invested with a positive and personal character. In Christian royalty, on the contrary, there is nothing personal or positive; it is a type, an image of the invisible and only sovereign Being.

Thus, under a twofold point of view, Roman royalty essentially differed from barbarous royalty; political or religious, this was a personal prerogative; political or religious, that was a pure symbol, a social fiction.

Such, so to speak, are the four origins of modern royalty, the four principles which, after the invasion, sought to combine in its production. We see then labour commence under the Merovingians. The Frank kings are, and wish to remain, chiefs of warriors—at the same time they take advantage of their barbaric religious descent; they adopt the Roman maxims, and endeavour to stand forth as the representatives of the state; in fine, they call themselves, and make the clergy call them, the images and representatives of God upon earth.

For minds so rude and simple as those of the barbarians of the sixth century, these notions and combinations were too complicated. They were, accordingly, not successful; and

Merovingian royalty—precisely, if I mistake not, by reason of the uncertainty of its character and of its basis—soon fell into complete decay. When it began to reappear with vigour in the person of the Carlovingians, it had undergone a great metamorphosis. The first Carlovingians were pure military chiefs. In the eyes of their German countrymen, they had none of that religious character with which the family of the long-haired kings was invested. Neither Pepin de Herstall nor Charles Martel in any way gave themselves out as the descendants of Odin, or other Germanic demi-gods; they were simply great proprietors and chiefs of warriors. Germanic royalty, then, reappeared at this time with the military character only. Every one knows how eagerly Pepin sought to add to it the Christian religious character. A stranger to all the traditions, to all the religious creeds of ancient Germany, he desired to support himself by new religious creeds, already far more powerful. Charlemagne went still further; he undertook again to give the character of imperial royalty to Frankish royalty, to again make it a political symbol, himself to resume the rank of representative of the state which the Roman emperors occupied. And he laboured at this by the most efficacious means; not by the sole pomp of ceremonies and language, but by really resuscitating the imperial power, the Roman administration, and that *omnipresence*, as it were, of royalty, at all parts of the earth, which, amidst the universal decline, had constituted the whole strength of that great despotism.

This is the true characteristic of the government of Charlemagne. I shall not repeat here what I said concerning it in the last course; but some extracts from his capitularies will show how carefully he was occupied with all things, desired to know everything, to be everywhere, either in person or by his delegates—in fine, to present himself to the minds of the people as the universal mover and source of the entire government.

"Let the counts and their vicars be well acquainted with the law, to the end that no judge may decide unjustly in their presence, nor unduly alter the law."[1]

"We will and order that our counts do not remit the

[1] *Capit. of Charlemagne*, in 803; Bal., tom. 1, col. 396.

sitting of their courts, nor abridge them unduly, in order to give themselves to the chase or to other pleasures."[1]

"Let no count hold his courts unless he be fasting, and of composed mind."[2]

"Let each bishop, each abbot, each count, have a good registrar, and let not the scribes write in an illegible manner."[3]

"We will, that with regard to the jurisdiction and affairs which have hitherto belonged to the counts, our envoys shall acquit themselves of their mission four times in the year: in winter, in the month of January; in spring, in the month of April; in summer, in the month of July; and in autumn, in the month of October. Each time, they shall hold courts where the counts of the neighbouring counties shall meet."[4]

"Each time that one of our envoys shall observe in his legation that anything happens otherwise than as we have ordered it, not only shall he take care to reform it, but he shall give us a detailed account of the abuses which he may discover."[5]

"Let our envoys select, in each place, *scabini*, advocates and notaries, and on their return let them bring us their names in writing."[6]

"Whenever they find bad vicars, advocates, or hundred-men, let them be removed, and others selected who know how and are willing to judge affairs according to equity. If they find a corrupt count, let them inform us of the same."[7]

"We will that each of our envoys carefully watch that each of the men whom we have charged with the government of our people, acquit himself justly of his office, in a manner agreeable to God, honourable to us, and useful to our subjects. Let the said envoys, therefore, make a point of knowing if the orders contained in the capitularies which we transmitted to them last year, are executed according to the will of God and our own. We will that in the middle of the month of May, our envoys, each in his legation, convoke in one place all the bishops, abbots, our vassals, our advocates, vicars, abbesses, as well as the representatives of all

[1] Year 807; Bal., tom. i., col. 459. [2] Year 803; ibid., col. 393.
[3] Year 805; ibid., col. 421.
[4] Year 812; ibid., col. 493. [5] Ibid. [6] Year 803; ibid., col. 393.
[7] Bal., t. i., c. 396, year 805; ibid., c. 426.

the lords whom any imperious necessity prevents repairing thither themselves; and if it be more convenient, especially with a view to the poor people, that this meeting be held in two or three different places instead of one, let it be so. Let each count bring thither his vicars, his hundred-men, and also three or four of his most notable sheriffs. In this assembly, let them first occupy themselves with the state of the Christian religion, and the condition of the ecclesiastical order. Then let our envoys inform themselves, from all present, of the manner in which each acquits himself of the employment which we have confided to him; let them learn if concord reigns among our officers, and whether they mutually give each other help in their functions. Let them make this inquiry with the most careful diligence, and in such a way that we may from them know the truth of all things; and if they learn that in any place there is an affair, the decision of which requires their presence, let them repair thither, and regulate it in virtue of our authority." [1]

Surely, nothing less resembles barbaric royalty than such a mode of government; nothing more forcibly calls to mind the spirit and administration of the empire; of that power which represented the state, and acted almost alone in the state. That is the system which, without being thoroughly aware of it, without having reconstructed its theory, Charlemagne laboured to restore; and he knew very well what was the principal obstacle to this enterprise; he knew very well that the rising feudal system, the independence and the rights of proprietary beneficiaries in their domains, the fusion of sovereignty and property, were the most dangerous enemies of that sovereignty and administrative royalty to which he aspired. Accordingly, he struggled incessantly against these enemies, and endeavoured to restrain and to divide the power of the proprietors as much as in him lay.

"He never," says the monk of Saint Gall, "confided the administration of more than one county to his counts, except it were those which were situated on the frontiers, or in the neighbourhood of barbarians. He never, unless impelled by really powerful motives, conceded to a bishop, in benefice, an

[1] *Capit. of Louis le Debon.*, in 823. He but repeats what Charlemagne prescribed. Bal., t. I., col. 649.

abbey or church of the royal domain; and when his counsellors or favourites asked him why he acted thus, he answered them: 'With this property or that farm, with this little abbey or that church, I acquire the faith of a vassal as good, even better than this bishop or that count.'" [1]

He did more; he attempted to pierce through, if I may so express myself, all private properties, in order to enter into direct relations with all the inhabitants of his empire. I will explain myself. He only communicated with the mass of the population through the intermediation of the possessors of freeholds or fees, each sovereign in his domains, and chief of the free men, or *coloni*, or serfs who inhabited them. Charlemagne desired that an oath of fidelity, directed and personal, should be given him by all freemen, as to the real and true sovereign of the state. We find in the formulæ of Marculf, the following letter from him:

"To the count ———. With the consent of the high men of our realm, we have ordered that our glorious son ——— shall reign in the kingdom of ———. Consequently, we order that in all cities, villages, and castles, you convoke and cause to meet in convenient places all your inhabitants, whether Franks, Romans, or any other nation; to the end that in the presence of the illustrious ———, our envoy, whom we send to you for this purpose, they all swear fidelity and loyal attachment to our son and to us, whether by the holy places, or by such other holy pledge as we transmit to you for that purpose." [2]

When he had been crowned emperor,

"He ordered that every man in his kingdom, layman or ecclesiastic, who had already sworn fidelity to him under the name of king, should renew the same promise to him as Cæsar; and that all those who had not yet taken the said oath should take it, down to the age of twelve." [3]

Lastly, we read in a capitulary of the year 805:

"Let none swear fidelity to any other than to us and to his lord for our utility and that of his lord." [4]

"Such a system evidently tended to free royalty from all feudal relations; to found its empire beyond the hierarchy

[1] *Recueil des Historiens de France*, t. v. p. 3.
[2] *Marculf*, l. i., f. 40. [3] Bal., t. l., col. 363. [4] Ibid., col. 425.

of persons and lands; in fine, to render it everywhere present, everywhere powerful, in virtue of the public power and by its own right. The attempt succeeded while Charlemagne presided over it. His successors undertook to continue it, that is to say, they ordered what he had done. The demand of the universal oath reappeared in their acts, and even survived their impotence; but it was no longer any more than a futile form. The relations between free men and the king, and his personal power over them, became daily weakened. The obligation of fidelity was no longer real, except between the vassal and his lord. It was to the lords that Charles le Chauve addressed himself, in order to repress the disorders committed on their lands; it was through their authority that he brought his own to bear. He had no direct influence; and although he menaced the lords with making them responsible for the crimes of their men, if they did not prevent or punish them, it is clear that the feudal hierarchy had regained independence with the empire, and that the attempt of Charlemagne to free royalty from it had failed by the effect of the general course of things and the incapacity of his successors." [1]

At the close of the tenth century then, the system of monarchical institutions had succeeded no better than the system of free institutions in taking possession of society, and introducing unity and rule into it. All its laws were shaken, all its means of action enervated or inapplicable. The religious character of ancient German royalty had disappeared; the heroic origin of such or such a family was forgotten, as well as many of the traditions of the barbaric life. It had equally lost its primitive military character; the band no longer existed; the wandering and common life had ceased; most of the warriors were established in their own domains. The political character of imperial royalty was incompatible with the new society; there was no longer sovereignty, no longer national majesty, no longer any state in general; how could there be a symbol, a representative of that which no longer existed? The religious Christian character of royalty alone preserved any reality, any influence, and that was but weak and rare; lay proprietors scarcely heeded it; the tumult of their life

[1] *Essais sur l'Histoire de France*, p. 155—160.

and the needs of personal independence alone occupied their minds; the bishops and great abbots themselves cared but little about it; they also had become proprietors of fiefs, had assumed the interests and habits of such, and had but little affection towards ideas which in no way accorded with their temporal position. All the bases, I repeat, of the system of monarchical institutions, as well as of the system of free institutions, were shaken, all its vital principles had lost their energy.

It was entirely different with the system of aristocratical institutions. Instead of declining, they were progressing. To be convinced of this, it is only necessary to observe what the elements, whether German or Roman, which constituted it had become. They were all strengthened and developed.

And first, as you have already seen, the domestic sovereignty of the German proprietary chief of the family was transplanted into Gaul; it even became there more complete and more absolute, because the spirit of family which had formerly been associated with it there had disappeared, and the fact of conquest, of force, had become almost its only base. Accordingly, this first aristocratical element of ancient German society became strengthened instead of weakened, in the new social state.

The second, that is to say, the patronage of the chief of the band over his companions, had experienced the same fate; it had changed its form; to the ascendancy of the warrior had succeeded the rights of the suzerain over his vassals. But this metamorphosis of relations had given far more energy and solidity to the aristocratical principle that it previously contained. On the one hand, inequality was developed; the possessors of fiefs were far more unequal among themselves than the warriors; on the other, in the ancient band, the companions living together, supported one another, and in common controlled the power of the chief. When they had entered into the condition of proprietors, each found himself isolated, and the superior, the suzerain, had far greater facilities for subduing them. A new progress of the aristocratical system.

With regard to the subdivision of landed property, I think it underwent considerable and rather aristocratical change; it divided itself. Without doubt, the feudal system had this

effect at first. At the close of the tenth century, at the commencement of the feudal period, there were many more landed proprietors in Gaul than at the fall of the empire. The territory was divided into smaller lots, more especially into more varied lots; the fiefs were much more different, more unequal, than the domains of the great Gallo-Roman proprietors had been; in this respect, therefore, the aristocratical principle was a little weakened; but assuredly the distribution of landed property was still sufficiently unequal, the land concentrated into a sufficiently limited number of hands, to found a very aristocratic system.

You see, therefore, that while the system of free institutions and that of monarchical institutions were declining, the system of aristocratical institutions, on the contrary, saw its bases strengthen, its principles gain vigour. It had not acquired, it had not given to society in general, a regular form, unity, or entirety; it never will attain that. But, it evidently prevailed; it alone was likely to live, if I may use the expression, alone capable of subduing men, and of giving to other social principles time to regain breath, to reappear one day with better success.

Thus was feudal society prepared, thus was it progressively formed, from the fifth to the tenth century. We have attempted to discover its origins, to follow it in its earliest developments. It now subsists, it covers our land. We shall henceforward study it in itself, and in its maturity.

FIFTH LECTURE.

Method to be followed in the study of the feudal period—The simple fief is the fundamental element, the integrant molecule of feudalism—The simple fief contains: 1, the castle and its proprietors; 2, the village and its inhabitants—Origin of feudal castles—Their multiplication in the 9th and 10th centuries—Causes of this—Efforts of the kings and powerful suzerains to oppose it—Futility of these efforts—Character of the castles of the 11th century—Interior life of the proprietors of fiefs—Their isolation—Their idleness—Their incessant wars, expeditions, and adventures—Influence of the material circumstances of feudal habitations upon the course of civilization—Development of domestic life, condition of women, and of the spirit of family in the interior of castles.

We now approach the special object of this course. We are about to study feudal society in itself, during the period which especially belongs to it, from the time when it may be regarded as truly formed, down to the time when France escaped from it, and passed under the empire of other principles, of other institutions; that is, during the eleventh, twelfth, and thirteenth centuries.

I desire to follow in their entirety the destinies of feudalism during these three centuries. I would wish not to parcel it out, but to keep it constantly entire under your eyes, and make you thus see its successive transformations at a single glance. This would be its true history, the only faithful image of the reality. Unfortunately, this cannot be. In order to study, the human mind is forced to divide, to analyze; it learns nothing unless it be successively and in parts. It is then the work of the imagination and of the reason to reconstruct the demolished edifice, to resuscitate the being destroyed by the scientific scalpel. But it is absolutely

necessary to pass through this dissection and its progress; the weakness of the human mind so orders it.

I have already pointed out the classification of our researches upon feudal society. I have said that on the one hand we shall study the social state, and on the other, the intellectual state: in the social state, the civil and the religious society; in the intellectual state, the learned literature, and the popular literature. It is, therefore, with the history of civil society in the feudal period, that we must commence.

Here also we have need to divide, to classify, to study separately; the matter is too vast and too complicated, to allow of it being comprehended all complete and at a single grasp.

Let us at least endeavour to discover and to follow out the least artificial method, that which will the least mutilate facts, which will best respect their integrity and concatenation; the most living method, as it were, the one most neighbouring on reality.

If I mistake not, it is the following:

At the end of the tenth century, feudal society was definitively formed; it had attained the plenitude of its existence; it covered and possessed our territory. What was its fundamental element, its political unity? What, so to speak (I have already made use of this expression), what was the primitive feudal molecule, that which could not be broken without the feudal character being abolished?

It is evidently the simple fief, the domain possessed by way of fief, by a lord who exercises over the inhabitants that sovereignty inherent, as you know, to property.

It is therefore with the simple fief, considered in itself, that we shall commence our study. We shall first apply ourselves to the proper understanding of this fundamental element of feudalism.

What does the mere, simple fief contain, reduced to its last expression? What is there to study in its inclosure?

First, the possessor himself of the fief, his situation and his life, that is to say, the castle; then the inhabitant of the fief, not possessors, mere cultivators of the domain, and subject to the proprietor, that is to say, the village.

These are evidently the two objects to which our attention is called in the study of the simple fief. It is necessary that we should thoroughly know what was the condition and des-

tiny, from the eleventh to the fourteenth century—1, of the feudal castle and its proprietors; 2, of the feudal village and its inhabitants. When we shall have actually lived in the interior of the fief, when we shall really have been present at what passed there, at the revolutions which were accomplished in it, we shall leave it in order to seek the ties which united together the fiefs disseminated throughout the territory; to be present at the relations, whether between suzerains and vassals, or between vassals among themselves. We shall then study the general association of the possessors of fiefs under the various relations which constitute the political order, that is, in its legislative, military, judicial, and other institutions. We shall endeavour thoroughly to discern: 1, what principles, what ideas presided at these institutions, what were the rational foundations, the political doctrines of feudalism; 2, what the feudal institutions really were, no longer in principle, and conceived systematically, but actually and in application; 3, finally, what results must have been produced, and in fact were produced, whether by the political doctrines, or by the practical institutions of feudalism, for the development of civilization in general.

There feudal society seems to stop. Do we not now know all its elements? is not all its organization unveiled to us? It essentially consists in the hierarchical association of the possessors of fiefs, and in their sovereignty over the inhabitants of their domains. This known, is not all known? have we not arrived at the term of the career which we had to go over?

Certainly not: feudal society, properly so called, even in its triumph, was not, at this epoch, the entire civil society. As I have already had occasion to observe, other elements are there encountered, of another origin and of another character; elements which took place in feudalism, but which were never completely incorporated with it, which have always secretly combated it, and ended by triumphing over it: these are, royalty and the towns. Royalty was both within and without feudalism: feudal in certain points of its situation, in some of its rights, it borrowed from others, other principles, other social facts, not only foreign but hostile to feudalism. It was so also with towns; they reconstituted themselves within the bosom of feudal

society, to a certain degree assimilating themselves to it; but they were also attached to other principles, to other facts; and, upon the whole, the difference was greater than the assimilation, as the event has proved.

When, then, we shall have studied feudalism in itself, it will still remain for us to study two other elements of civil society at the same epoch, royalty and the towns. We shall study, on the one hand, what, in their feudal character, they had in common with feudalism; on the other, how they were separated from it, in their peculiar and distinct character.

All these elements of civil society thus properly known, we shall endeavour to bring them face to face, to unravel the play of their relations; to fix the true physiognomy, and the principal revolutions of the whole which they formed.

Such will be our progress in the study of civil society in France, during the feudal period. Let us immediately approach it, let us enter, and confine ourselves to the simple fief.

Let us first occupy ourselves with its possessor; let us study the situation and the life of the sovereign of this little state, the interior of the castle which contained him, and his people.

The single word *castle* awakes the idea of feudal society; it seems to rise up before us. Nothing can be more natural. These castles which covered our soil, and the ruins of which are still scattered about, it is feudalism which constructed them; their elevation was, so to speak, the declaration of its triumph. Nothing of the kind existed on the Gallo-Roman soil. Before the German invasion, the great proprietors lived either in cities, or in beautiful houses, agreeably situated near cities, or in rich plains upon the banks of rivers. In the country districts, properly so called, were dispersed the *villæ*, a species of farms, great buildings serving for the improvement of estates, and for the dwelling of the labourers or serfs who cultivated them.

Such was the distribution and habitation of the various classes, which the Germanic nations found in Gaul at the time of the invasion.

It must not be supposed that they disliked and were eager to change it; that they immediately sought the mountains, steep and savage places, in order to construct new and entirely different dwellings. They first established them-

selves in the habitations of the Gallo-Romans, whether in the cities, or in the *villæ*, amidst the country districts and the agricultural population, and rather in the latter dwellings, whose situation was more conformable to their national habits. Accordingly the *villæ*, of which constant mention is made under the first race, were the same, or almost the same, as they had been before the invasion; that is to say, they were the centre of improvement and habitation of great domains, buildings scattered throughout the country districts, where barbarians and Romans, conquerors and conquered, masters, free men, labourers, slaves, lived together.

Still a change soon became visible. The invasion continued; disorder and pillage were incessantly renewed; the inhabitants of the country districts, of ancient or new origin, had need to guard themselves, and incessantly keep on the defensive. We find the *villæ* gradually becoming surrounded by moats, ramparts of earth, with some appearances of fortifications. Hence arises a pretended etymology of the word *villa*, which we read in the *Glossary* of Du Cange thus:

Villa dicitur à vallis, quasi vallata, eo quod vallata sit solum vallatione vallorum, et non munitione murorum. Indè villanus.

The etymology is incorrect; the word *villa* is far anterior to the epoch when the inhabitants of this kind of dwellings had need to surround them with moats or ramparts; the word is commonly derived from *vehilla*, *vehere*, which probably means the place where the agricultural carts were made. But whatever may be its merit, the mere etymology of the word is not the less a remarkable fact; it proves that the *villæ* were not long before they were in a measure fortified.

There is another circumstance which prevents all doubt of this: in certain parts of France, in Normandy, Picardy, &c., the names of many castles terminate with *ville*, Frondeville, Aboville, Méréville, &c.; and many of these castles are not situated, as most feudal castles properly so called were, in steep, isolated places, but amidst rich plains, in valleys upon the site which the *villæ* doubtless formerly occupied: a sure sign that more than one Anglo-Roman *villa* in fortifying itself, and after many vicissitudes, ended by being metamorphosed into a castle.

As for the rest, even before the invasion was consummated, and in order to resist its disorders, to escape its dangers, the population of the country districts had begun, in many places, to seek refuge in the heights, in places difficult of access, and to surround them with fortifications. We read in the life of St. Nicet, bishop of Trèves, written by Fortunat, bishop of Poictiers:

"In going through these districts, Nicet, that apostolic man, that good pastor, constructed there for his flock a protecting fold: he surrounded the hill with thirty towers, which enclosed it on all sides, and thus raised an edifice where formerly was a forest."[1]

I might quote many analogous examples. Is not this evidently a first attempt of that choice of places, and of that kind of constructions, which were adopted at a later period for feudal castles?

In the dreadful anarchy of the following centuries, the causes which had impelled the population to seek such places of refuge, and to surround them with fortifications, became more and more pressing; it was necessary for it to fly from places easy of access; to fortify its dwelling. And not only did men thus seek security, they also found in it a means of abandoning themselves without fear to depredation, and to secure to themselves its fruits. Among the conquerors, many still led a life of hunting and pillage; they were forced to have a receptacle where they might shut themselves up after an expedition, repel the vengeance of their adversaries, resist the magistrates who attempted to maintain any order in the country. Such was the aim which originally caused the construction of many of the feudal castles. It was more especially after the death of Charlemagne, under the reigns of Louis le Debonnaire and Charles le Chauve, that we find the country covered with these haunts; they even became so numerous and so formidable, that Charles le Chauve, despite his weakness, and for the sake of the public order, as well as of his own authority, thought it his duty to attempt to destroy them. We read in the capitularies drawn up at Pistes in 864:

"We will and expressly order that, whosoever in these

[1] *Fortun. Carm.*, l. iii., c. 12.

times shall, without our consent, have constructed castles, fortifications, and embankments (*haias*), shall entirely destroy them between this and the latter end of August, seeing that the neighbours and inhabitants have suffered much uneasiness and many depredations from them; and if any one refuse to demolish these works, let the counts, in whose counties they have been constructed, themselves cause them to be demolished; and if any one resist them, let them immediately inform us. And if the counts neglect to obey us in this, let them know that, according to what is written in these capitularies, and in those of our predecessors, we shall order them to our presence, and we shall ourselves establish in their counties men who can and will cause our orders to be executed."[1]

The tone and precision of the injunctions addressed to all the royal officers, prove the importance which was attached to the matter; but Charles le Chauve was evidently not in a condition to accomplish such a work. We do not find that this capitulary had any effect, and his successors do not even claim its execution. Accordingly, the number of castles went on increasing under the last Carlovingians with extraordinary rapidity. Still the struggle did not cease between those whose interest it was to prevent, and those who felt the need of raising buildings of this kind: we find it protracted to the eleventh, twelfth, and thirteenth centuries. And it was not merely between the king and the possessors of fiefs that it subsisted, it also broke out among the possessors of fiefs themselves. It was not a mere question, in fact, of the maintenance of public order in the whole territory, nor of a duty or interest of royalty. Every suzerain saw with displeasure his vassal constructing a castle on his fief, for the vassal thus insured himself a powerful means of independence and resistance. Local wars then became longer and more fierce, the castle served for aggression as well as for defence, and the powerful, who desired alone to have them, like the weak who had none at all, greatly feared to see them constructed around them. There was here, accordingly, a subject for continual complaints and protest. About the year 1020, and on a similar occasion, Fulbert, bishop of

[1] *Cap. of Charles le Chauve*, at Pistes, in 864; Bal., vol. ii., col. 195.

Chartres, wrote to king Robert a letter which I shall quote entire, because it gives a clear and lively idea of the importance which such a dispute must have had:

"To his lord Robert, his most gracious king, whom Fulbert, humble bishop of Chartres, prays may remain in the grace of the King of kings.

"We return thanks to your goodness for that you have lately sent us a messenger charged with rejoicing us by bringing news of your good health, and to instruct your majesty of the condition of our affairs, after having demanded from us an account thereof. We then wrote to you concerning the evils done to our church by viscount Geoffrey, of Chateaudun, who shows sufficiently, and even more than enough, that he has no respect for God or your excellence, for he rebuilt the castle of Galardon, formerly destroyed by you; and upon this occasion we may say, *See! the evil comes from the east* upon our church; and lo! again he dares to undertake the building of another castle at Illiers, in the midst of the domains of Saint Mary, concerning which we may well say, and also in good truth, *See! the evil comes from the west.* Now, therefore, forced to write to you by reason of these evils, we bring complaint to your mercy, and ask help and counsel of it; for in this calamity we have received neither aid nor consolation from your son Hugh. Accordingly, penetrated to the depths of our heart with a lively grief, we have already manifested it to such a degree, that, according to our order, our bells, accustomed to announce our joy and gladness, have ceased to sound, as the more to show our sadness; and divine service, which, up to the present time, and by the grace of God, we have been accustomed to celebrate with great rejoicing of heart and mouth, is no longer celebrated, except in a lamentable manner, with a low voice, and almost in silence.

"Thus, therefore, on our knees we implore your pity, with tears of heart and mind, save the holy church of the Mother of God, of which you have willed that we your faithful should be the chief, however unworthy we be thereof; succour those who from you alone, after God, expect their consolation and comfort in the evils with which they are so heavily laden. Consider of the means of delivering us from

these sufferings, and of converting our sadness into joy; summon the count Eudes,[1] and enjoin him sharply, in the name of your royal authority, that he should, in all sincerity, give the necessary orders to have destroyed, or that he himself destroy these constructions of diabolical inspiration, for the love of God, and by fidelity towards you, in honour of the holy Mary, and by affection for us, who are always her faithful. If neither you nor he put an end to this evil, which keeps everything in our country in confusion, what will remain for us to do, but to formally interdict the celebration of all divine service throughout our bishopric? and for ourselves, alas! although greatly against our will, and constrained only by the severest necessity, to exile ourselves to some place, being unable any longer to see with our eyes, or to suffer the oppression of the holy church of God. To the end that we may not be forced to come to this extremity, we again implore your pity with lamentable voice; for God keep us from seeing ourselves constrained to banish ourselves far from you, to have to confess to a foreign king or emperor that you would not or could not defend the bride of Christ, the holy church confided to our care!"

Assuredly, the construction of the castles of Galardon and Illiers must have appeared a grave fact, for it to cause a bishop, in the mere hope of making its gravity felt, to silence the bells of his church, and have divine service almost suspended. The successors of Fulbert, in the bishopric of Chartres, took a different course; they fortified the episcopal house, and were in their turn obliged to demolish their fortifications. We read, in a charter granted to Yves, bishop of Chartres, by Stephen, count of Chartres and of Blois, who died in 1101, the following clause:

"If any future bishop cause to be constructed, in the said episcopal house, a tower or ramparts, let that tower and those ramparts alone be demolished, and let the house itself remain standing, with its dependencies."[2]

Doubtless, between Fulbert and Yves, some bishop of Chartres had added such works to his house, and count Stephen wished to prevent their being renewed.

[1] Geoffrey was vassal of Eudes II., count of Chartres, and the latter was the vassal of the king.

[2] Martenne, *Amplis. Collect.*, t. i., p. 621.

The lords who each held fiefs, often had quarrels among them, arising from the construction of castles, whether within the fief, or on the frontiers of neighbouring fiefs.

"In 1228, Guy, count of Forest and Nevers, and Thibaut, count of Champagne, were at war with one another, because of fortresses which they had respectively caused to be constructed upon the borders of their counties of Champagne and Nevers. This war having lasted for a long period, the two counts put it to the arbitration of the cardinal legate, who then gave his judgment as umpire, by which it was said that so long as Guy, count of Forest, should hold the county of Nevers, the fortresses which were on the confines of the county of Champagne, and on those of the county of Nevers, should subsist, and that they might even be fenced around with new works, provided, however, that it was only to the distance of the shot of a cross-bow; but that the counts could not make new fortresses on the same borders, nor suffer others to make them."[1]

And in 1160, under the reign of Louis le Jeune, a charter of his brother Robert, count of Dreux, is expressed in the following terms:

"I, Robert, count, brother of the king of France, make known to all present and to come, that there was a certain contest between Henry, count of Champagne and Brie, and myself, concerning a certain house which is called Savegny, and a part of which I fortified by a moat of two outlets. The affair has been arranged as follows, namely: that what is already fortified by a moat of two outlets, shall so remain, but that the remainder shall be fortified with a moat of one outlet only, and a fence without battlements.

"If I make war against the said count, or against any other, I shall immediately give him up the said house. I have guaranteed it to him on my faith and by hostages, and he has promised me that he will keep the said house, with the ponds and mills, in good faith and without ill design; and that he will immediately return it to me, the war being finished."[2]

It would be easy to multiply this example of the resistance, or more correctly speaking, various resistances, which, down

[1] Brussel, *Usage des Fiefs*, t. i., p. 383.
[2] Ibid., p. 382, note *b*.

to the middle of the thirteenth century, the construction of castles had to surmount.

It did surmount them, as it happens with everything which is the work of necessity. At this epoch, there was war everywhere; everywhere would necessarily be also the monuments of war, the means of making it and repelling it. Not only were strong castles constructed, but all things were made into fortifications, haunts, or defensive habitations. Towards the end of the eleventh century, we find, at Nîmes, an association called *Les Chevaliers des Arénes.* When the meaning of this is sought, we find that they were knights who had taken up their abode in the Roman amphitheatre, the Arénes still remaining in the present day. It was easy to fortify them: they were strong in themselves. These knights established themselves in them, and intrenched themselves therein when necessary, and this is not an isolated fact; most of the ancient circusses, the arena of Arles, as well as that of Nîmes, have been put to the same use, and occupied for some time as a castle. It was not necessary to be a knight, or even a layman, in order to act thus, and to live amidst fortifications. Monasteries, churches also fortified themselves; they were surrounded by towers, ramparts, and moats; they were assiduously guarded, and long sieges were sustained by them. The burghers did like the nobles; towns were fortified. War so constantly menaced them, that, in many of them, a child was kept, at a fixed post and by way of sentinel, in the bell tower of the church, to observe what passed at a distance, and to announce the approach of an enemy. Moreover, the enemy was within the walls, in the neighbouring street, in the intermediate house; war might break out, in fact did break out, between one quarter and another, from door to door, and fortifications, like war, penetrated everywhere. Each street had its barriers, each house its tower, its loop-hole, its platform, in the fourteenth century.

"Rhodez was divided into two parts, surrounded with ramparts and towers. One was called the city, the other the borough; the inhabitants of the city and those of the borough made war with each other from time to time; and even when they were at peace, they shut the gates of their inclosure every night, and were more particular in setting the watch

upon the walls which separated them, than upon those which protected the town on the side towards the country."[1]

And many other towns, among others Limoges, Auch, Perigueux, Angoulême, Meaux, were the same, or almost the same, as Rhodez.

Would you have a somewhat exact idea of what a castle was, not exactly at the epoch which occupies us, but at a rather posterior epoch? I shall borrow its description from a very recent work, and which as yet is not even finished; a work which, in my opinion, is often deficient in a due sentiment of the ancient times, and in moral truth, but which, concerning the actual state of society in the fourteenth and fifteenth centuries, concerning the employment of time, manners, and domestic, industrial, agricultural life, &c., contains very complete information, collected with a great deal of learning, and well arranged. I speak of the *Histoire des Français des divers Etats pendant les cinq derniers Siècles*, by M. A. Monteil, the first four volumes of which are published. The author describes, in the following terms, the castle of Montbazon, near Tours, in the fourteenth century.

"First, imagine to yourself a superb position, a steep mountain, bristling with rocks, furrowed with ravines and precipices; upon the declivity is the castle. The small houses which surround it set off its grandeur; the Indre seems to turn aside with respect; it forms a large semicircle at its feet.

"This castle must be seen when, at sunrise, the outward galleries glimmer with the armour of the sentinels, and the towers are shown all brilliant with their large, new gratings. Those high buildings must be seen, which fill those who defend them with courage, and with fear those who should be tempted to attack them.

"The door presents itself all covered with heads of boars or wolves, flanked with turrets, and crowned with a high guard-house. Enter, there are three inclosures, three moats, three drawbridges to pass. You find yourself in a large, square court, where are cisterns, and on the right and left the stables, hen-houses, pigeon-houses, coach-houses; the cellars, vaults, and prisons are below; above are the dwelling apartments;

[1] *Histoire des Français de divers états*, by M. A. Monteil, v. ii., p. 196.

above these are the magazine, larders, or salting-rooms and arsenals. All the roofs are bordered with machicolations, parapets, guard-walks, and sentry-boxes. In the middle of the court is the donjon, which contains the archives and the treasure. It is deeply moated all round, and can only be entered by a bridge, almost always raised. Although the walls, like those of the castle, are six feet thick, it is surrounded up to half its height with a chemise, or second wall, of large cut stones.

"This castle has just been rebuilt. There is something light, fresh, laughing, about it, not possessed by the heavy, massive castles of the last century."[1]

This last phrase will cause some astonishment; one would scarcely expect to hear such a castle qualified with the names of *light*, *fresh*, *laughing;* and yet the author is right; and, compared with those of the eleventh and twelfth centuries, the castle of Montbazon really merited these titles. The former were entirely the reverse—heavy, massive, and gloomy; there were not so many courts in them, not so much interior space, nor so judicious a distribution of it. All idea of art or convenience was foreign to their construction; they had no monumental character, no idea of the agreeable; defence, safety, was the only thought manifested in them. Men selected the steepest and most savage places; and there, according to the accidents of the ground, the edifice was raised, destined solely to repel attacks effectually, and to shut up the inhabitants. But buildings thus conceived every one raised, burghers as well as lords, ecclesiastics as well as laymen; the territory was covered with them, and they all had the same character, that of haunts, or asylums.

Now that we know what was the actual state of feudal habitations at their origin, what passed within? What life was led there by the possessor? What influence must have been exercised over him and his people by such a dwelling, and the material circumstances which arose from it? How and in what direction developed itself the petty society contained by the castle, and what was the constitutive element of feudal society?

The first feature of its situation was isolation. At no epoch,

[1] *Histoire des Français des divers états*, by M. A. Monteil, t. i., p. 101.

perhaps, in the history of any society, do we meet with isolation so complete. Take the patriarchal system, the nations which were formed in the plains of western Asia; take the nomadic nations, the tribes of shepherds; take those German tribes I described in one of the last lectures; be present at the birth of the Greek or Roman society; transport yourself to the midst of those villages which afterwards became Athens; to the seven hills whose population formed Rome: everywhere you will find men in infinitely closer connexion, far more disposed to act upon one another, that is to say, to become civilized, for civilization is the result of the reciprocal and continual action of individuals. The primitive social molecule was never elsewhere so isolated, so separated from other like molecules; the distance was never so great between the essential and simple elements of society.

With this first feature, with the isolation of the castle and its inhabitants was combined a singular indolence. The possessor of the castle had nothing to do; no duties, no regular occupation. Among other nations, at their origin, even in the superior classes, men were occupied, sometimes with public affairs, sometimes with frequent and various kinds of relations with neighbouring families. We never find them at a loss how to fill up their time, to satisfy their activity: here they cultivated and improved large estates; there they managed great flocks; elsewhere they hunted for a livelihood; in a word, they had a compulsory activity. Within the castle, the proprietor had nothing to do; it was not he who improved his fields; he did not hunt for his support; he had no political activity, no industrial activity of any kind; never has there been seen such leisure in such isolation.

Men cannot remain in a situation of this kind; they would die of impatience and ennui. The proprietor of the castle thought only of getting out of it. Shut up there when it was absolutely necessary to his safety and independence, he left it as often as he was able, to seek abroad what he was in want of, society, activity. The life of the possessors of fiefs was passed upon the high roads, in adventures. That long series of incursions, pillages, wars, which characterises the middle ages, was in a great measure, the effect of the nature of the feudal habitation, and of the material situation amidst which its masters were placed. They everywhere sought the

social movement which they could not find within their own castles.

Horrible pictures of the life which the possessors of fiefs led at this epoch, have been seen in many works. These pictures have often been traced with a hostile hand, in a partial design. Upon the whole, however, I do not think them exaggerated. Historical events on the one hand, and contemporaneous monuments on the other, prove that such was in fact, for a very long period, the feudal life, the life of the seigneurs.

Among the contemporaneous monuments, I shall refer you to three only, in my opinion the most striking, and which give the most exact idea of the state of society at this epoch: first, the *Histoire de Louis le Gros*, by Suger; secondly, the *Vie de Guibert de Nogent*, by himself, a book less known, but curious, and to which I shall immediately return; thirdly, *l'Histoire Ecclesiastique et civile de Normandie*, by Orderic Vital. You will there see to what an extent the life of possessors of fiefs was passed away from home, entirely employed in depredations, incursions, disorders of every description.

Consult events instead of monuments. That which has astonished all historians, the crusades, first presents itself to the mind. Can it be supposed that the crusades would be possible among a people who had not been accustomed, brought up from childhold to this wandering, adventurous life? In the twelfth century, the crusades were not nearly so singular as they appear to be to us. The life of the possessors of fiefs, with the exception of the pious motive, was an incursion, a continual crusade in their own country. They here went farther and from other causes; that is the great difference. For the rest, they did not leave their habits; they did not essentially change their mode of life. Could one conceive in the present day a nation of proprietors, who should suddenly displace itself, abandon their estates, or their families to go, without any absolute necessity, and seek elsewhere such adventures? Nothing of the kind would have been possible, if the daily life of the possessors of fiefs had not been, so to speak, a foretaste of the crusades, if they had not found themselves all prepared for such expeditions.

Thus, whether you consult monuments or events, it will be seen that the need to seek activity and amusement abroad,

prevailed in the feudal society at this epoch, and that it had a large share, among other causes, in the material circumstances amidst which the possessors of fiefs lived.

Two characteristic traits manifest themselves in feudalism. The one is the savage and fantastical energy of the development of individual characters: not only are they brutal, ferocious, cruel, but they are so in a singular, strange fashion, such as we might look for in an individual who lives alone, abandoned to himself, to the originality of his nature, and to the caprices of his imagination. The second trait, equally striking, in feudal society, is the stubbornness of manners, their long opposition to change, to progress. Into no other society have new ideas, or manners, had so much trouble to penetrate. Civilization was more slow and difficult in modern Europe than anywhere else; it was not till after the tenth century that it actually conquered and settled in the territory. Nowhere was, during so long a period, so little progress with so much movement.

How can we but recognise, in these two facts, the influence of the material circumstances under the empire of which the constitutive element of feudal society lived and was developed? Who does not see therein the effect of the situation of the possessor of the fief, isolated within his castle, surrounded by an inferior and a despised population, obliged to seek afar off, and by violent means, the society and activity which he had not about him? The ramparts and moats of the castles formed obstacles to ideas as to enemies, and civilization had as much trouble as war to penetrate and invade them.

But at the same time that the castles opposed so strong a barrier to civilization, at the same time that it had such difficulty in penetrating therein, they were in some respects a principle of civilization; they protected the development of sentiments and manners which have played a powerful and beneficial part in modern society. There is no one but knows that the domestic life, the spirit of family, and particularly the condition of women, were developed in modern Europe, much more completely, more happily, than elsewhere. Among the causes which contributed to this development, must be reckoned as one of the principal, the life of the castle, the situation of the possessor of the fief in his domains. Never, in any other form of society, has the family reduced to its most simple

expression, the husband, the wife, and the children, been found so bound, so pressed together, separated from all other powerful and rival relation. In the various states of society which I have just enumerated, the chief of the family, without quitting home, had numerous occupations, diversions, which drew him from the interior of his dwelling, which at least prevented that from being the centre of his life. The contrary was the case in feudal society. So long as he remained in his castle, the possessor of the fief lived there with his wife and children, almost his only equals, his only intimate and permanent company. Doubtless, he often left it, and abroad led the brutal and adventurous life which I have just described; but he was obliged to return to it. It was there that he shut himself up in times of danger. Now whenever a man is placed in any particular position, the part of his moral nature which corresponds to that position is forcibly developed in him. If he be obliged to live habitually in the bosom of his family, with his wife and children, the ideas, the sentiments in harmony with this fact cannot fail to have great influence. Thus it happened in feudalism.

Moreover, when the possessor of the fief left his castle to seek war and adventures, his wife remained in it, and in a situation wholly different from that in which women had hitherto almost always been placed. She remained mistress, chatelaine, representing her husband, charged in his absence with the defence and honour of the fief. This elevated and almost sovereign position, in the very bosom of domestic life, oft engave to the women of the feudal period a dignity, a courage, virtues, a distinction, which they have displayed nowhere else, and it has doubtless powerfully contributed to their moral development and to the general improvement of their condition.

This is not all. The importance of children, of the eldest son more especially, was much greater in the feudal mansion than anywhere else. There broke forth not only natural affection, and the desire to transmit his property to his children, but also the desire to transmit to them that power, that superior position, that sovereignty, inherent in the domain. The eldest son of the lord was, in the eyes of his father and all his people, a prince, an heir presumptive, the depositary of the glory of a dynasty. So that the weaknesses

as well as the good feelings of human nature, domestic pride as well as affection, combined to give the spirit of family more energy and power.

Add to this the influence of Christian ideas, which I here merely point out in passing, and you will comprehend how this life of the castle, this solitary, gloomy, hard situation, was favourable to the development of domestic life, and to that elevation of the condition of women which holds so great a place in the history of our civilization.

This great and beneficial revolution was accomplished between the ninth and twelfth centuries. We cannot follow the trace of it step by step; we can but very imperfectly mark the particular facts which have served it as steps, for we are deficient in documents. But that at the eleventh century it was almost consummated, that the position of women was changed, that the spirit of family, the domestic life, the ideas and sentiments connected with it, acquired a development, an empire, till then unknown, is a general fact which it is impossible to overlook. Many of you will still have before you the spirit of the monuments of the eleventh century, which I placed before you in the last course; compare them with the three pages I shall here quote from the *Vie de Guibert de Nogent*, of which I just now spoke. They have no historical importance, and no other merit than that of showing to what dignity, to what refined and delicate sentiments, women and domestic manners were elevated from the ninth to the eleventh century; but, under this point of view, they appear to me conclusive, and of a genuine interest.

Guibert de Nogent gives an account in this work, both of the public events at which he was present, and of the personal events which passed within his own family. He was born in 1053, in a castle of Beauvaisis. Let us see how he speaks of his mother, and of his relations with her. Call to mind the narrative, or rather the language (for narrative is entirely wanting,) of writers contemporaneous with Charlemagne, Louis le Debonnaire, and Charles le Chauve, on a similar matter, and say if this is the same condition of relations and of souls.

"I have said, God of mercy and holiness, that I would return thanks to thee for thy goodness. First, I especially

return thanks to thee for having given me a chaste and modest mother, and one filled with fear of thee. With regard to her beauty, I should praise it in a worldly and extravagant manner, did I place it anywhere but in a face armed with a severe chastity. . . . The virtuous expression of my mother, her rare speech, her always tranquil countenance, were not made to encourage the levity of those who beheld her. . . . and what is very rarely, or scarcely ever seen in women of a high rank, she was as jealous of preserving pure the gifts of God, as she was reserved in blaming women who abused them; and when it happened that a woman, whether within or without her house, became the object of a censure of this kind, she abstained from taking part in it; she was afflicted at hearing it, just as if the censure had fallen on herself.[1]. . . . It was far less from experience than from a kind of awe with which she was inspired from above, that she was accustomed to detest sin; and, as she often said to me, she had so penetrated her soul with the fear of sudden death, that, arrived at a more advanced age, she bitterly regretted no longer experiencing in her aged heart those same stings of pious terror which she had felt in her age of simplicity and ignorance.[2]

"The eighth month of my birth had scarcely elapsed, when my father in the flesh died; . . . . although my mother was still fair and of fresh age, she resolved to remain a widow, and how great was the firmness which she used to accomplish this vow! How great were the examples of modesty which she gave! . . . Living in great fear of the Lord, and with an equal love for her neighbours, especially those who were poor, she managed us prudently, us and our property. . . . Her mouth was so accustomed to continually repeat the name of her dead husband, that it seemed as if her soul had never any other thought; for, whether in praying or distributing alms, even in the most ordinary acts of life, she continually pronounced the name of that man, which showed that her mind was always preoccupied with him. In fact, when the heart is absorbed in a feeling of love, the tongue forms itself in a

[1] *Vie de Guibert de Nogent*, l. i., c. 2, in my *Collection des Memoires relatifs à l'Histoire de France*, t. ix., p. 346—349.

[2] Ibid., c. 12., p. 385.

manner to speak, as it were unconsciously, of him who is its object.[1]

"My mother brought me up with the most tender care. . . Scarcely had I learned the first elements of letters, when, eager to have me instructed, she confided me to a master of grammar. . . . There was shortly before this epoch, and even at this time, so great a scarcity of masters of grammar, that, so to speak, scarce one was to be seen in the country, and hardly could they be found in the great towns . . . . He to whom my mother resolved to confide me had learned grammar in a rather advanced age, and was so much the less familiar with this science, as he had devoted himself to it at a later period; but what he wanted in knowledge, he made up for in virtue. . . . From the time that I was placed under his care, he formed in me such a purity, he so thoroughly eradicated from me all the vices which generally accompany youth, that he preserved me from the most frequent dangers. He allowed me to go nowhere except in his company, to sleep nowhere but in my mother's house, to receive a present from no one without her permission. He required me to do everything with moderation, precision, attention, and exertion. . . . While most children of my age ran here and there, according to their pleasure, and were allowed from time to time the enjoyment of the liberty which belongs to them, I, held in continual restraint, muffled up like a clerk, looked upon the bands of players as if I had been a being above them.

"Every one, seeing how my master excited me to work, hoped at first that such great application would sharpen my wits; but this hope soon diminished, for my master, altogether unskilful at reciting verses, or composing them according to rule, almost every day loaded me with a shower of cuffs and blows, to force me to know what he himself was unable to teach me. . . . Still he showed me so much friendship; he occupied himself concerning me with so much solicitude, he watched so assiduously over my safety, that, far from experiencing the fear generally felt at that age, I forgot all his severity, and obeyed with an inexpressible feeling of love. . . . One day, when I had been struck, having neglected my work for some hours in the evening, I went and sat myself at

[1] *Vie de Guibert de Nogent*, c. 4, 12, 13, p. 355, 385, 396, 397.

my mother's knee, severely bruised, and certainly more so than I had deserved. My mother having, according to her custom, asked if I had been beaten that day, I, in order to avoid accusing my master, assured her that I had not. But she pulling aside, whether I would or no, the garment they call a shirt, saw my little arms all black, and the skin of my shoulders all raised up and swollen by the blow of the rod which I had received. At this sight, complaining that they treated me with too much cruelty at so tender an age, all troubled and beside herself, her eyes full of tears, she cried: 'I will no longer have thee become a priest, nor in order to learn letters, that thou thus endure such treatment.' But I, at these words, regarding her with all the rage of which I was capable, said to her: 'I would rather die than cease learning letters, and wishing to be a priest.'"[1]

Who can read this account without being struck with the prodigious development which, in two centuries, have been taken by the domestic sentiments, the importance attached to children, to their education, to all the ties of family? You might search through all the writers of the preceding centuries, and never find anything resembling it. We cannot, I repeat, give an exact account of the manner in which this revolution was accomplished; we do not follow it in its degrees, but it is incontestable.

I must close this lecture. I have given you a glimpse of the influence which the internal life of the feudal castles exercised over the domestic manners, and to the advantage of the sentiments which arose from it. You will immediately see this life take a great extension; new elements will become joined to it, and will contribute to the progress of civilization. It was in the castles that chivalry took birth and grew. We shall occupy ourselves with it in our next lecture.

[1] *Vie de Guibert de Nogent*, l. i., c. 2, in my *Collection des Mémoires relatifs à l'Histoire de France*, c. 4, 5, 6, p. 356, 358, 363, 364.

SIXTH LECTURE.

Efforts of the possessors of fiefs to people and animate the interior of the castle—Means which present themselves for the attainment of this end—Offices given in fief—The education of the sons of vassals in the castle of the suzerain — Admission of the young man among the warriors in ancient Germany—This fact is perpetuated after the invasion—Twofold origin of chivalry—False idea which is formed of it—Chivalry arose simply and without design, in the interior of castles, and in consequence either of the ancient German customs, or of the relations of the suzerain with his vassals—Influence of religion and the clergy over chivalry—Ceremonies of the admission of knights—Their oaths—Influence of the imagination and poetry over chivalry—Its moral character and importance under this point of view—As an institution, it is vague and without coherence—Rapid decline of feudal chivalry—It gives rise to the orders: 1. Of religious chivalry; 2. Of courtly chivalry.

Isolation and idleness were, as you have seen, the most prominent features of the situation of the possessor of the fief in his castle, the natural effect of the material circumstances in which he was placed. Hence, as you have also seen, arose two results apparently contradictory, and which yet wonderfully accorded. On the one hand, the need, the passion for that life of incursions, war, pillage, adventures, which characterises the feudal society; on the other, the power of domestic life, the progress of the position of women, of the spirit of family, and of all the sentiments connected with it. Without premeditation, by the mere effect of their situation, and of the manners which it gave rise to, the possessors of fiefs sought at once afar off and within their dwelling, in the most tempestuous, the most unforeseen chances, in the nearest and most habitual interests, wherewith to fill up their

life and to occupy their soul, a twofold satisfying of that need of society and activity, one of the most powerful instincts of our nature.

Neither one nor the other of these means sufficed. Those wars, those adventures, which in the present day, at a distance of seven or eight centuries, appear to us so multiplied, so continual, were probably, in the eyes of the men of the eleventh century, rare, soon terminated, mere transitory incidents. The days of the year seem very numerous and long to him who has nothing to do, no necessary, regular, or permanent occupation. The family, in its proper and natural limits, reduced to the wife and children, did not suffice to fill them up. Men with manners so rude, with a mind so little developed, soon exhausted the resources which they found in them. To fertilize, so to speak, the sensible nature of man, and make it give rise to a thousand means of occupation and interest, is the result of a very advanced civilization. This moral abundance is unknown in rising societies; its sentiments are strong, but abrupt, and brief, as it were; the influence which they exercise over life is greater than the place which they hold in it. Domestic relations, as well as external adventures, assuredly left a great void to fill up in the time and soul of the possessors of fiefs of the eleventh century.

Men must have sought, in fact did seek, to fill it up, to animate, to people the castle, to draw thither the social movement which it wanted; and they found the means.

You will recollect the life which, before the invasion, the German warriors led around their chief, that life of banquets, of games, of festivals, and which was always passed in common.

"Feasts," says Tacitus, "banquets ill prepared but abundant, are given them instead of pay . . . no one is ashamed to pass the day or night in drinking . . . . . They most frequently treat at the banquets, of enemies to be reconciled, alliances to be formed, chiefs to be chosen, of peace and of war."[1]

After the invasion and the territorial establishment, this agglomeration of warriors, this life in common (as I have

[1] Tac. *de Morib. Germ.*, c. 14. 22.

already had occasion to observe), did not immediately cease; many companions still continued to live around their chief, upon his domains, and in his house. Moreover, we find the chiefs, the principal of them at least, kings or others, forming a court, a palace, upon the model of the palace of the Roman emperors. The multitude and titles of officers, and servants of all kinds, who all at once make their appearance in the house of the great barbarians, are inexplicable to those who do not know the organization of the imperial palace. Referendary, seneschal, marshal, falconers, butlers, cup-bearers, chamberlains, porters, harbingers, &c., such are the offices which are found from the sixth century, not only in the establishments of the Frank, Burgundian, and Visigoth kings, but among their more considerable beneficiaries, of which the greater part are borrowed from the *notitia dignitatum*, the imperial almanac of the time.

Soon, you have seen, the taste for and habit of territorial property gained more influence; the greater part of the companions left the chief; some went to live in benefices which they held of him; others fell into a subaltern condition, into that of coloni. This revolution was operated more especially in the course of the seventh and eighth centuries. We then see the home of the chief broken up, or at least very much contracted; only a few companions remained near his person. He was not entirely alone, or absolutely reduced to his family, properly so called; but he was no longer surrounded by a band of warriors as before the invasion, nor at the head of a little imperial palace, as in the century which followed it.

When we arrive at the end of the tenth century, or rather at the middle of the eleventh, at the epoch when feudalism attains its complete development, we find, around the great possessors of fiefs, numerous officers, a considerable train, a little court. We find there not only most of the offices which I have just named, and which they had borrowed from the empire, not only the count of the palace, the seneschal, the marshal, the cup-bearers, falconers, &c., but new officers and names, pages, varlets, grooms, and squires of all kinds: squire of the body, squire of the chamber, squire of the stable, squire of the pantry, carving squire, &c. &c., and most of these charges are evidently filled by free men; in-

deed by men, if not equal to the lord with whom they live, at least in the same state, the same condition with him. When La Fontaine said:

> "Tout petit prince a des ambassadeurs,
> Tout marquis veut avoir des pages,"

he ridiculed a foolish pretension, an absurdity of his time. This pretension, not ridiculous then, was in the eleventh and twelfth centuries a simple general fact, and it was not necessary to be a prince in order to have ambassadors, or a marquis to have pages; every lord, every possessor of a fief, of *reasonable* greatness, as La Fontaine would have said, had many around him,

How was this fact brought about? How was this numerous and regularly constituted train formed in the interior of the castle, around the suzerain?

To this, I think, two principal causes contributed: 1. The creation and perpetuation of a certain number of interior domestic offices, given in fief, as well as estates. 2. The custom, soon adopted by the vassals, of sending their sons to the suzerain, to be brought up with his sons in his house.

The principal, in fact, of the offices which I have just named, those among others of the constable, marshal, seneschal, chamberlain, butler, &c., were at an early period given in fief, like lands. The benefices in lands, as has been seen, had the inconvenience of dispersing the companions, of separating them from the chief. Offices given in fief, on the contrary, retained them, at all events very frequently, about him, and so far better secured to him their services and fidelity. Thus, from the time that this invention of the feudal mind appeared, we see it spreading with great rapidity; all kinds of offices were given in fief, and the proprietors, ecclesiastics as well as laymen, thus surrounded themselves with a numerous train. We read in the *Histoire de l'Abbaye de Saint Denis:*

"The abbots of Saint Denis had numerous religious and lay officers. When the abbot of Saint Denis went into the country, he was generally accompanied by a chamberlain and a marshal, whose offices were erected into fiefs, as is seen by the acts of 1189 and 1231. These offices and fiefs were afterwards reunited to the domain of the abbey, as well as

the office of butler of the abbot, which was likewise an office erected into a fief, and possessed by a lay domestic of the abbot of Saint Denis, before the year 1182."[1]

These offices gave rise to great disputes. Those who possessed them endeavoured, as had been done in the case of benefices, to render them hereditary; those who conferred them generally laboured to prevent this. The question remained uncertain; inheritance did not prevail so completely in offices as in feudal benefices; we sometimes find documents which recognise or found it, sometimes documents which deny or abolish it. In 1223, on the accession of Louis VIII., son of Philip Augustus, John, invested with the office of marshal, enters into the following engagement:

"I, John, marshal of the lord and illustrious king Louis, make known to all by these presents, that I have upon the holy relics sworn to the said lord king, that I will retain neither horses, palfreys, nor war horses, which are committed to me by reason of my office, which I hold of the gift of the said lord king; and that neither I nor my heirs shall claim the said marshalsea as belonging to us, and as being hereditarily possessed by us. In memory and testimony of which I have furnished these presents with my seal."[2]

On the other hand, the office of marshal of France was possessed hereditarily by the counts of Anjou; that of constable of Normandy belonged in the same way to the house of Houmet, as is acknowledged in 1190 by a charter of king Richard. There are many similar examples. The consequences to the suzerains of the inheritance of offices were still more serious than those of the inheritance of lands. The following were the privileges of the constable of France about this epoch:

"The constable of France has these rights in the matter of war:

"1. The constable is above all others in the army, except the person of the king, if he be there, whether barons, counts, knights, esquires, soldiers, whether horse or foot, of whatever estate they may be, and they must obey him.

"*Item.* The marshals of the army are below him, and have their office distinct for receiving the warriors, the dukes,

[1] *Histoire de Saint Denis*, by D. Felibien, l. v. p. 279, note *a*.

[2] Martenne, *Amp. Collect.* 1, p. 1175.

counts, barons, knights, esquires, and their companions, and none can or must ride or order battle, except it be by the constable; no one can order war or make proclamation in the army without the consent of the king or the constable.

"The constable must order all battles, expeditions, and all squadrons.

"Whenever the army is removed from one place to another, the constable assigns all the places of his right to the king, and to others of the army, according to their estate.

"The constable must go into the army before the battalia, immediately after the master of the cross-bow men, and the commissaries shall be in his battalia. The king, if he be in the army, must not sound to horse, nor must any of the fighting men take to horse without the counsel and order of the constable.

"The constable has the charge of sending messengers and spies for the business of the army whenever he sees fit to do so, and reconnoitering parties when necessary."[1]

This was, you see, an universal director of war, a general alone invested with the right of commanding armies and giving battle. Many civil functions have been rendered hereditary; but high military functions—the danger is enormous, self-evident. Such was the feudal privilege, however, in many cases. Nothing can be more natural, therefore, than the struggle of the kings and great suzerains against the inheritance of the principal offices, and they, in fact, succeeded in preventing or extirpating it. But it prevailed in numerous offices of an inferior order, and was undoubtedly the first cause which rallied or retained around the powerful lords men who, without that, would have gone to live on their own domains.

The second was the custom, soon adopted by the vassals, of having their sons brought up at the court, that is to say, in the castle of their suzerain. More than one reason must have incited them to this. Inequality between the possessors of fiefs had become very great; one particular suzerain was infinitely more rich, more powerful, more considerable, than the twelve, fifteen, or twenty vassals who held their lands of him. Now, it is the natural tendency of men to aspire to elevate themselves, to live in a sphere superior to their own; and

[1] Brussel, *Usage des Fiefs*, v. 1. p. 634.

the vassal was naturally inclined to send his son to such a sphere. It was, moreover, a means of securing for himself the good-will of the suzerain. Although inheritance completely prevailed in fiefs, although feudal property had become a firm and veritable property, still it was subject to many attacks; the spoliation of the weak by the strong was frequent, and it was greatly to the interest of the vassals to preserve themselves from this by keeping up habitual and amicable relations with their suzerains. The suzerain, on his side, by having near him the sons of his vassals, assured himself of their fidelity and devotion, not only for the time being, but for the future; who, lastly, does not know the inclination of all men to repair towards the point where the events, chances, and movement of life abound. It was at the court of the suzerain that they could best hope for this; they therefore naturally gravitated towards this centre of their little society.

Thus, the custom became so general that it was, so to speak, converted into a rule. We read, in the notes added to the *Mémoires* of M. de Sainte-Palaye, the following passage, extracted from an ancient work, entitled *l'Ordre de la Chevalerie:*

"And it is fitting that the son of the knight, while he is a squire, should know how to take care of a horse; and it is fitting that he should serve before and be subject to his lord; for otherwise he will not know the nobleness of his lordship when he shall be a knight; and to this end every knight should put his son in the service of another knight, to the end that he may learn to carve at table and to serve, and to arm and apparel a knight in his youth. According as to the man who desires to learn to be a tailor or a carpenter, it is desirable that he should have for a master one who is a tailor or a carpenter, it is suitable that every nobleman who loves the order of chivalry, and wishes to become and be a good knight, should first have a knight for a master."[1]

Thus was the interior of the castle peopled and animated, thus was the circle of feudal domestic life enlarged. All these officers, all these young sons of vassals, formed part of the household, acquitted themselves of services of all kinds;

[1] Saint Palaye, *Memoires sur la Chevalerie*, vol. 1. p. 56.

and the social movement, the intercourse between equals, returned to these habitations so isolated and of so austere an appearance.

At the same time, and also in the interior of the chateau, was developed another fact of equally ancient origin, and which, in order to arrive at that which it was destined to become in feudal society, had many transformations to undergo.

Before the invasion, beyond the Rhine and the Danube, when the young Germans arrived at the age of men, they solemnly received, in the assembly of the tribe, the rank and arms of warriors.

"It is the custom," says Tacitus, "that none of them should take arms until the tribe have judged him capable of them. Then, in the assembly itself, one of the chiefs, either the father, or a relation, invests the young man with the shield and lance, equivalent to our assumption of the toga, and with them the first honour of youth. Before this they appear but a portion of the house, then they become members of the republic." [1]

The declaration that a man was entering the class of warriors, was therefore among the Germans a national act, a public ceremony.

We see this fact perpetuated, after the invasion, upon the Gallo-Roman territory. Without citing a great number of obscure examples, in 791, at Ratisbon, Charlemagne solemnly girt the sword (that is the expression of the old chroniclers) about his son Louis le Debonnaire. In 838, Louis le Debonnaire conferred the same honour, with the same solemnity, upon his son Charles le Chauve. The old German custom still subsists, only some religious ceremonies are now joined to it. "In the name of the Father, the Son, and the Holy Ghost," the young warrior receives a kind of consecration.

In the eleventh century, in the feudal castle, when the son of the lord arrives at the age of manhood, the same ceremony is performed: they gird on the sword, they declare him admitted to the rank of warrior.

And it was not upon his own son alone, but also upon the young vassals brought up within his house, that the lord conferred this dignity; they deemed it an honour to receive it

[1] Tac. *de Morib. Germ.*, c. 13.

from the hands of their suzerain, amidst their companions; the court of the castle replaced the assembly of the tribe; the ceremonies were changed; essentially the facts were the same.

Chivalry practically consists in the admission to the rank and honours of warriors, in the solemn delivering of the arms and titles of the warlike life. It was by this that it commenced; we see at first only a simple and uninterrupted prolongation of the ancient Germanic manners.

It is at the same time a natural consequence of feudal relations. We read in the *Histoire de la pairie de France et du parlement de Paris*, by Le Laboureur, a work not without ingenious and solid views:

"The ceremonies of chivalry are a species of investiture, and represent a manner of homage; for the proposed knight appears without cloak, without sword, without spurs: he is invested with them, after the accolade. As the vassal, after the consummation of the act of his homage, he resumes his cloak, which is the mark of chivalry or vassalage; the girdle, which is the ancient military baldric; the spurs, and finally a sword, which is a token of the service he owes to his seigneur; and the analogy holds in reference to the kiss, which forms part of each ceremony. We may add farther, that it was upon the same theory that their subjects were obliged to pay a tax to their lord for the knighthood of their eldest sons, as the first acknowledgment of their future seigneury."[1]

There is a little exaggeration in this language. We cannot consider the admission of the young man to the title of knight as a *manner of homage;* for it was not the actual vassal, but his son, who was received as a knight by the suzerain. There is, therefore, no true investiture in it. Still the suzerain, in arming a young man knight, accepted him, in a manner, for his man, and declared that he should one day be his vassal. This was like an investiture given in advance, a reciprocal and anticipated engagement, on the part of the suzerain to receive, on the part of the young man to do, at some future day, the feudal homage.

You are aware that people have formed an entirely dif-

[1] *Histoire de la pairie de France*, by Le Laboureur, p. 278. London, 1740.

ferent idea of chivalry and its origin. It has been represented as a great institution invented in the eleventh century, and with a moral design, with a design of struggling against the deplorable state of society, of protecting the weak against the strong, of devoting a certain class of men to the defence of the weak, to the redress of injustice; and this idea has been so general, so powerful, that we even find it in the *Histoire des Français* of M. de Sismondi, generally so clear sighted, so far removed from the routine of his predecessors. The following are the terms in which he states the origin of chivalry:

"Chivalry broke forth," he says, "in all its splendour at the time of the first crusade, that is to say, during the reign of Philip I. It had commenced in the time of his father or grandfather. At the epoch when Robert died, or when Henry ascended the throne, we should regard the manners and opinions of France as already completely chivalric. Perhaps, in fact, the contrast which we have pointed out between the weakness of kings and the strength of warriors, was the circumstance best calculated to give rise to the noble thought of consecrating, in a solemn and religious manner, the arms of the strong to protect the weak. During the reign of Robert, the castellan nobility began to multiply; the art of the construction of castles had progressed; the walls were thicker, the towers higher, the moats deeper . . . . The art of forging defensive arms had, on its side, progressed: the warrior was entirely clothed in iron or bronze; his joints were covered with it, and his armour, at the same time that it preserved the suppleness of the muscles, did not allow the steel of the enemy to enter. The warrior could not feel any fear for himself, but the more he was out of reach, the more he felt pity for those whom the weakness of their age or sex rendered incapable of defending themselves; for those unfortunates could find no protection in a disorganized society, from a king as timid as the women, and confined like them, to his palace. The consecration of the arms of the nobility, become the only public force for the defence of the oppressed, seems to have been the fundamental idea of chivalry. At an epoch when religious zeal became reanimated, when valour still seemed the most worthy of all offerings that men could present to the Divinity, it is not surprising that they should

have invented a military ordination, after the example of the sacerdotal ordination, and that chivalry should have appeared a second priesthood, destined in a more active manner to the Divine service."[1]

Of a surety, if the picture which I have just traced of the origin of chivalry be true; if the form which I have, so to speak, made rise up before your eyes, be legitimate, the idea which most historians have conceived, and which M. de Sismondi thus sums up, is fallacious. Chivalry, at the eleventh century, was by no means an innovation, an institution brought about by special necessity, and constructed with the design of obviating that necessity. It was formed much more simply, much more naturally, much more obscurely; it was the progressive development of ancient facts, the spontaneous consequence of Germanic manners and feudal relations; it took rise in the interior of castles, without any other intention than of declaring: first, the admission of the young man to the rank and life of warriors; secondly, the tie which united him to his suzerain, to the lord who armed him knight.

An incontestable proof, the history of the very word which designated the knight, of the word *miles*, fully confirms this idea. The following is that history, and results from the various acceptations through which the word passed from the fourth to the fourteenth century, and which Du Cange has verified.

Towards the end of the Roman empire, *militare* signified simply *to serve*, to acquit oneself of some service towards a superior, not merely of a military service, but also of a civil service, an office, a function. In this sense we find it said, "Such a one serves (*militat*) in the office of the count, of the governor of the province:" *militia clericatûs*, ecclesiastical militia, &c. Doubtless the service originally designated by the word *miles* was the military service; but the word had been successively applied to all kinds of service.

After the invasion, we frequently find it employed in speaking of the palace of barbaric kings, and of the offices filled around them by their companions. Soon afterwards, by a natural re-action, for it is the expression of the social state, the word *miles* resumed its almost exclusively warlike

[1] *Histoire des Français*, t. iv. p. 199—201.

character, and designates the companion, the faithful of a superior. It then becomes synonymous with *vassus*, *vassalus*, and indicates that one man holds a benefice from another, and is attached to him upon that consideration. "These princes are very noble, and the *knights* (milites) of my lord.—Gerbert and his *knight* (miles) Arser.—We order that no *knight* (miles) of a bishop, of an abbot, of a marquis, &c., lose his benefice without certain and proved fault.—The pope excommunicated Philip, king of the Gauls, because, having repudiated his own wife, he had taken in marriage the wife of his knight (militis suî). The lord Guillaume Hunald, on his knees, and his hands clasped in those of the said count, received from him the aforesaid land, and acknowledged himself his *knight*,"[1] &c. &c.

I might multiply these examples: they evidently prove that, from the ninth to the twelfth century, and even later, the word *miles* meant, not the knight, such as he is generally conceived, and has just been described by M. de Sismondi, but simply the companion, the vassal of a suzerain.

Here is clearly stamped the origin of chivalry. But in proportion as it was developed, when once the feudal society had acquired some fixity, some confidence in itself, the customs, feelings, facts of all kinds, which accompanied the admission of the young men to the rank of vassal warriors, fell under the empire of influences which were not long in imprinting upon them a new turn, another character. Religion and imagination, the church and poetry, took possession of chivalry, and made it a powerful means of attaining the ends which they pursued, of fulfilling the moral needs which it was their mission to satisfy. You have already seen, in the ninth century, some religious ceremonies associated in this matter with German forms. I am about to describe to you the reception of a knight, such as it took place in the twelfth century: you will see what progress the alliance had made, and with what empire the church had penetrated into all the details of this great act of feudal life.

The young man, the squire, who aspired to the title of knight, was first divested of his clothes, and put into the bath, a symbol of purification. Upon coming out of the

[1] *Recognovit se esse militem dom. comitis.* See the *Glossary* of Du Cange, at the word *Miles*.

bath, they clothed him in a white tunic, a symbol of purity; in a red robe, a symbol of the blood which he was bound to shed in the service of the faith; in a saga, or close black coat, a symbol of the death which awaited him as well as all men.

Thus purified and clothed, the recipient observed a rigorous fast for twenty-four hours; then, in the evening, he entered the church, and there passed the night in prayers, sometimes alone, sometimes with a priest and godfathers, who prayed with him.

The following day, his first act was confession; after the confession, the priest administered the communion to him; after the communion, he was present at the mass of the Holy Ghost, and generally at a sermon upon the duties of knights, and the new life which he was about to enter. The sermon finished, the recipient advanced towards the altar, the sword of the knight suspended from his neck; the priest detached it, blessed it, and again put it on his neck. The recipient then went and kneeled before the lord, who was to arm him knight. "With what design," asked the lord, "do you desire to enter into the order? If it is in order to become rich, to repose yourself, and be honoured without doing honour to chivalry, you are unworthy of it, and would be to the order of chivalry you should receive, what the simoniacal priest is to the prelacy;" and, upon the answer of the young man, who promised to acquit himself well of the duties of a knight, the lord granted his request.

Then there approached knights, and sometimes ladies, to clothe the recipient with all his new equipments; they put on him, 1, the spurs; 2, the hauberk, or coat of mail; 3, the cuirass; 4, the vambraces and gauntlets; lastly, they girded on his sword.

He was then what they called *adoubé*—that is to say, adopted, according to Du Cange. The lord arose, went to him, and gave him the *accolade* or *accolée*, or *colée*, three blows with the flat of his sword on his shoulder, or nape of the neck, and sometimes a blow with the palm of the hand on his cheek, saying: "In the name of God, of Saint Michael, and Saint George, I dub[1] thee knight;" and he sometimes added, "Be brave, adventurous, and loyal."

[1] *Adoubis*, Adopt.

The young man thus armed knight, they brought him his helmet and horse, upon which he sprang generally without the help of the stirrups, and caracolled about, brandishing his lance, and making his sword glitter. He finally left the church, and went to caracol around the square at the foot of the castle, before the people, ever eager to take its part in the spectacle.

Who does not recognise ecclesiastical influence in all these details? who does not see in them a constant anxiety to associate religion with all the phases of an event so solemn in the life of warriors? The most august part of Christianity, its sacraments, take place in it; many of the ceremonies are assimilated, as much as possible, to the administration of the sacraments.

Such is the share which the clergy took in the external, material portion, so to speak, of the reception of knights, in the forms of the spectacle. Let us enter into the heart of chivalry, into its moral character, into the ideas, the sentiments with which they endeavoured to penetrate the knight; here again religious influence will be visible.

Look at the series of oaths which the knights had to take. The twenty-six articles which I am about to quote do not form a single act, drawn up at one time and altogether: it is a collection of the various oaths exacted from the knights at different epochs, and in a manner more or less complete, from the eleventh to the fourteenth century. You will easily see that many of these oaths belong to widely different times and states of society; but they do not the less indicate the moral character which it was endeavoured to impress upon chivalry.

The recipients swore:

"1. To fear, revere, and serve God religiously, to fight for the faith with all their strength, and to die a thousand deaths rather than ever renounce Christianity;

"2. To serve their sovereign prince faithfully, and to fight for him and their country most valorously;

"3. To maintain the just right of the weak, such as of widows, orphans, and maidens in a good quarrel, to expose themselves for them according as necessity required, provided that it was not against their own honour, or against their king or natural prince;

"4. That they would never offend any one maliciously, nor

usurp the possession of another, but rather that they would fight against those who did so;

"5. That avarice, recompence, gain or profit, should never oblige them to do any action, but only glory and virtue;

"6. That they would fight for the good and profit of the state;

"7. That they would keep and obey the orders of their generals and captains who had a right to command them;

"8. That they would observe the honour, rank, and order of their companions, and that they would not encroach by pride or force upon any of them;

"9. That they would never fight more than one against one, and that they would avoid all fraud and deceit;

"10. That they would carry but one sword, unless they were obliged to fight against two or more;

"11. That in a tournay, or other combat *à plaisance*, they would never make use of the point of their sword.

"12. That being taken prisoners in a tournay, they would be bound, by their faith and honour, to execute in every article the conditions of the surrender, and moreover that they would be bound to give up to their conquerors their arms and horses, if so required by them, and would not fight again in war or elsewhere without their permission;

"13. That they would inviolably keep faith with all the world, and particularly with their companions, maintaining their honour and profit entire in their absence;

"14. That they would love and honour each other, and give aid and succour to one another whenever the occasion presented itself;

"15. That having made a vow or promise to go upon some quest or strange adventure, they would never lay aside their arms except to repose at night;

"16. That in the pursuit of their quest or adventure, they would neither avoid bad and perilous passages, nor turn off from the straight road for fear of encountering powerful knights, or monsters, or savage beasts, or any other impediment which the body and courage of a single man might overcome;

"17. That they would never take wages or pension from a foreign prince;

"18. That, commanding troops of soldiery, they would

live with the greatest possible order and discipline, and especially in their own country, where they would never suffer any damage or violence to be done;

"19. That they would hold themselves bound to conduct a lady or maiden; they would serve her, protect her, and save her from all danger and all insult, or die in the attempt;

"20. That they would never do violence to ladies or maidens, although they had gained them by arms, without their will and consent;

"21. That being sought in equal combat, they would not refuse, unless by reason of wounds, illness or other reasonable impediment;

"22. That having undertaken to carry out an enterprise, they would apply themselves to it incessantly, unless recalled for the service of their king and country;

"23. That if they should make a vow to acquire some honour, they would not rest till they had accomplished it, or its equivalent;

"24. That they would be faithful observers of their word and pledged faith, and that being taken prisoners in fair war, they would pay exactly the promised ransom, or return to prison at the day and time agreed upon, according to their promise, on pain of being declared infamous and perjured;

"25. That, returned to the court of their sovereign, they would give a true account of their adventures, although it should be sometimes to their disadvantage, to the king and to the master of the order, under pain of being deprived of the order of chivalry;

"26. That above all things, they would be faithful, courteous, humble, and would never fail in their word, for any ill or loss that might thence happen to them."[1]

Of a surety, there is in this series of oaths, in the obligations imposed upon knights, a moral development very foreign to the lay society of this epoch. Moral notions so elevated, often so delicate, so scrupulous, above all so humane, and always impressed with the religious character, evidently emanated from the clergy. The clergy alone, at that time, thought thus of the duties and relations of men. Its influence

[1] *Le vrai Théatre d'honneur et de Chevalerie*, by Vulson de la Colombière; folio, t. 1. p. 22.

was constantly employed in directing the ideas and customs which chivalry had given rise to, towards the accomplishment of these duties, towards the amelioration of these relations. It was not, as has been said, instituted for the protection of the weak, the re-establishment of justice, the reform of manners; it arose, I repeat, simply, undesignedly, as a natural consequence of the Germanic traditions and the feudal relations. But the clergy immediately took hold of it, and made it a means of labouring at the establishment of peace in society, of a more extended, more rigorous morality in individual conduct, that is to say, to the advancement of the general work which they pursued.

The canons of the councils from the eleventh to the fourteenth centuries, if time would allow of the investigation, would also show you the clergy playing the same part in the history of chivalry, applied to bring about the same result.

In proportion as it succeeded, in proportion as chivalry appears more and more under a character at once warlike, religious, and moral, at once conformable and superior to existing manners, it more and more invaded and exalted the imagination of men; and as it was intimately connected with their belief, it soon became the ideal of their thoughts, the source of their most noble pleasures. Poetry, as well as religion, took possession of it. From the eleventh century, chivalry, its ceremonies, duties, adventures, were the mine whence the poets drew, in order to charm the people, at once to satisfy and to excite that movement of imagination, that want of more varied, more striking events, of more elevated and purer emotions, than real life could furnish. For, in the youth of societies, poetry is not only a pleasure, a national pastime, it is also a progress; it elevates and develops the moral nature of men, at the same time that it amuses and excites them. I have just enumerated the oaths which the knights took before the priests. The following is an old ballad which will show that the poets imposed the same duties, the same virtues, upon them, and that the influence of poetry tended towards the same end as that of religion. It is taken from the manuscript poems of Eustace Deschamps, and is quoted by M. de Sainte-Palaye.

" Vous qui voulez l'ordre de chevalier,
Il vous convient mener nouvell vie;

Devotement en oraison veillier
Pechie fuir, orgueil et villenie:
L'Eglise devez deffendre,
La vefve, aussi l'orphenin, entreprandre;
Estre hardis et le peuple garder;
Prodoms, loyaulx, sans rien de l'autruy prendre.
Ainsi se doit chevalier gouverner.

"Humble cuer ait; toudis[1] doit travailler
Et poursuir faitz de chevalerie;
Guere loyall, estre grand voyageur,
Tournoiz suir,[2] et jouster pour sa mie.
Il doit à tout honneur tendre,
Si c'om ne puist de lui blasme reprandre,
Ne lascheté en ses œuvres trouver;
Et entre touz se doit tenir le mendre.
Ainsi se doit chevalier gouverner.

"Il doit aimer son seigneur droicturier,
Et dessuz touz garder sa seigneurie;
Largesse avoir, estre vrai justicier;
Des prodoes suir la compagnie,
Leurs diz oïr et aprendre,
Et des vaillands les prouesses comprandre,
Afin qu'il puist les grand faitz achever,
Comme jadist fist le roi Alexandre.
Ainsi se doit chevalier gouverner."[3]*

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[1] Toujours. [2] Suivre.

[3] *Poesies Manuscrits d'Eustache Deschamps*, in Saint Palaye, *Mémoires sur la Chevalerie*, v. i., p. 144.

* "You who would enter the order of chivalry, befits you to lead a new life; devoutly to watch and pray; to fly sin or pride and all villainy; you must defend the church, and take under your charge the widow and the orphan; you must be valiant and defend the weak; upright, loyal, taking nothing of other men's; by this rule must the knight govern himself.

"Let your heart be humble; ever labour and pursue deeds of chivalry; be your warfare loyal; travel far and near; seek tournay, and joust for your mistress' honour; a true knight must in all things pursue honour, so that no blame may befal him, nor cowardice be found in his life; let him ever esteem himself least of all; by this rule must the knight govern himself.

"He must love his seigneur truly and fully, and above all things guard his seigneurie; he must be liberal and a true lover of justice; he must seek the company of upright men; hear their sayings, and profit by them; he must study the prowesses of valiant warriors, that he himself may achieve great deeds, after the example of king Alexander; by this rule must the knight govern himself."

Many have said that all this was pure poetry, a beautiful chimera, having no relation with reality. And, in fact, when we look at the state of manners in these three centuries, at the daily incidents which filled the life of men, the contrast with the duties and life of knights is repulsive. The epoch which occupies us is, without doubt, one of the most brutal, one of the rudest in our history; one of those in which we meet with the greatest amount of crime and violence; when the public peace was the most constantly troubled; when the greatest disorder pervaded manners. To him who merely takes into consideration the positive and practical state of society, all this poetry, all this morality of chivalry appears like a mere falsehood. And still we cannot deny but that chivalric morality, poetry existed side by side with these disorders, this barbarism, this deplorable social state. The monuments are there to prove it; the contrast is offensive, but real.

It is precisely this contrast which forms the great characteristic of the middle ages. Carry back your thoughts towards other societies, towards Greek or Roman society, for example, towards the first youth of Greek society, towards its heroic age, of which the poems which bear the name of Homer are a faithful mirror. There is nothing there resembling that contradiction which strikes us in the middle ages. The practice and theory of manners are nearly conformable. We do not find that men have ideas far more pure, more elevated, more generous than their daily actions. The heroes of Homer do not seem to have an idea of their brutality, their ferocity, their egoism, their avidity; their moral knowledge is no better than their conduct; their principles do not rise above their acts. It is the same with almost all other societies in their strong and turbulent youth. In our Europe, on the contrary, in those middle ages which we are studying, facts are habitually detestable; crimes, disorders of all kinds abound; and still men have in their minds, in their imaginations, pure elevated instincts and desires; their notions of virtue are far more developed, their ideas of justice incomparably better than what is practised around them, than what they often practise themselves. A certain moral idea hovers over this rude tempestuous society, and attracts the regard, obtains the respect of men whose life scarcely ever reflects its image. Christianity must, doubtless, be ranked

among the number of the principal causes of this fact: its precise characteristic is to inspire men with a great moral ambition, to hold constantly before their eyes a type infinitely superior to human reality, and to excite them to reproduce it. But whatever the cause, the fact is indubitable. We everywhere encounter it in the middle ages, in the popular poems as in the exhortations of priests. Everywhere the moral thought of men aspires far above their life. We should be careful not to suppose that because it does not immediately govern actions, because practice incessantly and strangely gives the lie to theory, the influence of the theory was, therefore, null and worthless. It is much for men to exercise a judgment upon human actions; sooner or later this becomes efficacious. "I prefer a bad action to a bad example," says Rousseau somewhere, and he was right; a bad action may remain isolated; a bad principle is always fertile; for, after all, it is the mind which governs, and man acts according to his thought much more frequently than he himself supposes. Now, in the middle ages, principles were infinitely better than actions. Never, perhaps, for instance, have the relations between men and women been more licentious, and yet never has propriety of manners been more strongly inculcated, and described with more esteem and charm. And it was not the poets only who celebrated it, it was not a mere matter of praises and of songs; we recognise by numerous testimonies that the public thought as the poet spoke, and judged in the same way of this kind of actions. I will here read a fragment quoted by M. de Saint-Palaye, in which the moral spirit of this epoch appears to me imprinted:

"At this time," says he, "there was peace, and there were great feasts and jousts, and all kinds of chivalry of dames and maidens assembled where they knew of feasts, which were common and frequent; and there came with great honour, the good knights of those times. But if it happened by any chance that a dame or maiden who had an ill name, or whose honour was stained, sat by a dame or maiden of good name, however greater her degree might be as a gentlewoman, or however richer or nobler her husband might be, sometimes these good knights of their right were in no way ashamed to come to them in the presence of all, and to take the good and place them above the blemished,

and to say to them before all: 'Lady, be not displeased that this lady, or maiden, takes precedence of you; for although she may not be so noble or so rich as yourself, she is not stained, but rather is put among the number of the good; and they do not say this of you, at which I am displeased; but honour will be done to whom deserves it, and marvel not thereat.' Thus spake the good knights, and put the good and those of good name in the first rank, for which they thanked God in their heart for their being held pure, by which they were honoured and placed first, and the others acknowledged their fault, hung down their faces, and were much disgraced, and by this was there good example to all gentlewomen; for by reason of the shame which they heard said of other women, they hesitated and feared to do ill themselves. But, God forgive us, in our days as much honour is awarded to the blemished as to the good, from which many take bad example, and say that it is all one, and that as much honour is given to those who are blemished and fameless as to those who have done good; do what ill you may, all is passed over. But this is ill said and ill thought; for, in faith, though in the presence of ill women, we do them honour and courtesy, when they are gone we tell our minds of them. The which, I think, is ill done; for, to my mind, it is better in the presence of all to show them their faults and frailties, as was done in the times I spoke of just now. And I will tell you, further, what I heard related by several knights who had seen Messire Geoffrey, that when he journied through the country, and saw the castle or manor-house of any lady, he always used to ask whose it was; and when he was told it belongs to so-and-so, if the lady was touched in her honour, he would turn aside, if it were half a league, to go to her door, and there he would take out a bit of chalk he carried with him, and so, marking the door with a sign, would go away. But, on the other hand, when he passed near the house of a lady or damsel of good renown, if he were not in too great haste, he would come to see her, and say to her: 'My good friend, or my good lady, or damsel, I pray God that, in this excellence and honour, and amongst the number of the good, he may ever maintain you, for thereby you shall earn praise and honour;' and by this means, lo! the good still more feared, and held themselves still more firmly against

doing anything by which they might lose their honour and their rank. I would fain those times were come again, for I do not think there would be so many women in disrepute as there are at present."[1]

It is true, I cannot guarantee the authenticity of all these details; the romantic is always mixed with the real in documents of this epoch; but what here concerns us is, the state of moral ideas: now, they appear beautiful and pure amidst the licentiousness and grossness of actions.

That is the great characteristic of chivalry; it is for this reason that it holds a great place in the history of our civilization. If we consider it not under a moral point of view, but under a social point of view, not as an idea, but as an institution, there is little in it: not but that it made a great deal of noise, and led to many events, but it was not a true, special institution. Lords, possessors of fiefs, alone were knights, alone had the right to become such. It was somewhat different in the south of France; there the citizens also were often knights, and chivalry was not purely feudal. Even in the north we meet with exceptions; but they are exceptions against which chivalry protested, and which even occasioned prosecutions, legal interdictions. The knights did not form a separate class, which had distinct functions and duties in society; chivalry was a feudal dignity, a character which most of the possessors of fiefs received at a certain age and under certain conditions. It played a great part, greater and more enduring, in my opinion, than it has been represented as having done, in the moral development of France; in social development it held but a small place, and possessed but little consistency.

Accordingly it did not long exist. At the fourteenth century, chivalry, properly so called, such as I have just described it, with those ceremonies, those oaths, those ideas which characterised it at the twelfth century, was in rapid decay. In his *Histoire des Français des divers Etats*, M. Monteil has attempted to picture this decay, by ascribing to his cordelier, brother John, established at the castle of Montbazon, the following letter:—

"We but rarely see knights-errant in the present day: we,

[1] Saint Palaye, *Mémoires sur la Chevalerie*, tome i., p. 147.

however, still see them sometimes. One came who sounded the horn before the great gate of the castle. The trumpeter not having answered as is ordered in like cases, the knight turned his horse and departed. The pages ran after him, and, by many excuses for the inexperience of the trumpeter, they succeeded in bringing him back. During the meantime, the ladies had dressed themselves, had already taken their seats in their places, and, while waiting, worked tapestry. The lady of Montbazon was dressed in a robe embroidered with gold, which had been in the house more than a century. The dowager, dressed in a fur cap, as in her youth, had also put on her rich furs. Enters the knight, enters squire, both entirely clothed with plates of brass, making much the same noise as mules loaded with copper utensils ill-packed. The knight having ordered his squire to take off his helmet, we saw a head half bald, and half sprinkled with white hair: his left eye was covered with a piece of green cloth, the colour of his clothes. He had made a vow, he told us, to see only from the right side, and to eat only from the left side, until after the accomplishment of his enterprise. The ladies proposed that he should refresh himself: his only answer was to throw himself at their feet, swearing to them all, to the oldest as to the youngest, eternal love—saying, that although his arms were of the best temper, they could not defend him from their features; that he should die of them, that he felt himself dying, that he was undone, and a thousand other similar fooleries. As he went on in this manner, especially with the young lady, whose hands he repeatedly kissed, I became impatient. The commander seeing this: 'Bah!' said he to me, 'these old fools have their forms and their style, as well as scribes. But be tranquil; perhaps he will not pass the day here;' and, in fact, he set out some hours after."[1]

Doubtless, a good deal of this is caricature; and without *Don Quixote*, brother John would have written nothing of the kind. Still, the foundation of the letter is true. Dating from the fourteenth century, feudal chivalry changed its character; the enthusiasm of its earlier years had subsided. A more indisputable testimony than M. Monteil, an official and contemporaneous testimony—king John himself attests

[1] *Histoire des Français des divers Etats*, t. i., p. 145.

it in 1352, when, in creating the order of the *Chevaliers de l'Etoile*, he gives the following motives:

"John, by the grace of God, king of the French. Among the various solicitudes of our mind, we have often, more than twenty times, thought that in ancient times the chivalry of our kingdom shone forth throughout the whole world by its bravery, its nobleness, and its virtue; to such a degree that, with the aid of God, and with the support of the faithful servants of that chivalry, who sincerely and unanimously lent the strength of their arms, our predecessors gained the victory over all the enemies whom they thought fit to attack, that they led to the purity of the true catholic faith an immense number of people whom the perfidious enemy of the human race, by his artifices, had drawn into error, and that at last they established security and peace in the kingdom. But in the long course of time, some of the said knights, whether they have lost their skill in arms, or by other causes of which we are ignorant, are in our days more than usually addicted to idleness and vanities, and neglecting their honour and renown, have allowed themselves to be occupied only with their private interests. Therefore it is that we, recalling the ancient times, and the glorious deeds of the said faithful knights . . . . . we have resolved to bring back our faithful of the present day and for the future . . . . . to the glory of the ancient nobleness and chivalry . . . . . so that the flower of chivalry, which for sometime, and for the said causes, has languished and lost somewhat of its splendour, may arise and glitter anew for the glory of our kingdom,"[1] &c., &c.

And towards the end of the same century:

"When Charles VII. conferred knighthood, at Saint Denis, in 1389, on the young king of Sicily, and on the count of Maine, these princes, who were brothers, presented themselves to watch the armour in an equipage as modest as it was extraordinary, in order to keep up the ancient customs at the reception of new knights, which obliged them to appear as young squires. This seemed strange to many people, because there were very few who knew that this was the ancient order of such knighthood."[2]

[1] Ordon. of king John, Oct. 1352. *Recueil des Ord.*, t. iv., p. 116.
[2] *Sainte-Palaye*, t. i., p. 146.

Not that chivalry was dead; it had given birth to the religious military orders—the templars, the knights of Saint John of Jerusalem, the Teutonic knights. It began to give rise to the orders of the court, to the cordon, the knights of rank and parade. It was still long to figure in the life and language of French society; but the original chivalry, properly so called, the true feudal chivalry, had fallen to decay like feudalism itself. It is between the eleventh and the fourteenth centuries that it must be looked for, and there it appears under the features which I have just described.

SEVENTH LECTURE.

The state of the agricultural population, or the feudal village—Its condition seemed for a long time stationary—Was it much changed by the invasion of the barbarians and the establishment of the feudal system?—Error of the common opinion upon this subject—Necessity for studying the state of the agricultural population in Gaul before the invasion, under the Roman administration—Source of the study—Distinction between coloni and slaves—Differences and resemblances of their condition—Relations of the bond-labourers, 1, with the proprietors; 2, with the government—How a man became a bond-labourer—Historical origin of the class of bond-labourers—Uncertainty of the ideas of M. de Savigny—Conjectures.

We have hitherto kept in the superior regions of feudal society. We have lived amidst the masters of the soil, the sovereigns of its inhabitants; and, although we have found great obstacles to the social movement, to the development of civilization, in their situation, in their kind of life; although documents have often been wanting to follow, step by step, and in their various degrees, the progressions which were painfully and slowly accomplished in those petty societies, so isolated and so difficult of access, still this progress has not escaped us. We have clearly seen that, in the very interior of the castle, people were not stationary, that important modifications, veritable revolutions took place in the relations and dispositions of its inhabitants. We have, if I do not deceive myself, unravelled the principal causes, their dominant character, and, from time to time, have determined their course.

We will now descend to the foot of the castle, into those miserable dwellings where the tributary population who cultivated its domains lived. Its situation bears no resemblance to that of the inhabitants of the castle—nothing defends it, nothing shelters it; it is exposed to all dangers, a prey to

continual vicissitudes; upon it, and at its expense, burst forth all the storms which occupied the life of its masters. Never, perhaps, did any population live more utterly destitute of peace and security, abandoned to a more violent and incessantly renewed movement. At the same time, its condition appears stationary; for a long time we can see no general and notable change. Through all the commotions which constantly agitated it, we almost always find it the same—much more immovable, more foreign to social movement than the little society which lived above it, behind the ramparts and moats of the castle.

There was nothing in all this but what was very natural and easily explained (as may be readily felt) by the very situation of the rural population, abandoned to all the chances of events and of force. The progress of civilization requires liberty and peace. Where these two conditions are wanting, men may live, but they do not advance; generations succeed each other; but it is upon the same place, without progressing.

Still, must we here rely entirely on appearances? Documents are even more wanting to us upon the history of the agricultural and subject population, than upon that of the warlike and sovereign population. Is it because documents are wanting that it appears thus stationary? Or is its immobility real, and as great as it appears?

I think it real, and even more enduring and of more ancient date than is thought.

It is an opinion generally pervading and maintained in many writings, that the deplorable state of the rural population of our territory, its servitude, its misery, date from the invasion of the barbarians; that the conquest, and the progressive development of the feudal system, entirely changed its condition, plunged it into that in which we find it from the sixth to the twelfth century; that there resides the true cause of the immobility which characterises it.

In vain has this opinion been disputed, even lately, by many persons, particularly by M. de Montlosier, in his *Histoire de la Monarchie Française.* Their reasoning, and not without motives, seemed partial, passionate, incomplete, tending to the interest of one class and one cause, and the old idea has remained predominant. People in general persist in believing that, dating from the fifth century, the conquest over-

threw the condition of the rural districts of Gaul, and reduced their inhabitants to a degree of degradation and misery unknown before.

I do not think that this opinion is well founded. According to my view, the invasions and conquest of the barbarians caused the agricultural population to suffer cruel and incessantly renewed evils, far more poignant than what it had suffered under the Roman administration; but at bottom, I think its social condition was very little changed. Before the invasion, and under the empire, it was almost the same as it appears to us in the following centuries. Its vices and its immobility date much farther back than the German conquest, and we must not impute to feudalism alone an evil which it has often aggravated, but which it did not create, and which, perhaps, even under the anterior system, would have continued still longer.

To solve such a question, to appreciate truly what happened to the agricultural population upon our territory, from the fifth to the fourteenth century, it is indispensable to know what was its condition before the invasion, when the empire was still erect.

We have, therefore, to study: 1, the state of the agricultural population in Gaul, under the Roman administration, in the fourth and fifth centuries; 2, the changes introduced into this state by the Germanic conquest and the feudal establishment, from the fifth to the fourteenth century.

It is with the first question only that we shall occupy ourselves at present.

It is one that has been greatly neglected, and for the following causes: The rural districts played but a small part in the Roman society. The preponderance of the cities was immense. Erudition and criticism have accordingly directed all their attention to the internal administration of cities, and the condition of the urban population, while the rural population obtained scarcely a glance. Even the men, the special nature of whose studies would seem to forbid their neglect of it, the jurisconsults, troubled themselves but little about it. The principal monuments of the Roman legislation, those which have been the object of the most numerous and most assiduous labours, the *Institutes* especially, do not speak of the agricultural population—at least, not of the class which formed the

greater part of it. Some passages are met with in the Pandects, but few and undeveloped. The attention of the jurisconsults has, therefore, not been naturally directed towards this question; some have only spoken of it casually; others have passed on without even seeing it.

Still original documents are not wanting; the Roman legislation contains many provisions upon this subject.

The following will indicate to you the sources where most of these may be consulted:

1. Theodosian Code, book v. tit. 9. *De fugitivis colonis, inquilinis et servis.*
   Tit. 10. *De inquilinis et colonis.*
   11. *Ne colonus, inscio domino, suum alienet vel peculium vel litem inferat ei civilem.*
2. Justinian Code, b. xi. tit. 47. *De agricolis et censitis et colonis.*
   Tit. 49. *In quibus causis coloni censii dominos accusare possint.*
   50. *De colonis Palæstinis.*
   51. *De colonis Thracensibus.*
   52. *De colonis Illyricianis.*
   63. *De fugitivis colonis, &c.*
   67. *De agricolis et mancipiis dominicis, vel fiscalibus republiciæ vel privatæ.*
3. Novels of Justinian, nov. 54. *quæ ex adscriptitio et libra natos, liberos esse non vult, &c.*
   Nov. 156. *De prole partiendâ inter rusticos.*
   157. *De rusticis qui in alienis prædüs nuptias contrahunt.*
   162. *c.* 2, 3.
4. Constitution of Justinian, *De adscriptitiis et colonis.*
   ——— of the emperor Justin. *De filiis liberarum.*
   ——— of the emperor Tiberius Constantius. *De filiis colonorum.*

This shows that if study has been wanting, it was not so with materials for study. The texts which I have just mentioned, and some other documents, have been examined and summed up with much care in a dissertation by M. de Savigny, inserted in his *Journal pour la science historique du droit*, published at Berlin;[1] a dissertation in which will be found

[1] Vol. vi. p. 273—320: Berlin, 1828.

some of the faults of the author, that is to say, the absence of general views and conclusions, but in which his merits also abound, exactness of research, enlightened criticism of texts and precision of results. I derive from it the greater portion of what I shall place before you in the present lecture.

This dissertation is entitled *Sur le colonat romain*. The name of coloni was, in fact, borne by the greater part of the agricultural population of the empire: *coloni*, *rustici*, *originarii*, *adscriptii*, *inquilini*, *tributarii*, *censiti*, all these words meant one and the same social state, a special class inhabiting the rural districts and devoting themselves to agricultural labours.

Men of this class were not slaves; they even differed essentially from them; and that in numerous characteristics.

1. The laws frequently oppose them to slaves, by a positive contradistinction. The following texts prove this:

"In order that people may no longer remain uncertain as to the question what the condition is of a child born of a female bond-labourer and a free man, or of a female bond-labourer and a slave, or of a female slave and a bond-labourer, &c." [1]

I might multiply these quotations; but, in general, not to interrupt our progress, I shall content myself by pointing out, in support of my assertions, the most clear and most formal text.

2. Not only did the Roman law distinguish the bond-labourers from the slaves, but it often formally qualifies the first by the names of *free*, *free-born*:

"Let the labourers be bound by the right of their origin; and although by their condition, they appear free-born, let them be held as serfs of the estate upon which they are born." [2]

3. The labourers contracted veritable marriages; a legal marriage, which gave to the wife the title of *uxor*, and to their children all the rights of legitimacy:

"If bond-labourers have taken free women for wives (*uxores sibi conjunxerint*,) &c." [3]

Now, you know that in the Roman society, slaves did not marry legally, any more than negroes now in many colonies.

[1] *Cod. Justin.*, l. xi., tit. 47, l. 21.
[2] *Ibid.*, tit. 51, l. *unic.*
[3] *Ibid.*, tit. 47, l. 24.

4. There are laws which, by inflicting certain punishments upon bond-labourers, assimilate them, in this case only, with slaves, an assimilation which in general confirms the distinction:

"It is fitting that henceforth labourers who have thought of escaping should be loaded with irons, in the manner of slaves."[1]

5. The bond-labourers served in the Roman armies, where slaves were not received. A certain number of recruits were assigned to each proprietor to furnish, as is the present practice in Russia; and like the Russian lords, he took them from among the labourers of his domains.[2]

6. The labourers were capable of holding property; they gave to it the name of *peculium*, the same as that which slaves might acquire; and, at the first glance, the resemblance seems complete; but, as M. de Savigny with reason observes, the *peculium* of slaves belonged to their master, while labourers really possessed theirs, with the exception of certain restrictions, of which I shall immediately speak. These are, as you see, essential differences between bond-labourers and slaves, and which made the *colonaria conditio*, or state of bond-labour, a class of itself, an entirely distinct legal condition in society.

But the liberty of this class was confined to very narrow limits, and subject to very harsh conditions. I am about to enumerate them, as I have enumerated the rights.

1. The *coloni* were attached to the estate; their legal definition formally says as much: *servi terræ glebæ inharentes.* They could not, under any pretext, quit the domain to which they belonged; and if they happened to make their escape, the proprietor had a right to claim them, in whatever place he found them, and in whatever profession they might be engaged:

"We order that labourers be attached to the glebe, in such a manner that they cannot be taken from it, even for a moment."[3]

"Let all fugitive labourers, without any distinction of sex, function, or condition, be forced by the governors of the pro-

[1] *Cod. Theod.*, l. v., tit. 9, l. 1. [2] *Ibid.*, l. 7., tit. 13, l. 7, 8.
[3] *Cod. Just.*, tit. 47, l. 15.

vinces to return to the places where they were born, have been brought up, and paid the quit-rent." [1]

The proprietor might even claim them from the ranks of the clergy. Legislation varied a little on this point. It was at first ordered that no labourer could enter into the clergy, be ordained priest, unless in the church of the very place where he dwelt, in order that he should not depart from the place to which he was attached, and should continue to acquit himself of the duties to which he was bound.

"In the churches situated in the domains of any private person, or in a village, or in any other place, let them only ordain as priests men of the place itself, and not of any other domain, in order that they may continue to bear the burden of the poll-tax." [2]

It was soon seen that even thus restricted, the licence so given to the coloni turned to the detriment of the proprietors; that the labourers become priests acquired more liberty, greater stability, and no longer so assiduously fulfilled their obligations. Bishops were interdicted from ordaining any labourer without the consent of the proprietor.

"Let no man subject to the quit-rent receive the dignity of priest without the consent of the proprietor of the estate, and let him not be invested with the priesthood except under this condition, even in the village where he lives." [3]

The demands and continually increasing credit of the clergy soon brought about a new change; they returned to the ancient principle.

"We allow labourers to be made priests, even without the consent of their master, in the domains to which they are attached, so that, though priests, they still acquit themselves of the cultivation with which they are charged." [4]

But these very vicissitudes prove how weak and subordinate was the condition of labourers in general, to the interests of the proprietors. If they attempted to fly, they were, like the slaves, considered as having wished, according to the cruel expression of the law, to steal themselves from their masters.

"If any labourer conceal himself, or endeavour to leave

[1] *Cod. Just.*, l. 6. See also b. ii., tit. 63, l. 1 & 3.
[2] *Cod. Theod.*, l. xvi., tit. 2, l. 33. [3] *Cod. Just.*, l. i., tit. 3, l. 16.
[4] *Nov. Just.*, tit. 123, c. 17.

the estate where he lives, let him be considered as having wished fraudulently to despoil his patron, like a fugitive slave." [1]

2. They were, like slaves, subject to corporeal punishment; not so frequently as the slaves, but in certain cases, and to certain punishments from which free men were exempt. Was it desired, for example, to extirpate from Africa the heresy of the Donatists, it was decreed:

"With respect to slaves or labourers, the admonition of their masters, and repeated floggings will deter them from this perverse faith." [2]

3. Labourers, like slaves, were deprived of all right of complaint, of all civil action against their patron, against the proprietor of the soil. Two cases only were excepted: that in which the proprietor exacted a heavier rent than ancient custom had fixed; and that of offence, of crimes committed against them by their patron. In each case the labourer might appeal to the magistrate, and enter an action. The law of Justinian is explicit:

"As in civil affairs, we refuse to the bond-labourers any action and complaint against their masters and patrons (except in case of over-exaction of rent, according to what the princes which have preceded us have granted); in criminal matters, which interest the public at large, they have a right to prosecute in cases of crime against themselves, or those belonging to them." [3]

4. Although labourers were capable of holding property, that property was not complete, nor truly independent. They enjoyed it at their will, they transmitted it to their family, but they were interdicted from alienating it without the consent of their masters.

"It has been often decreed that no labourer can sell or alienate, in any manner, any part of his peculium without the knowledge of the master of the estate which he inhabits." [4]

It will be seen, that although the condition of labourers differed essentially from that of slaves, it nearly approached it in some respects, and that they enjoyed but a very restricted

[1] *Cod. Just.*, tit. 47, l. 23.
[2] *Cod. Theod.*, l. xvi., tit. 5, l. 52, 54. See also *Cod. Just.*, l. xi., tit. 47, l. 24.
[3] *Cod. Just.*, l. xi., tit. 49, l. 2. [4] *Ibid.*

liberty; M. de Savigny even thinks, it is true without citing any distinct texts, that their condition was, in one sense, worse than that of slaves, for there was, in his opinion, no enfranchisement for the coloni; they were looked upon as being obliged always to remain upon the glebe, and even their patron could not detach them from it by means of manumission. The labourer became free only by prescription; when he had been in the enjoyment of liberty for thirty years without being claimed by any proprietor, then, and then only, it definitively belonged to him.

What were the advantages which in some measure compensated the coloni for so hard a condition? What guarantees were granted them against the tyranny of the proprietor of that soil from which nothing could detach them.

There were two principal ones:

The first was that the proprietor could not separate them from the domain; the personal sale of the coloni was interdicted, they could only be sold with the estate; and the estate could not be sold without them. Nor could the possessors sell the estate, and retain the labourers, to carry them into another domain; the legislation showed itself upon this subject provident and attentive in baffling the tricks by which they attempted to elude the prohibition:

"It is in no way permitted to sell labourers (*originarios, rusticos, censitosque servos,*) without the estate which they inhabit. And let it not be devised by fraud, as has often been done, to remit to the purchaser a small portion of the land, preserving the culture of the domain; but when all the domain, or a determined part, shall be sold, let it be so with as many coloni as there were upon it when it belonged to the first possessor."[1]

It also regulated what should happen in case of a division of lands, and laid down for the benefit of the labourers measures often invoked, but as yet without success, for the benefit of the negroes in various colonies:

"The partition of lands shall be made in such a manner that each bond-labourer's family shall belong entirely to one and the same possessor. Who can bear children to be sepa-

[1] *Cod. Just.*, l. xi., tit. 49, l. 7.

rated from their parents, sisters from their brothers, wives from their husbands."[1]

The labourers had then, if not liberty, at least security, a veritable guarantee.

Here is a second.—The rent which they paid to the proprietor of the soil, a rent almost always paid in kind, and which they called *reditus, annuæ functiones*, could not, in any case, be raised; it was always to remain the same, as fixed by ancient custom, and independent of the will of the proprietor.

"Let any labourer from whom his master shall exact more than is customary and has been exacted from him in former times, address himself to the first judge he can find, and prove the fact, in order that he may forbid the convicted master from thus exacting in future more than it was customary for him to receive, and let him be made to return what he shall have extorted by such excess."[2]

This was an important advantage for the agriculturalists. The fixedness of rent had the same effect as they seek to bring about in modern societies, by the immutability of the land tax. It is a recognised principle in political economy, that this immutability is very desirable; for all the ameliorations which the proprietor can make in his domain then turn to his profit; the state does not come to demand a part of it; he has not to fear, in augmenting his revenue, the seeing it diminish on another side. The transferences, the mutations of property, are besides made with full knowledge of the subject, and safe from all uncertainty. Accordingly, the immutability of the land tax is classed among the most efficacious causes of the agricultural prosperity of a country, and England is an example of this. The *coloni* enjoyed this advantage; and if other circumstances had not diminished its effect, it would perhaps have counterbalanced, up to a certain point, the evils of their condition.

But independently of the rent which they paid to the proprietor of the soil, the labourers were subjected by the state to a less fixed and more onerous tax. The two great contributions of the Roman empire, it may be mentioned in passing, were a land contribution and a personal contribution.

[1] *Cod. Just.*, l. iii. tit. 38, l. 11. [2] *Ibid.*, l. xi., tit. 49, l. 1.

The land contribution was paid by the proprietors, and the personal contribution or capitation by all the inhabitants of the territory. It was of the landed proprietor that the state demanded the capitation; in addressing to him what we should call the assessment for his land-tax, they joined to it the table of the poll-tax due from the inhabitants of his domains; he paid it in advance, and recovered it afterwards as he could. Now the capitation continually increased, and was, both on the part of the state towards the proprietors, and on the part of the proprietors towards the labourers, the source of intolerable vexations. It destroyed, in a great measure at least, the benefit which the latter might have drawn from the fixedness of their rent; and hence that decline of the agricultural population which preceded the invasion of the barbarians, and facilitated its success.

Such are the principal features in the condition of the *coloni*. Men belonged to that class in virtue either of origin, prescription, or a special and formal contract. With regard to origin, the condition of the mother generally determined that of the children. Still, if the father was a labourer and the mother free, the principle was not inexorable, or, more correctly speaking, the legislation varied, and the child sometimes followed the condition of the father, sometimes that of the mother. Upon the whole, the general effort of the legislation was to retain as many individuals as was possible in the class of bond-labourers.

Men also entered this class by prescription; whosoever had been a labourer thirty years, without protest, could not free himself from it. Finally, a man might become a bond-labourer by a kind of contract, a kind of personal engagement with a proprietor, by which he received a certain portion of the estate on condition of establishing himself upon it, cultivating it, and acquitting himself of all the duties attached to the condition of *coloni*, while he acquired its privileges.

We may easily see thence how the class of labourers was perpetuated and even recruited in the empire; but we cannot see how it was formed, what was the origin of that great social condition, nor by what causes almost all the agricultural population, especially in Gaul and Italy, had been thus placed in a medium condition between freedom and servitude.

M. de Savigny has not passed by this important question,

but he has not solved it; he treats of it at the end of his dissertation, and does little more than communicate his doubts to the reader. Perhaps, indeed, it is impossible to arrive, upon this point, at a precise and truly historical solution. I will give, in my turn, some conjectures somewhat less reserved than those of M. de Savigny, and which still appear to me probable.

I see but three ways of explaining the formation, in the heart of a society, of such a class as that of the *coloni*, the reduction of the agricultural population to such a condition: 1, either this condition was the result of conquest, of force; the agricultural population, vanquished and despoiled, was fixed to the soil which it cultivated, constrained to share its products with the conquerors; and the laws, the customs which recognised some rights, some guarantees in it, were the slow work of time and the progress of civilization; 2, or the agricultural population, free in its origin, gradually lost its liberty by the increasing empire of a highly aristocratic social organization, which more and more concentrated property and power in the hands of the great; in which case the degradation and *immobilisation*, so to speak, of the labourers, was the work, not of conquest and sudden violence, but of government and legislation; 3, or else, lastly, the existence of such a class, the condition of labourers, was an ancient fact, the wreck of a primitive, natural, social organization, which took rise neither from conquest, nor in scientific oppression, and which maintained itself, in this at least, through the various destinies of the land.

This last explanation appears to me the most probable, indeed the only probable explanation. I will recal some facts.

When I treated of the social state of the sedentary and agricultural Germanic tribe,[1] I pointed out two elements: on the one hand the family, the clan; on the other, conquest, force. The descendants of the same family, the members of the clan were, as has been seen, in a condition nearly analogous to that of the Gallo-Roman coloni. They inhabited the lands of the chief of the clan, without any regular right of property, but hereditarily enjoying the privilege of cultivating them in consideration of a rent, and always ready to

[1] Lecture III. of the present course.

rally round the chief whose origin and destiny were the same as theirs. Such was the condition in which the agricultural population appeared wherever that social organization is found which bears the name of *tribe*, *clan*, *sept*, &c. and which evidently results from the progressive development of the family. Now, there is reason to believe that before the Roman invasion, a portion of the agricultural population of Gaul was in this condition. I cannot here go into details, but everything indicates that anterior to the conquests of Cæsar, two forms of society, two influences disputed for Gaul. Towns, cities, were formed therein, powerful mistresses of a considerable territory around their walls, and organized municipally upon a system analogous to that of the Roman *municipia*, if not exactly upon that system itself. The country parts were inhabited by the chiefs of tribe, of clan, each surrounded by a population which lived upon his domains, and followed him to war. The great chieftains who struggled against Cæsar, Vircingetorix for example, appear to have been chiefs of clans, whose position and manners closely resembled those which, scarcely a hundred years back, were still to be seen in the Highlands of Scotland. We cannot, of course, speak with unhesitating certainty upon this point, for we are here altogether wandering over a sea of conjecture. Yet there is every indication that the system of clan prevailed for a long time in western Europe, amidst the Gaelic race, improperly denominated Celtic, and that it still existed, though greatly modified and subdued, in the country parts of Gaul at the time of the Roman invasion.

Now, if the Roman conquest did, in point of fact, find the agricultural Gaulish population in the state I have described, living upon the domains of the great chiefs, and cultivating them for a ground rent, is not the origin of the Gallo-Roman *coloni* clearly manifested? is not their condition thoroughly explained? The chiefs of clans were exterminated; the conquering chiefs took their place; the lower agricultural population remained almost precisely in the same position as before. They were, doubtless, losers in some respects by the change operated above them, for their national chiefs were replaced by foreign masters; they had to obey conquerors instead of voluntarily following countrymen of their own; primitive natural ties were violently broken, and sentiments,

the most dear to a people, received a cruel blow. But, on the other hand, the Roman domination was more regular, more able than that of the chiefs of the Gaulish clan; a better and firmer order was introduced into the relations of the *coloni* with the proprietors; so that, perhaps, on the whole, the condition of the former (I refer solely to their material condition), was very little deteriorated by this change of sovereigns.

I have thus given what appears to me the most probable explanation of the state of the agricultural population in Gaul under the Roman administration. This state was, as it appears to me, neither the sudden work of conquest, nor the slow labour of legislation: it was an ancient natural fact, which the Romans found existing on their arrival, and which was to endure after them.

It was a state which in no degree appeared singular to the new conquerors who succeeded to Rome; on the contrary, it was entirely conformable with their own customs and manners, with their own social state. The Germans also had labourers, *coloni*, living on their domains, and hereditarily cultivating them on payment of a ground rent. It was therefore naturally to be supposed that the state of the agricultural population would undergo no essential change, and that, subject to a few inevitable modifications, it would survive this second conquest as it had survived the first. Did this prove to be the case? The question will form the subject of our next lecture.

EIGHTH LECTURE.

Of the state of the agricultural population in Gaul from the 5th to the 14th century—It has not changed so much as is commonly supposed—Of the two principal changes which it was to be expected would take place in it, and which did, in point of fact, take place—Insurrections of the peasants in the 10th and 11th centuries—Continuance of the distinction between the coloni and the serfs—Progress of the condition of the coloni from the 11th to the 14th century—Proofs.

I EXHIBITED in our last lecture the state of the agricultural population in Gaul under the Roman administration. What was its condition after the invasion—first, from the fifth to the tenth century, during the epoch which we may denominate the barbarous epoch, and then from the tenth to the fourteenth century, during the feudal epoch? Did that condition undergo the so entire change that has been generally represented?

In itself, such a change was not probable. Not only was the condition of the *coloni* general and well established in Gaul, established *de jure* as well as *de facto*, rooted in civilization as in society, but moreover, in the last days of the empire, and amidst the repeated incursions of the barbarians, the number of *coloni* had very greatly increased. A passage in Salvienus, the writer who has perhaps more vividly than any other depicted the social misery of this period, leaves no doubt on the subject:

"Some of the men of whom we speak, more prudent than the rest, or rendered so by dint of necessity, despoiled, in the course of the repeated incursions, of their humble dwellings and poor fields, or driven thence by the exactors, and no longer able to retain them, repaired to the domains of the great men, and became their *coloni*. And as

men seized with fear, on the approach of the enemy, retire unto some stronghold, or, as those who, having lost the honourable position of freedmen, retreat in despair into some asylum, so the men of whom I speak, being no longer in condition to preserve their property, and the dignity of their origin, submit to the yoke of the humble condition of *colonus*, reduced to this extremity, that the extortioner despoils them, not only of their goods, but of their state, not only of that which belongs to them, but of themselves; that they lost themselves at the same time that they lose all that they had; that, retaining no property, they renounce even the right of liberty."[1]

It hence resulted, that at the period of the conquest, and when the barbarians definitively established themselves on the Roman territory, they found almost all the rural population reduced to the state of bond-labourers. Now a condition so general, was a powerful fact, and capable of resisting many crises. We do not change very easily the lot and condition of so great a number of men. Considering then the thing in itself, independently of all special testimony, we may presume that the condition of the bond-labourers would survive the conquest, and remain, for a very long time at least, very nearly the same.

In fact, in certain parts of the empire, especially in Italy, we positively know that it was not changed; explicit monuments, more especially letters from the popes in the sixth and seventh century, prove this. The Roman church possessed, as you are aware, considerable territorial property; this was, in fact, the principal source of her revenues at that time. There is a letter addressed by Gregory the Great, (590—604), to the sub-deacon Peter, the officer charged with the administration of the property of the church in Sicily, which gives some very curious details as to the state of the rural population after the fall of the empire. I will lay a portion of this epistle before you.

"We have learned that the bond-labourers of the church are extremely troubled by reason of the price of grain, which occasions the amount of the rent to which they are bound to be no longer the same as in times of abundance. We order

[1] Salvienus, *De gubern. Dei*, b. v.

that, upon all occasions, whether the harvest be good or bad, only the same proportion be collected from them. As to the grain which shall be shipwrecked during its transport to our granaries, we direct it to be reckoned as received. But let there be no negligence on your part, in reference to its transmission; for if you take not the fitting time for shipment, the loss that may arise will be by your fault.

"We regard, also, as very unjust and iniquitous, that any portion of the measures of grain furnished by the bond-labourers of the church, should be taken by the collectors, and that for this purpose they should be compelled to furnish a fuller measure than that which is delivered into the granaries of the church; we forbid, by these presents, that the bond-labourers of the church should be called upon to furnish bushels containing more than 18—, excepting such extra quantity as the masters of the ships receive according to custom, in consideration of the waste which they state takes place during the voyage.

"We have learned, also, that in some farms of the church there exists a most unjust system—namely, that out of seventy bushels the farmers exact three and a half; and even this is not sufficient, for it is said that for many years past they have exacted even more. We wholly detest this custom, and will extirpate it entirely from our patrimony. Do you inquire, in reference to the various descriptions of weights and measures, what is exacted of the bond-labourers, beyond the justice of the case, and do you appoint one uniform sum for their various rents, so that they may pay in the whole two bushels in seventy, but that beyond this no shameful exaction be made upon them. And least after my death, when we shall have augmented the total fixed sum to be paid, suppressing the other charges which were heretofore made, these charges may again be imposed upon the *coloni*, so that while their rent remains higher they are burthened besides with the extra charges, I order that you draw up formal registers, in which you set down, once for all, what each man shall henceforth pay, distinctly abolishing the old rates, dues, and the tax upon vegetables and grain. As to what was formerly paid out of these items to the collector for his own use, we order it to be henceforth given him out of the portion paid to us as rent.

"Above all things, we desire you to take the greatest care that no unjust weight be used by our collectors; if you find such weights, destroy them, and substitute just ones. We would not have anything exacted from the church coloni besides the legal weights, except some common provisions.

"We have learned, moreover, that the first collecting of the tax very much straitens our coloni, for before they are able to sell their commodities, they are forced to pay the tribute; and having nothing of their own at the moment when they are called upon to pay, they borrow of the officer, and for this service pay heavy interest. . . . We therefore order, by these presents, that thou make to the coloni, out of our public treasury, the loans which they might otherwise demand of strangers; let payment be exacted of them only gradually, and in proportion to what they shall have to pay with, and let them not be troubled for the present: for what would suffice for them being kept till some future time, when sold too soon and at low price when they are pressed, becomes insufficient for them."[1]

I omit other recommendations dictated by the same spirit of benevolence and justice. We can thus understand how people were eager to place themselves under the rule of the church; lay proprietors were certainly very far from thus watching over the condition of the inhabitants of their domains. But however that may be, it is evident that this condition, such as it is described by St. Gregory, was very similar to that which existed before the fall of the empire. His words, it is true, are applied to the *coloni* of the church in Sicily; but we may hence judge of those of the south of Gaul, where the bishop of Rome likewise possessed domains, which he probably administered in the same way.

As to northern Gaul, far less Roman, and more frequently ravaged by the incursions of barbarians, we do not find documents so detailed, or which prove with the same precision the permanence of the condition of the agricultural population. But the general fact is not the less certain, and attested by numerous texts; the following are taken from the seventh to the ninth century:

[1] *S. Greg.*, *Ep.*, lib. i., ep. 47: in his *Works*, vol. xi., col. 533.

"Let him who kills a free-man of the church, whom they call *coloni*, pay composition as for any other German."[1]

"Let the free-men of the church, who are called *coloni*, like the *coloni* of the king, pay tribute to the church."[2]

"They have protested, and have said that they were born, and should be free coloni, as the other coloni of Saint Denis, and that the said monk Deoda has sought by force and unjustly, to reduce them to inferior servitude and oppress them."[3]

"We give to the abbot Friedegies our seignorial manor . . . with the men upon it, whom we have established there, to live as coloni . . . . and we order that these men cultivate the land and the vines, and all things, for half the produce, and let no more be demanded of them, and after us let them have to suffer no trouble."[4]

I might infinitely multiply these examples. The names of *coloni*, *inquilini*, &c., incessantly recur in the documents of this epoch; the formulæ of Marculf are full of them; we have those by which they claimed fugitive coloni. Everything attests, in a word, the permanence of this social condition. Doubtless, it was then much more unhappy, more precarious than it had been under the Roman administration; the rural population had to suffer more than any other from the continuing violence and anarchy: but its legal state was not essentially changed; the distinction between the coloni and the slaves continued to subsist; and the first, in regard to the new proprietors, remained in almost the same relation that they occupied with the old ones.

Still two causes must, in certain respects, have considerably modified their situation.

In the last lecture I placed before you the differences which separated the condition of the coloni from that of the slaves: these differences, you will recollect, were real, but, in many cases, very fine, subtle, and difficult to be properly determined. Now, distinctions of this kind evidently belong to an advanced and a tranquil society; they are the work of a scientific legislation, and can only be maintained by a regular

[1] Law of the Allemanni, tit. 9.
[2] *Ibid.*, tit. 23, s. i.
[3] *Charter of Charles le Chauve*, in 860.
[4] Donation of Haganon to the abbey of Saint Martin de Tours, in 819.

government. They necessarily become weakened amidst great disorders, under the empire of a confused and rude legislation. We then see the legal shades of difference vanish; profound and striking differences almost alone survive. It was, therefore, in the nature of things that after the invasion, under the brutal domination of the barbarians, when the Roman administration was no longer there to maintain skilfully the limits fixed by its learned laws, it was, I say, in the nature of things that these limits should be continually overlooked, and that the social conditions which approximated, although they were distinct, should often be confounded. The legal distinction between the coloni and the slaves, more than any other, perhaps, must have run this risk. Although the Germans, in fact, were not, before the invasion, entirely without slaves in the interior of their houses, still they had no great number of them. The system of domestic servitude was far less developed with them than amongst the Romans. Tacitus, and all the ancient documents, leave no doubt on this subject. The Germans, on the other hand, had many coloni; bond-labour was, as you have seen, the general condition of their rural population. They would naturally, therefore, when transplanted to the Roman soil, very imperfectly comprehend the distinction between coloni and slaves; all the men employed in the cultivation of the land would be in their eyes coloni; and the two classes were, doubtless, often confounded in their actions as well as in their ideas. The coloni, perhaps, lost by this circumstance; the slaves, especially so called, gained by it; and at all events, there was here a sufficiently notable change in the general state of society. I now come to a second change of still graver import.

The proprietors who derived from the coloni a rent for their lands, had, as you have seen, no jurisdiction, no political authority over them. The criminal, or civil jurisdiction over the coloni, belonged, not to the proprietor of the soil, but to the emperor and his delegates. It was the provincial governors, the ordinary judges, who administered justice to the coloni. The proprietor only exercised over them the rights peculiarly connected with the property, civil rights; all rights of sovereignty, all political power over them, were entirely unknown to him.

This state of things changed after the invasion. You re-

member that in the Germanic tribe, sovereignty and proprietorship were combined in one person, and that this fact was transplanted, was even aggravated in the Gallo-Roman territory. The condition of the coloni there was profoundly affected by this circumstance. Previously they had depended upon the proprietor as cultivators, and attached to the soil; in the central government, as citizens, and incorporated with the state. When there was no longer a state, no longer a central government, they depended upon the proprietor in every relation of life, for their whole existence. This fact, however, was not accomplished all at once. Three different systems, you recollect, the system of free institutions, that of monarchical institutions, and that of aristocratic institutions, co-existed and struggled together during the first ages of the invasion. Some time after, the barbarian kings, as successors to the empire, endeavoured to establish and maintain those provincial magistrates, those delegates of central power, who, under the empire, had been charged with the administration of justice, independently of the local proprietors. But you know the issue of the struggle: the system of monarchical institutions was defeated, and the proprietors of the soil became the ministers of its population. The condition of the coloni was greatly changed by this circumstance; they were still, indeed, distinct from the slaves; their relations, as cultivators, with the proprietor, remained much the same as before; but this proprietor was now their sovereign: they were in his dependence in all things, and had no connexion whatever with any other power.

If we pass in review all the relations of the possessor of the fief with the coloni on his domains, more especially during the eleventh century, ere yet the feudal system had given way under the attacks of the kings and of the commons, we shall everywhere find the seigneur invested with rights of sovereignty. It is he who possesses the legislative power; the laws emanating from the king have no executive effect beyond the royal domains. This principle, indeed, did not long remain intact and in vigour, but it was none the less real, none the less the true feudal principle. It was, moreover, the sovereign alone who taxed his coloni, and regulated the dues they should pay him. The feudal *taille* took the place of the Roman *capitatio*. Under the Empire, the rent

payable by the colonus to the proprietor was fixed; the proprietor was not at liberty to increase it at his pleasure. But the personal impost, the *capitatio*, which the colonus paid, not to the proprietor, but to the government, to the emperor, this was not fixed; it varied, it was constantly increased at the sole will of the emperor. When the fusion of sovereignty and of property became operated in the heart of the fief, the seigneur was invested, as sovereign, with the right of imposing the capitation tax, and, as proprietor, with the right of levying the rent. According to the ancient usages, the rent was to remain always the same, and you will presently see that, in effect, this principle passed into feudalism. But as to the capitation, which became the *taille*, or poll-tax, the seigneur, as theretofore the emperor, regulated it, and augmented it at pleasure. The condition of the colonus, then, was not changed, inasmuch as his rent remained fixed, and his poll-tax arbitrary, as under the empire; but the same master now disposed alike of the rent and of the poll-tax, and this was undoubtedly a very important change.

And not only did the seigneur tax, *tailler*, his coloni at his pleasure: all jurisdiction over them, as you have seen, was now in his hands. In common with their legislative power, the judicial power of the seigneurs, even over the rural population of their domains, ere long underwent more than one assault, encountered more than one limitation; but in principle, and in the age of true feudalism, it was none the less a real and entire fact; so real that the seigneurs had the prerogative of pardon, as well as the right to punish.

Under the political point of view, then, the condition of the colonus was not only changed, but it was deteriorated by the invasion; for sovereignty and property being now invested in one and the same hands, the coloni had no resource, no guarantee against oppression. Oppression, accordingly, became very heavy, and speedily brought about those violent animosities, those incessant revolts which, from the tenth century, characterized the relations of the rural population with their masters. I will at present quote two illustrations of these. In 997:

"While the faithful duke Richard abounded in virtue and honour, it happened that in his duchy of Normandy there arose a storm of pestilential discords. For in all the various

countries of the Norman land, the peasantry assembled in numerous bodies, and unanimously resolved to live henceforth according to their own fancy, declaring that, despising what the established law had laid down touching the share of wood and water to be enjoyed by the people, they would govern themselves by their own laws; and to enact and confirm these, each troop of these persons elected two deputies, who were all to assemble at a certain place in the centre of the country, and there to pass these laws. When the duke learned these things, he forthwith despatched count Rodolph, with a multitude of soldiers, to repress this agrestic ferocity, and disperse this rustic assembly: the count, using no delay in his obedience, seized upon all the deputies and several of their companions; and having cut off their hands and feet, sent them, thus disabled, back to their people, to turn them from their ill desires, and, by the lesson thus given them, to render them prudent, for fear of worse consequences. The peasants, taking the lesson, gave up their meetings at once, and returned to their ploughs." [1]

They did not return there permanently, however; for thirty-seven years afterwards, in 1034, on the confines of Normandy, in Brittany:

"The insurgent peasants assembled once more against their seigneurs: but the nobles, joining their forces to those of the count Alain, bore down upon the peasantry, dispersing, pursuing, killing in all directions; for the peasantry had got together without arms, and without a leader." [2]

These peasants were not slaves, especially so called, but the ancient coloni of Roman legislation, whom the fusion of sovereignty with proprietors burdened at once with the rights of property and the exactions of the arbitrary master, and who rose to shake off the yoke if they could.

Amidst this tyrannical anarchy, it was impossible, as I before remarked, that the distinction between the condition of the coloni and that of the slaves should remain clear and precise, as under the imperial administration. Nor did it: when we examine the documents of the feudal period, we find there all the names which, in the Roman legislation,

[1] Guillaume de Jumiège, Histoire des Normands, v. 11.
[2] *Vie de Saint Gildas, Abbé de Ruys;* Historiens de France, x. 377.

specially indicated the coloni, *coloni*, *adscriptitii*, *censiti*, &c., but there they are employed at random, almost indifferently, arbitrarily, and constantly confounded with that of *servi*. And the confusion was so real, that it has passed into the language of even the most exact and sensible writers on the subject. No man, undoubtedly, has more closely studied, or was more thoroughly acquainted with the middle ages, than Du Cange; his erudition is as precise as it is vast. The distinction between the coloni and the slaves has not escaped him, he has distinctly stated it: "The coloni," says he, "were of a medium condition, between the *ingenui*, or free men, and the serfs." And yet he often forgets this distinction, and speaks of the coloni as of veritable serfs.

The distinction, however, never ceased to be not only real, but recognised and proclaimed by the jurisconsults; it was by the word *villeins* that they ordinarily designated the coloni. We read in Pierre de Fontaine's Treatise on the Ancient Jurisprudence of the French:

"And know well that, according to God, thou hast not full power over thy villeins. Therefore, if thou takest of his beyond the lawful rent that he owes thee, thou takest it against God, and on the peril of thy soul, and as a robbery. And that which is said that all the things which the villein has are his lord's, it is well to guard against, for if they were his lord's, there would be no difference between serf and villein. But by old custom there is no judge between thee and thy villeins, but God." [1]

The difference is here, you see, formally established, and based precisely upon the same characteristic which distinguished the coloni under the Roman administration; that is to say, on the fixity of the rent which they owed the proprietors of the soil.

Notwithstanding all the excesses of feudal oppression, this distinction did not long remain void of effect; by small degrees, in virtue of the simple fact, that, in principle, the rights of the possessor of the fief over the villeins who cultivated his domains, were not altogether unlimited and arbitrary, the condition of the villeins acquired some fixity; they were subjected to a multitude of dues, often odious and

[1] Conseil à un Ami, chap. 21.

absurd; but however numerous they were, however odious, however absurd, when he had once paid them, the villein no longer owed anything to his lord; the seigneur *had not full power over his villein.* The latter was not a slave, a thing of which the proprietor might dispose at his pleasure. A principle of right soared constantly above their relations: and the weak knew, up to a certain point, that he had some ground to go upon, some theory of appeal. Now, such is the virtue of the bare idea of right, that wherever it exists, the instant that it is admitted, however opposed to it the facts of the case may be, it makes its way amongst them, it combats them, little by little it quells them, and becomes an invincible cause of order and of development. This was, in effect, what happened in the bosom of the feudal system. When once this system was thoroughly established, in despite of all the tyranny, all the ills which the rural population had to endure, despite the redoubled oppression which for a time was poured down upon it, as soon as it set about the endeavour at self-emancipation, its condition advanced towards amelioration and development. From the fifth to the tenth century, we find that condition constantly worse and worse, constantly more and more miserable. With the eleventh century the onward progress commences; a progress partial, for a long time impracticable, manifesting itself now at one point, now at another, and leaving prodigious iniquities and sufferings untouched, and which yet it is impossible not to recognise. I can merely indicate, from epoch to epoch, the principal documents which prove it: the following are some of these:

In 1118, on the demand of Thibault, abbot of Saint-Pierre des Fossés, near Paris, king Louis le Gros rendered the following ordonnance:

"Louis, by the grace of God, king of the French, to all the faithful in Christ. As, according to the tenour of the most holy laws, the royal power, in virtue of the duty imposed upon it, should, above all things, watch over the defence and honour of churches, it is fitting that those to whom so great a power has been delegated by the hand of God should provide with most attentive solicitude for the peace and tranquillity of the churches, and to the praise of God, all powerful, through whom kings reign, honour their possessions with some privi-

leges, and thus acquit themselves of their kingly duties by good actions, indubitably receiving therefore the recompence of eternal beatitude. Let all know, then, that Thibault, abbot of the monastery of Saint-Pierre des Fossés, has come into the presence of our serenity as complainant, complaining and setting forth that the serfs of the holy church des Fossés are so contemned by secular persons, that in the courts of justice and civil affairs they will not admit them as witnesses against free men, the ecclesiastical serfs being scarcely in any matter preferred to the lay serfs, whence the ecclesiastical state not only is abased by the shame of such an insult, but suffers day after day great material damage. Having heard the plaint of the church, moved as much by reason as by affection, I have found it necessary absolutely to deliver the church des Fossés, dear to our person among all others, from such a scandal, and to elevate by a royal favour a royal abode. I then, Louis, by the mercy of God, king of the French, by the unanimous council and consent of our bishops and great men, *by decree of royal authority*, I establish and order that *the serfs of the holy church des Fossés* have full and entire licence to *give evidence and to combat* against all men, free men as well as serfs, in all causes, pleadings and business; and let no person, bringing against them the fact of their servitude, ever dare in any way to calumniate their testimony. Granting them, therefore, by these presents, the licence *to give testimony* of what they have seen and heard, we grant them that if any free man in a cause seeks to accuse them of false testimony, he shall prove his accusation by single combat, or, receiving their oath without contradiction, acquiesce in their testimony; that if, by a rash presumption, any one refuse to accept, or in anything calumniate their testimony, not only shall he be guilty towards the royal authority in the public laws, but he shall irrevocably lose his request and his cause; that is to say that, a presumptuous calumniator, he shall be heard no more concerning his plaint; and if any one have a complaint against him he shall be held as guilty, and convicted upon the complaint of the other. We have also ordered, that if the said calumniator do not make reparation to the church des Fossés, by reason of the sin of such calumny, he be excommunicated, and that he no longer be admitted as witness. In order that this *edict* of our will be provided with

the privilege of perpetual duration, we have ordered that these presents be made into a charter, which shall transmit the effect of our authority to all posterity, and shall prevent all occasion of retraction. Made publicly at Paris, the year of the incarnate Word, eleven hundred and eighteen, the tenth of our reign, the fourth of the queen Adelaide."

The serfs here in question are evidently the coloni of the abbey of Saint-Maur des Fossés. Most churches endeavoured to get the same privileges granted to their coloni, in order to give them a certain superiority over the coloni of the lay lords; and the kings willingly consented to their desires, either to assure themselves the ecclesiastical alliance, or to establish their legislative power beyond their own domains. We find in 1128 an ordonnance of the same Louis le Gros, which grants the same privilege to the coloni of the church of Chartres. It was thus in the domains of the king and of the church that the condition of the coloni was ameliorated the earliest and most rapidly.

This amelioration progressed so quickly, and became so general, that, towards the middle of the thirteenth century, the wealth of a large number of the *coloni*, men of *poote* (in the power of others) as they were called, not only caused disquiet to the lay lords, but to Saint Louis himself. Many *coloni* had acquired fiefs, and I read in the *Coutume de Beauvaisis*:

"According to the establishment of the king, (Saint Louis,) the men of poote cannot nor should hold fiefs, nor a fief accrue to them; but the establishment had it not it in intention to take away the rights of any man, but only that things should be done according to reason, and that ill customs should be abated and good ones promoted. There were two cases in which the men of poote might hold lands in fief, one where they had these lands in fief before the establishment was declared, and the other where they had received them by descent; and these fiefs were not taken away, for the establishment did not do away that which had already been done, but only declared that such should not be done in future; for the citizens and the men of poote got hold of so many fiefs, that if things had gone on so much longer, the prince might have had less service of gentlemen." [1]

[1] *Coutume de Beauvaisis*, by Beaumanoir, c. xlviii., p. 264.

Assuredly, the number of fiefs possessed by coloni must have been very considerable, for it to have been thought necessary, on the one hand, to prevent their continuing to acquire them; on the other, to respect those which they had already acquired. There is, in this restriction and in the concurrent maintenance of the rights of this class, a twofold proof of its progress.

I find this progress faithfully represented in *l'Histoire des Français des divers Etats*, of M. Monteil, in a conversation where his cordelier explains to Antoine de la Vacherie, a peasant of the environs of Tours, how the condition of his class had ameliorated.

"Antoine," says he, "how much more happy you are than your father and grandfather!

"When, on market-days, you carry your milk and fruit to Tours, you enter and go out freely, you generally find the gates open; do you know, my poor Antoine, that formerly the gates of towns were often closed during the day, even in times of vintage? Now it is possible for you to transport your sheafs, to cart your hay from sun-rise until sun-set. It is true, you tell me you cannot pasture your newly-cropped fields until three days after the harvest; this is just, it is for the sake of the poor, it is the gleaning which is desired to be preserved.

"Now, Antoine, who so secure as you in your fields! No one will rob your grain, or your fruits, for he would be bound to pay a four-fold restitution; no one will steal your plough-share, for he would be liable to have his ear cut; then, admit it, what a good police we have; now, whoever allows a goat to stray, is more or less punished; whoever lets his pig get into a vineyard, is fined half its value, which belongs to the proprietor of the vineyard; whoever, by the middle of March, has not repaired the hedges and fences, must pay a fine; whoever, by the same period, has not cleaned out the canals, and given free course to the water, must also pay a fine; finally, from here to Bourges, whoever hunts in the vineyards, on the approach of the vintage, will be corporally punished; and, as if the fear inspired by these laws were not sufficient, they have instituted field-keepers.

"For the improvement of your cattle they are about to re-establish the ancient breeding studs; to prevent the degene-

ration of your lands, they have become more and more severe regarding the execution of the law which forbids a farmer to take away the vine poles; to prevent too great a division of property, and at the same time to facilitate the improvement of it, they have made the exchange of your various inheritances more easy, by exempting you from the law of fines for alienation. Finally, still more has been done; in some countries they have arrested the arm of justice, they have forbidden the seizure of the animals and instruments of labour." "In those countries," answered Antoine, who until then had said nothing, "they are very happy; the apparitor can take from you neither your horses, nor your plough, nor your spade: in this, they can take from me, if not my every day suit, at least my Sunday clothes." "Patience," answered I, "they will think by-and-by of your Sunday suit, but one thing must come after another." [1]

Moral truth, I repeat, will scarcely be found here; the language is not anything like that of the time; but the facts are correct, and ingeniously connected.

This general progress of the condition, and of the importance of the agricultural population, soon had the effect which was to be expected. I will read entire the famous ordonnance of Louis le Hutin upon the enfranchisement of the serfs, for it is spoken of much more generally than it is known. It is addressed to the reeve of Senlis.

"Louis, by the grace of God, king of France and Navarre, to our loved and trusty master Saince de Chaumont, and master Nicholas de Braye, *health and love.*

"As, according to the law of nature each must be born free, and that by some usages or customs, which of great antiquity have been introduced and hitherto preserved in our kingdom, and peradventure, *for the fault of their predecessors,* many of our common people have fallen *into servitude and divers conditions* which very much displease us; *we,* considering that our kingdom is called and named *the kingdom of the Franks,* (free men) and wishing that the thing should truly be accordant with the name, and that the condition of the people *should improve on the advent of our new government,* upon deliberation with our great council, *have ordered, and order,*

[1] *Histoire des Français des divers Etats,* tom. i. p. 195—197.

that, generally throughout our kingdom, so far as may belong to us and our successors, *such servitudes be brought back to freedom*, and that to all those who from *origin or antiquity* or recently from *marriage* or from *residence in places of servile condition*, are fallen, or may fall, into bonds of servitude, *freedom be given upon good and fitting conditions.* And especially that our common people, who in past times have thus been brought under villanage, be by the collectors, bailiffs, and other officers, no longer molested, nor aggrieved in these respects as they have hitherto been, whereat we are displeased, and to give an example to *other seigneurs* who have men in like tenure to give them freedom; we who have full confidence in your loyalty and approved discretion, do commit it to you, and command you, by the tenour of these letters, that you go forthwith throughout the bailiwick of Senlis and its jurisdiction, and with all such our men treat and grant to them, that upon certain composition, whereby sufficient compensation shall be made to us for the emoluments arising to us and our successors from their said servitudes, you give and grant unto them, as far as we and our successors are concerned, general and perpetual liberty, in the manner above set forth, and according to that which we have more fully declared and committed unto you by word of mouth; and we promise in good faith that we, for ourselves and our successors will ratify and approve, will observe and cause to be observed and kept, all that you shall do and accord in these matters, and the letters which you shall give as treaties, compositions, and grants of freedom to towns, communities, or individual persons and properties, we will ratify them forthwith and confirm them again and again whenever we shall be so required. And we give it in command to all our justiciaries and subjects, that in all things they obey you, and diligently carry out your designs.

"Given at Paris, the 3rd day of July, in the year of grace, 1315."[1]

In our days the emperor Alexander would not have dared to publish in Russia such an ukase; he has laboured at the enfranchisement of the serfs in his states, he has enfranchised a considerable number of them in his own domains; but he

[1] *Ordonnances des Rois*, &c., tom. i. p. 588.

would not have dared to proclaim that, "according to the law of nature, each must be born free, and that the thing should accord with the name." Such a principle, it is true, had not the same reverberation, the same moral power in the fourteenth century, as in our times; and it was not with disinterested views that Louis le Hutin proclaimed it; he did not intend to give freedom to the coloni, he sold it to them on good and adequate conditions; but it is not the less certain, in principle, that the king believed it his duty to sell it them, in fact, that they were capable of buying it. This is assuredly an immense difference, and an immense progress, between the eleventh and fourteenth centuries.

This progress did not continue beyond the fourteenth century, with so much rapidity and extension as we might be led to presume. The movement of amelioration and enfranchisement of the agricultural population was stopped, or at least very much slackened, by a multitude of causes, of which I shall speak in treating of that epoch. It was not the less real and important in that which occupies us.

Such was the condition of the inhabitants of the feudal village, in its general features, from the sixth to the fourteenth century. You are now acquainted with the principal social vicissitudes which, within the simple fief, occurred in the destiny both of its possessors and of its cultivators. In our next lecture we shall leave this element of the feudal society, to examine the relations of possessors of fiefs among themselves, the general organization of feudalism.

NINTH LECTURE.

Relations of the possessors of fiefs among themselves—Variety and complexity of the feudal association considered in its whole—Necessity for reducing it to its proper and essential elements—Relations between the suzerain and his vassals—Character of these relations—Homage, the oath of fidelity, and investiture—Feudal duties—Feudal services—Military service—Judicial service—Aids—Some rights progressively acquired by the suzerains—Independence of vassals who had acquitted themselves of feudal services.

We now begin to study the relations of the possessors of fiefs among themselves,—that is to say, the feudal society,—no longer in its simple and primitive element, but in its hierarchical organization and in its whole. We shall here encounter infinitely greater difficulties. We shall no longer have to do with well-determined questions, with well-circumscribed facts. We shall enter upon an immense field, and one which contains prodigiously complex facts. On the one hand, as you know, the variety of fiefs was very great; all kinds of things were given in fief; they were given with different views and upon different conditions. The dignity of fiefs varied like their nature. Open the Glossary of Du Cange at the word *Feodum*; you will there see the enumeration of eighty-eight kinds of fiefs. The difference, it is true, is sometimes very slight, almost nominal, but most frequently it is real, more real perhaps than is indicated by the mere definition which distinguishes the various kinds of fiefs. On the other hand, the situation of the possessors of fiefs was very complex; a large number, the greater portion of them, were at the same time suzerains and vassals; suzerains of such an one, by reason of a fief which he had given them; vassals of the same, or of some other, by reason of an-

other fief which they held of him. The same man possessed fiefs of a very different nature; here a fief was received upon condition of military service, there a fief was held by inferior services. To the variety, to the complexity arising from the nature of fiefs and of the situation of their possessors, were added those foreign elements, those two great facts, royalty and the commons, which, everywhere and incessantly in contact with all parts of the feudal society, were there everywhere a new source of complexity and variety. How could feudalism have developed itself under pure and simple forms? How were its peculiar, special principles otherwise than deeply affected? How could the relations of the possessors of fiefs among themselves be otherwise than continually disturbed, disfigured? In such a chaos, it is assuredly very difficult to distinguish the true principles, the constitutive characteristics of feudal society, what it was in itself, independently of all accident, of every foreign influence.

Still it is necessary to accomplish this; we shall comprehend it by no other means.

I see but one way; that is, to extricate it from all which thus complicates and alters it, to lead it back to its primitive base, to reduce it to itself, to its proper and fundamental nature. Let us take, then, a possessor of estates, a suzerain of eight, ten, twelve, fifteen vassals, likewise possessors of estates which they hold of him in fief, and let us seek to discover what passed among them, how their relation was formed, what principles presided therein, what obligations were attached to it, &c. This is feudal society; this is the type, the microcosm, where we may learn to know the true nature of feudal relations. This study once accomplished, we shall restore to the relation of the possessors of fiefs among themselves, all the variety, all the complexity of which we shall have divested it, and see what changes it was subjected to by the foreign elements becoming associated with it. But it is indispensable first to consider them in themselves, and in a somewhat narrow sphere, under a form sufficiently simple to present them in clear outline.

I will once again recal to you the first origins of feudal relations. As you are aware, they go back to the Germanic warlike band; they are a consequence, a transformation of the relations between the barbarous chief and his companions.

The relations between the barbarian chief and his companions, it will be recollected, had two essential characteristics: 1. It was purely personal, engaged only the individual who acceded to it of his own choice, and in no way involved his family, his children, his descendants. 2. It was moreover perfectly free,—that is to say, the companion was at liberty to quit the chief when it suited him, to enter into another band, to associate himself with another expedition. Upon personality and liberty reposed that mobile society which was the basis of feudal society.

The territorial establishment once accomplished, by the mere introduction of landed property into the relation between the chief and the companions, it was greatly modified. From the very nature of landed property, it followed that the relation became less free, less mobile. The companion attached himself to the estate which he had from his chief; it was not so easy for him to quit his estate as formerly to quit his chief. The will of the individual was constrained to fix itself more firmly; the social tie was stronger. The relation accordingly lost its personality. Landed property, as you know, necessarily tended to become hereditary; inheritance is its natural, normal condition. The relation between the vassal and the suzerain follows the same law; it was not only personal but hereditary; it engaged the children as well as the father, the future as well as the present. As it was more strong, the social tie was more durable.

In the train of territorial establishment, these two changes could not fail to be introduced into the relation of the companions to the chief. We have already observed its progress in the development of facts.

Still the primitive character of the relation was not abolished; far from it. Instinctively, by the sole power of manners, an effort was made for it to remain free and personal, as much so, at least, as was compatible with the new state of facts. Whenever there was a change in the persons between whom relation was established,—that is to say, whenever the vassal died,—the social tie had to be renewed. The son did not tacitly and without ceremony become the vassal of his father's suzerain; a formal act was necessary on his part to place him in the same situation, to make him contract the same rights and the same duties. It was necessary, in a word,

that the relation should take the character of personality. This, in fact, is the character which they sought to give it by the ceremonies of homage, the oath of fidelity and investiture.

See what was the progress of these three facts:

On the death of a vassal, although the principle of the inheritance of fiefs was completely established, his son was obliged to do homage for the fief to his suzerain; he was, in fact, not truly the possessor until after he had acquitted himself of this duty.

"The manner of entering into the homage of another is this,—that is to say, the feudal seigneur must be humbly requested, with the head bare, by his man who wishes to do faith and homage, to be received into his faith; and if the seigneur will, he sits down, and the vassal unbuckles his girdle, if he has one, lays down his sword and staff, kneels on one knee, and says these words: 'I become your man from this day forth, of life and limb, and will hold faith to you for the lands I claim to hold of you.'"[1]

This is evidently an act analogous to that by which a companion formerly chose and declared his chief—"I am your man!" and the very word homage, *homagium*, *hominium*, what does it mean but that such an one makes himself the man of another?

After homage came the oath of fidelity. After having done homage by reason of the estate which he held of the suzerain, the vassal engaged his faith to him; the two acts were essentially distinct:

"And when the freeholder shall do fealty to his lord, he shall put his right hand upon a book, and shall say these words:—'This hear you, my lord, that I will be faithful and loyal to you, and will keep faith to you for the lands which I claim to hold of you, and will loyally fulfil unto you the customs and services that I shall owe you on the conditions belonging thereto, so help me God and the Saints.' And then he shall kiss the book; but he shall not kneel when he does fealty, nor make so humble a reverence as is before prescribed for homage. And there is a great difference between doing fealty and doing homage; for homage can only be done to the

[1] *Coutume de la Marche*, art. 189. See Du Cange, at the word *Hominium*.

seigneur himself, whereas the seneschal of the seigneur's court, or his bailiff, may receive fealty in his name."[1]

The oath of fidelity once taken, the suzerain gave the vassal investiture of the fief, by delivering to him a clod of turf, or a branch of a tree, or a handful of earth, or some such symbol. Then only was the vassal in full possession of his fief; then only had he really become the man of his lord.

Let us pause a moment to consider the true character, the hidden meaning of these acts.

In our modern societies, essentially territorial, that is to say founded upon the fact of birth in a determined territory, people do not wait for the consent of the individual to incorporate him in the society. He is born in a certain place, of such or such parents; society takes possession of him from his birth, in virtue of his origin alone, independently of his will, considers him as one of its members, imposes upon him all its charges, subjects him to all its laws; in a word, it is in the principle of territorial societies for the individual to belong to them in virtue of a material fact, without any act, without even any formality which manifests his consent.

Such was not, as you have just seen, the principle of feudal society: it far rather rested on the contrary principle; it was formed, or rather it was reformed, between the suzerain and the vassal, at each renewal of the generation, only by means of the formal consent of each of them, and by their reciprocal engagement. The principle which had presided over the formation of the ancient Germanic tribe, the voluntary choice of the chief by the companions and of the companions by the chief, continued in the feudal society, despite the introduction of the element of landed property, and the changes to which it necessarily subjected the ancient relations. The consent was so essential to bind the knot of the feudal association, that often the very form of the homage distinctly expresses it. Here is the form of the homage done in 1329 to Philip de Valois, by Edward II., king of England, for the duchy of Aquitaine:

"The king of England, duke of Guienne, will hold his hands between the hands of the king of France; and he who shall speak for the king of France shall address these words to the king of England, duke of Guienne, and shall thus say:

[1] Du Cange, at the word *Fidelitas*.

'You become liege-man of the king of France, and promise him faith and loyalty; answer, Voire' (*veré*). And the said king and duke, and his successors, dukes of Guienne, shall say: 'Voire.' And then the king of France shall receive the said king of England and duke as liege-man into faith and homage saving his and others' superior right."[1]

I might cite many other texts in which the consent of the vassal to the social tie which was to be formed between him and his suzerain is thus formally expressed.

Thus had the generative principle of the Germanic band passed into the feudal hierarchy, the principle that society requires reciprocal consent and engagement; that it is not territorial nor hereditary; that it does not necessarily result either from origin or from any material fact. Doubtless, this principle had already received more than one blow, and feudal legislation, as regards homage, would suffice to prove this. The minor, for example, the infant in his cradle, was admitted to do homage: he could not give his consent, he could not contract any formal engagement: still, in his quality of inheritor of the fief of his father, and in order that the possession might not be interrupted, the suzerain received his homage. But the oath of fidelity could not come until his majority. The homage was a kind of provisional ceremony which continued between the suzerain and the minor the relations which had existed between the suzerain and his father, but which did not fully establish community between them; it was necessary that, at majority, the oath of fidelity and investiture should confirm the engagements which the minor had entered into by doing homage.

Now, homage done, the oath taken—that is to say, society formed between the possessors of fiefs—what were the consequences? What relations, what obligations were established among them?

The obligations which the vassal contracted towards his suzerain were of two kinds: there were moral obligations and material obligations, duties, and services.

To give you an idea of feudal duties, I will read three chapters of the *Assises de Jerusalem*, the most complete and striking monument of feudal society, of its manners as of

[1] Du Cange, at the word *Hominium*, l. iii. col. 1161.

its laws. See in what terms are laid down the principal moral obligations of the vassal towards his suzerain:

"He is bound not to offer violence nor cause it to be offered to his lord; not to consent or suffer, as far as he can prevent it, that any one offer such; nor to take or cause to be taken, or hold anything of his seigneur, without his leave and good will, or unless upon account of, and with the knowledge of the court of his seigneur, of that seigneurie where his fief is, whereto he has done homage. No man or woman must give counsel against the lord, nor must any one wilfully go about to compass injury or shame to his lord, nor suffer any other person to do so; nor must he seek to dishonour the wife or daughter of his seigneur, nor permit, as far as he be able to prevent it, any other person to do so; and he shall loyally give counsel to his seigneur to the best of his ability, whenever his counsel is asked."[1] "And the man owes to his seigneur, by the faith which he has given him, so much more than the seigneur to him, that the man must become hostage for the seigneur, in order to relieve the seigneur from prison, if the latter so require him by word of mouth, or by a certain messenger; and every man who has done homage to another is bound by his faith, if he find his seigneur on foot and defenceless among his enemies, or in a place where he is in danger of death or prison, loyally to do his utmost to extricate him, and save him from that danger; and if he cannot do it otherwise, he must give him his horse or his beast, whereon he may escape if he require it, and aid him to mount, and thus save his life. And whoever fails in the above said things to his seigneur breaks faith with his seigneur, and if the seigneur can prove it in court, he shall be dealt with as a man convicted of broken faith; and for him who does these things for his lord, the seigneur is bound by his faith, loyally, at his utmost power, to deliver him from prison if he has become a hostage for him, or if by giving him his horse, whereon to flee, as above said, he has been taken and made prisoner. The man is held bound to his seigneur to become a hostage also for him for the payment of his debts, and is a pledge for him for such amount as the fee which he holds of him, and in respect whereof he is his man, is worth, and may fairly be sold at. And whoever fails in his duties to his seigneur,

[1] *Assises de Jerusalem*, 205, p. 140. Ed. of La Thaumassière.

thereby, as I think, forfeits for his life the fee he holds of him," &c. &c. "If a man breaks faith with his lord, or the lord with his man, and kills him, or causes him to be killed, or in any way compasses his death, or consents to it or suffers it, without doing all in his power to prevent it; or if he takes him prisoner, or causes him to be taken, or compasses his being taken, or consents to or suffers his being taken by his enemies, without, to the utmost of his power, defending him by himself and others; or if he keeps him in prison, or suffers him to be kept there by another, without doing all in his power to release him; or if in anger he strikes him or causes him to be struck, or consents or suffers him to be struck by others, and does not defend him to the utmost of his power; or if he lay his hand or cause his hand to be laid upon him, or upon the things appertaining to the seigneurie of which he is man, or seeks to dispossess him in any way; or if he does any treason towards him, or compasses or suffers it, or consents to its being done, or does not do his utmost to prevent its being done, or if he dishonours his daughter or seeks to dishonour her or the lord's sister, so long as she is a damsel in his house, or suffers or consents that others do so, if he can prevent it, he is false to his faith."[1]

These, you see, are not feudal services, properly so called, the services of which we shall immediately speak; they are veritable moral obligations, duties from man to man. Now, recal to mind a remark which I had occasion to make while speaking of the capitularies of Charlemagne; it is that, in the life of nations, there is scarcely ever but one epoch when we see purely moral obligations thus written in the laws. When societies are forming, in the barbarous and rude laws which belong to their first infancy, morality is not found; duties are not considered as matters of law; men think but of preventing violence and assaults upon property. When societies have attained a great development, morality is not any the more written in their codes; the legislation leaves it to manners, to the influence of opinion, to the free wisdom of men's wills; it expresses only civil obligations and the punishments instituted against crimes. But between these two terms of civilization, between the infancy of societies and their greatest development, there is an epoch when the legis-

[1] *Assises de Jerusalem*, c. 217, p. 147.

lation takes possession of morality, digests it, publishes it, commands it, when the declaration of duties is considered as the mission and one of the most powerful mediums of the law. People then consider it, and not without reason, necessary legally to second the development, legally to sustain the empire of moral principles and sentiments; they apply themselves to exalt them, in order that they may struggle against the violence of passions and the brutality of personal interests, and not only do they wish to celebrate, to exalt moral principles and sentiments, but they feel the need of connecting them with some definite, veritable object; the general and abstract idea of duty does not suffice, duty must be personified; the law points out to it the relations over which it should preside, the persons who should be its object, the sentiments which it should inspire, the actions which it should command. It not only enjoins such or such a virtue, but it specifies, it regulates the applications of that virtue.

This is the distinctive characteristic of feudal legislation, in the history of modern civil society. Morality holds an important place in it; it enumerates the reciprocal duties of vassals and of suzerains, the feelings which they should bear towards each other, the proofs which they are bound to give of those feelings. It has foreseen and regulates by anticipation great and difficult circumstances; it proposes and resolves, so to speak, numerous cases of conscience in matters of fidelity and feudal devotion. In a word, at the head of the obligations which result from this relation, it places the moral obligations of the vassal man towards the suzerain man, that is to say, duties. Next come the material obligations of the vassal proprietor towards the suzerain proprietor, that is to say, services.

I pass from duties to services.

The first of all, the most known, the most general, that which may be looked upon as the very source and base of feudal relationship, is the military service. That, doubtless, was the principal obligation attached to the possession of the fief. Much discussion has taken place as to the nature, the duration, the forms of this obligation. No general proposition, I think, can be affirmed upon this subject. The feudal military service was there for sixty days, here for forty, elsewhere for twenty; the vassal, upon the requisition of his lord,

was bound to follow him sometimes alone, sometimes with such or such a number of men, sometimes within the limits of the feudal territory, sometimes everywhere, sometimes only for defence, sometimes for attack as well as defence. The conditions of the duration of the military service varied according to the extent of the fief: a fief of such an extent involved a complete service; a fief only half as large, imposed but half the service. In a word, the variety of conditions and forms of obligation was enormous.

M. de Boulainvilliers, in his *Lettres sur les Anciens Parlements de France*,[1] has attempted to carry the legal rules of military service as far back as an ordonnance of Charles le Gros, given at Worms about the year 880, the provisions of which he states and discusses at length. This ordonnance, it is true, exists, and it determines with great detail the service to which vassals were bound towards their suzerain, the equipment in which they were to come, the number of men that they were to bring with them, the time that they were to give to the expedition, the provisions which they were to carry, &c. But it does not belong to Charles le Gros, nor to the ninth century, as M. de Boulainvilliers has somewhat rashly affirmed; it is probably of the emperor Conrad II. (1024—1039), and certainly belongs to the eleventh century, that is to say, to an epoch when feudalism had attained its full development. At the close of the ninth century, we can meet with nothing so complete and regular.

I shall observe, on this occasion, that a great number of writers, and those most erudite, especially in the two last centuries, have often fallen into the error of taking historical documents and testimonies at hazard, without criticism, without examining their authority, without properly establishing their date and value. This, for example, is the radical defect of *L'Esprit des Lois*. In support of his views, his sketches, so suggestive, so ingenious, and often so just, Montesquieu cites at mere chance facts and texts borrowed from the most various sources. We may see that he read a great number of travels, histories, writings of all kinds; that he everywhere took notes, and that these have been to him almost equally good, that he employed them all with nearly the same con-

[1] T. i. 108—118, 12mo., 1753.

fidence. Thence arise two unfortunate results: facts, which he ought not to have admitted, have suggested to him many false ideas; sound and true ideas have been based by him upon false or very uncertain facts, which, their falsity ascertained, have involved his ideas in discredit. The scrupulous examination of the authenticity of documents and testimonies is the first duty of the historical critic; on that depends all the value of results.

The second service due by the vassal to his suzerain, and which is expressed, according to Brussel, by the word *fiducia, fiance,* was the obligation to serve the suzerain in his court, in his pleas, whenever he convoked his vassals, whether to ask for their counsels, or for them to take part in the judgment of the disputes brought before him.

The third service, justitia, was the obligation to acknowledge the jurisdiction of the suzerain. There is some doubt as to the meaning of the two words, *fiducia* and *justitia*, and as to the distinction which Brussel establishes between them. But the question is unimportant. With regard to the nature and the forms of these two feudal obligations, I shall return to them at a later period.

There was a fourth somewhat more uncertain, not in its principle, but in its extent, I mean feudal aids, *auxilia.* Aids were certain subsidies, certain pecuniary assistance which, in particular cases, the vassals owed to the lord. There was a distinction, *legal* aids or assistance agreed upon beforehand, imposed by the mere possession of the fief, and *courteous* or willing aids, which the lord could not obtain but with the consent of the vassals. Legal aids were three in number. The vassals owed them to the suzerain: first, when he was in prison, and it became necessary to pay his ransom; secondly, when he armed his eldest son knight; thirdly, when he married his eldest daughter. Such, at least, was the common jurisprudence of fiefs.

Sometimes, and during particular periods, extraordinary aids were considered as obligatory: for example, in the heat of the crusades, the obligation was introduced of giving an aid to the lord whenever he desired to go to the Holy Land. We might find other cases of legal aids thus momentally accredited; but the three aids which I first mentioned are those which are found well nigh everywhere, and in constant operation.

Such were the duties and general services imposed on the vassal towards his suzerain ; such were the legal obligations attached almost everywhere to that quality. Custom, moreover, introduced, in favour of the suzerain, some prerogatives which cannot be considered as primitive and inherent in the feudal relation, but which in the end became incorporated with it; the following are the principal of these:

1. The suzerain had what was called the right of relief; that is to say, that at the death of a vassal, his heir had to pay the suzerain a certain sum called *relief* (*relevium, relevamentum*), as if the fief had fallen vacant by the death of the possessor, and it was necessary to raise it again in order to resume its possession. At the close of the tenth century, we find the practice of relief established in France, although with great variations. In general, relief was not due in the case of inheritance in the direct line. Indeed, according to some customs, in Anjou and Maine for example, relief took place in the collateral line only beyond the quality of brother. The amount of relief also greatly varied, and was the subject of continual dispute and discussion between the suzerain and the vassals. No fixed and general rule was established on the subject. As the inheritance of fiefs had long been unsteady, disputed, and as at each change of possessor it was necessary to obtain the confirmation of the suzerain, the right of relief was very naturally developed in feudal society; but it had not fallen, like the great feudal services, under the empire of precise and universal principles.

2. A second right of the same kind, and the introduction of which was also very natural, is that which the lord generally had, when his vassal sold his fief to another, of exacting a certain sum from the new possessor. The feudal relation being in its origin purely personal, no one could, as may easily be conceived, impose upon the suzerain another vassal than him whom he had adopted, with whom he had treated. Accordingly, in the earliest ages, the vassal was not allowed to sell his fief without the consent of his lord. Still, as this stagnation, this immobility of fiefs, was very inconvenient, even impracticable in civil life, the permission to sell fiefs was soon introduced under one form or another, and on more or less favourable conditions; but in being introduced it gave

rise, for the profit of the suzerain, to a right, either for redemption or indemnity, at each change.

Accordingly, from the tenth century, the suzerain might in France either resume the fief, by paying its value to the possessor, or exact a certain sum from the purchaser, generally equal to a year's rent. This right, known under the names of *placitum*, *rachatum*, *reaccapitum*, &c., was subject to many variations, and was manifested under numerous forms, the study of which has no political importance.

3. Forfeiture (*forisfactura*, putting-out, forfeiture,) was likewise a right and a source of revenue for the suzerain. When the vassal failed in any of his principal feudal duties, he incurred forfeiture, that is to say, he lost his fief, either for a limited time, or for life, or even for ever. The avidity of the suzerain laboured incessantly to multiply the cases of forfeiture, and to get it pronounced contrary to all justice; but it was not the less a legal penalty, the chief legal penalty of the feudal code, and a principle universally admitted in feudalism.

4. The right of wardship, or of *garde-noble*, must also be included among the prerogatives of the suzerain. During the minority of his vassal, he took the guardianship, the administration of the fief, and enjoyed the revenue. This right has never been generally admitted into French feudalism; it existed in Normandy and in some other provinces.

Elsewhere, in the case of the minority of the possessor of fief, the administration of his fief was remitted to the nearest heir, and the care of his person to that of the relation who could not inherit from him. This last custom was doubtless much more favourable to the minor. Still the guardianship of the suzerain was more frequent in France than Mr. Hallam appears to suppose in his *View of the State of Europe in the Middle Ages*.[1]

5. The suzerain had also the right of marriage (*maritagium*), that is to say, the right of offering a husband to the heiress of a fief, and of obliging her to choose among those whom he offered her. The obligation of military service, an obligation of which a woman could not acquit herself, was the source of this right. The following are the terms in which the *Assises de Jerusalem* consecrate it:

[1] Vol. i. p. 190. London, 1819.

"When the seigneur desires to summon, as he is entitled to do, a woman who holds an estate of him which owes him body service, to take a husband, he must present to her three men of suitable condition, in this way; he must send three of his men, one to represent himself, and two to represent his court, and the one who represents him, must say to her: 'Madam, on the part of my lord so and so, I offer to your choice three men,' naming them—'and call upon you, on the part of my lord, by such a day,' naming the day, 'to have taken one of these three for your husband,' and this he saith three times."[1]

The woman could only escape accepting one of the husbands offered her, by paying to the suzerain a sum equal to that which they had offered him to have her as a wife; for he who desired the hand of the inheritor of a fief, thus bought it of the suzerain.

Mr. Hallam thinks that this right has never been in use in France;[2] this is an error. The right of marriage was so prevalent in French feudalism, that in the duchy of Burgundy, for example, and in the fourteenth century, not only did the duke of Burgundy thus marry the minor daughters of his vassals, but he extended his power even to the daughters and widows of merchants, coloni, or rich citizens.[3]

These were the principal prerogatives introduced by custom, for the benefit of the suzerains. Violence and usurpation had often contributed to their origin, and were mixed still oftener with their exercise. Still, upon the whole, they were tolerably conformable with the nature of the feudal relation, with its fundamental principles; accordingly they were generally accepted. I might follow these up by the enumeration of many other rights which the suzerains often claimed and possessed over their vassals; but they would contribute nothing to the just idea of their relations, and those of which I have just spoken are the only really general and important ones.

When once he had acquitted himself of these various obligations towards his lord, the vassal owed him nothing more, and enjoyed an entire independence in his fief; there he

[1] *Assises de Jerusalem*, c. 242.

[2] State of Europe in the Middle Ages, vol. i. p. 191.

[3] Mémoires de Jacques Duclercq, l. iii. c. 6, in the *Collection des Mémoires relatifs a l'Histoire de France*, l. ix. p. 417.

alone gave laws to the inhabitants, administered justice to them, imposed taxes, &c., and himself was subject to none but of his own free will. Everything leads me to suppose that, in origin and principle, the right of coining money belonged to the possessor of the fief as well as to his suzerain. It is true, this right was doubtless only exercised by the possessors of considerable fiefs, and it was not long before it was vested in them alone; but in principle, and, saving the feudal duties, the equality of rights between the vassal and the suzerain, in the interior of domains, appears to me complete.

And not only was the independence of the vassal who had fulfilled his feudal duties complete, but he also had rights over his suzerain, and the reciprocity between them was real. The lord was bound not only to do no wrong to his vassal, but to protect, to maintain him, towards and against all in possession of his fief, and all its rights. We read in the *Coutume de Beauvaisis:*

"We say, and it is according to our custom, that as the man owes faith and loyalty to his seigneur by reason of his homage, the seigneur owes the same to his man. Yet in thus saying that the seigneur owes as much faith and loyalty to his man as the man to his seigneur, it is not to be understood that the man is not bound to much obedience and many services which the seigneur does not owe to his men, for the man is bound to attend the summons of his seigneur, and to execute his judgments, and to obey his reasonable commands, and serve him as I have before said. And in all these things the seigneur is not bound to his man. But the faith and loyalty of the seigneur to his man should extend to this; that the seigneur take care that no one do his man wrong, and that he treat him debonairly and justly, and that he so guard and defend him to the utmost of his power that no one do him injury. And in this manner the seigneur may keep faith towards his man, and the man towards his seigneur." [1]

We are now acquainted with the relations between vassals and their suzerain; I have just placed before you the system of their reciprocal rights and duties. This, however, is but

[1] Beaumanoir, c. 61, p. 311.

a first portion of the feudal society. To understand it in its whole, it remains for us to examine—1. What relations the vassals of one sovereign had among themselves. 2. What guarantees presided over the relations both of the vassals among themselves, and between the suzerain and the vassals; that is to say, how, in fact, their reciprocal rights and duties were secured. This will be the subject of our next lecture.

TENTH LECTURE.

Continuation of the view of the organization of the feudal society—Relations which the vassals of the same suzerain had among themselves—Political guarantees of the feudal society—In what political guarantees generally consist—Disputes among vassals—Disputes between a vassal and his suzerain—Feudal courts, and judgment by peers—Means of securing the execution of judgments—Inefficiency of feudal guarantees—Necessity under which each possessor of a fief was placed of protecting and doing justice to himself—True cause of the extension and long duration of the judicial combat and of private wars.

In order to give a clear idea of the relations of the possessors of fiefs among themselves, I have extricated those relations from every foreign element, from every complex fact; I have presented them under their most simple form; I have reduced feudal society to a suzerain surrounded by a certain number of vassals, possessors of fiefs, of the same nature, of the same rank. I have shown what relations were formed between the chief and the members of this little society, what principles presided over their formation, what obligations resulted from them. We have thus arrived at a clear and complete view of the system of reciprocal rights and duties of the vassals and of the suzerain. Let us in the present lecture first occupy ourselves with the relations which the vassals of one suzerain had between themselves. This is evidently the second element of that limited and simple association to which we have confined ourselves.

The vassals of one suzerain established around him, upon the same territory, invested with fiefs of the same rank, were designated in the middle ages by a word which has remained in the language of modern times—by the word *pares*, *peers*. I know no other word from the tenth to the fourteenth

century intended to express their relation. All those terms which, in ancient languages and our own, marked the union, the relations of the inhabitants of the same country, the words *co-citizens*, *co-patriots*, &c., are unknown in the feudal language; the only word which resembles them, the word *co-vassalli*, *co-vassals*, is a scientific expression invented at a posterior epoch, in order to satisfy the wants of learning, but which is not found in the original monuments of feudal society. I repeat, I have seen there, as far as I can recollect, no term whose object is to express the association of vassals among themselves, independently of all contact with the suzerain, their direct and personal relations. The word *pares* is the only one which designates them in common, and by the same qualification.

This is a remarkable fact, and one which gives reason to suppose that the vassals of one suzerain possessed very few relations among themselves, and scarcely formed a society. If they had been frequently and directly in contact, if close ties had united them, surely there would have been terms to express this fact, for words have never been wanting to facts; wherever words are wanting, it is most probable that there are no facts.

It is, in truth, the characteristic of feudal society, that the relations between vassals of the same suzerain, in this respect at least, were indirect, rare, and unimportant. In our present societies, as in the municipal societies of the ancients, the citizens, the inhabitants of the same territory, are united by a thousand direct and personal relations; the public power is not the only centre around which they group; they have no need to be called before a magistrate, to be rallied round a common superior, in order to learn that they have a common situation and destiny, that they are members of the same society; they know it, and feel it every day, upon a hundred occasions, a hundred matters which bring them together, and oblige them to act, to live together. Nothing of the kind existed in feudal society. Look at it closely; the vassals of the same suzerain have business with him, rights and duties towards him; they have among themselves neither business, rights, nor duties; they found themselves together around the suzerain, when he convoked them in order to make war or administer justice, or to indulge in some festival. But beyond these meetings,

unless they were united to one another by title of suzerain and vassal, they had no obligatory habitual relations among themselves; they owed one another nothing, they did nothing in common: it was only by the medium of their suzerain that they met and formed a society.

This fact, too little remarked, is one of those which best paint and explain the extreme weakness of the feudal society. There were habitual relations, necessary ties; that is to say, there was real society, between the superior and the inferiors. Equals lived isolated, strangers to one another. The feudal tie, the relation between the suzerain and the vassal, was, so to speak, the only principle of association, the only occasion of junction.

Where this failed, nothing replaced it; there was no society, no legal or compulsory society; men were in entire independence.

Yet, despite their legal isolation, from the mere circumstance that they inhabited the same territory, that they were the neighbours of each other, that they met either in war, or at the court of the suzerain, the vassals of the same suzerain had accidental, irregular relations; they committed depredations, acts of violence upon one another; disputes arose between them. It was absolutely necessary that some guarantees of order and justice should preside over these relations: they were also necessary for the relations between the suzerain and his vassals.

What were these guarantees? We know the system of the rights and duties of the suzerain and the vassals; we know that among the vassals, despite the absence of positive ties, of direct rights and duties, occasions occurred when a recognised power necessarily intervened to maintain or re-establish order and justice. How were the rights and duties of the suzerain and the vassals protected? How were the disputes which arose between the vassals of the same suzerain terminated? What, in a word, was the system of guarantees in feudal society?

Allow me, before stating the facts, to establish with some precision the question itself with which they are connected.

Every guarantee consists of two elements: 1, a means of recognising the right; 2, a means of making it effectively observed.

The object of every guarantee, in fact, is to protect a right. When, therefore, recourse is had to a social guarantee, the first question which presents itself is, what is the right? and the first condition, the first element of the guarantee, is a means of recognising the right, that is, a means of judging between the rights in dispute.

The second condition, the second element of the social guarantee, is a force which shall cause the known right to be observed; that is, a force which causes the judgment to be executed. Every system of social guarantees evidently results in these two terms: 1, a means of constituting right; 2, a means of insuring its maintenance.

What were each of these means in the feudal society? In what did its guarantees consist, whether the matter in hand was to ascertain right, or to protect recognised right?

The examination of the question of right, when there is a dispute between individuals, may be conducted according to several systems. It may be, for example, that there is in the society a class of men especially devoted to this duty, charged by their profession, and on every occasion, to inquire into and decide the dispute brought before them; that is to say, a class of judges. It may also be, that no class of the kind exists; that, according to such or such a form, such or such a principle, the members of the society themselves judge their disputes, themselves pronounce concerning the conflict of their rights; that is, that there are no official judges, that the citizens themselves are judges.

It is by one or other of these two ways, that the first aim of all political guarantee may be attained: that people may ascertain where the right resides.

In the primitive feudal society, still pure from the mixture and influence of foreign elements, the first system was unknown; there was no special class invested with the right of judging; the members of the society themselves, that is, the possessors of fiefs, were called upon to examine into and pronounce between the rights in dispute. At a later period, from causes of which I shall speak, a class of judges was formed in the heart of feudalism, men especially devoted to the study and declaration of private rights; but originally nothing of the kind existed; the citizens judged themselves.

In this system, where there is no special class charged

with judging, great differences may still be met with. The members of the society may administer justice one to another, in two different ways, and with very different consequences. It may be that, when there is a dispute between two men, they address themselves to their equals, and that their equals, having otherwise no authority or right over them, assemble, examine, and pronounce upon the rights in dispute. It may also be that, instead of addressing themselves to their equals, the contending parties address themselves to their superior, to a common superior, who is not specially devoted to the function of judge, who is placed in a situation and leads a life analogous to that of the other members of the association, but who, in consideration of the superiority of his social condition, is called upon to pronounce concerning their disputes. Justice, in a word, even administered by the society itself, was administered either between equals, or by the superior to the inferior.

In general, in the earliest age of societies, these two systems, these two manners of arriving at the recognition of right, were combined together. It so happened in feudal society. Let us see how it proceeded when it had to pronounce, in matters of right, between two vassals of the same suzerain.

The plaintiff addressed himself to the suzerain; it was from the superior that justice was demanded for the inferior. But the suzerain had no right to judge alone; he was bound to convoke his vassals, the peers of the accused; and these, met at his court, pronounced upon the question. The suzerain proclaimed their judgment.

The judgment by peers is essential to feudal society. The following texts, borrowed from the eleventh, twelfth, and thirteenth centuries, will show you this principle always recognised and in vigour at those various epochs.

In the eleventh century (between 1004 and 1037), Eudes, count of Chartres, wrote to king Robert:

"Lord, I wish to say a few words to thee, if thou wilt deign to listen. Count Richard (of Normandy) thy faithful, cited me to come to receive judgment, or to agree on the subject of the plaints which thou hast raised against me. For myself, I placed my whole cause in his hand. Then, with thy consent, he assigned me a pleading where all was to be

terminated. But on the day approaching, he told me not to trouble myself to come to the pleading, seeing that thou didst not choose to admit any other judgment or arrangement except to have it signified to me, that I was not worthy to hold any benefice of thee, and he added: '*that it did not belong to him to recognise any such difference without the assembly of his peers*,' &c." [1]

In the twelfth century, in 1109, Robert, count of Flanders, concluded with the king of England, Henry I., from whom he held fiefs, a convention, in which we read:

"The said count shall go and assist king Henry according to his faith . . . . ., and he shall not cease to go, until such time as the king of France shall pass judgment, that count Robert need not assist his friend the king of England, of whom he holds the fief, and this by *the peers of the said count, who in right must judge him*." [2]

In the thirteenth century, 1220, Thibaut, count of Champagne, swore the following oath to Philip Augustus:

"I, Thibaut, make known to all, that I have sworn upon the holy altar, to my most dear lord Philip, illustrious king of the French, that I will serve him well and faithfully as my liege lord, against all men and women who may live and die, and that I will not fail in my good and faithful service, *so long as he shall do me right in his court, by the judgment of those who may and ought to judge me;* and if ever (which God forbid) I fail in my good and faithful service towards my lord king, *so long as he is willing to do me right in his court, by the judgment of those who can and ought to judge me*, the lord king may, without doing ill, seize all that I hold of him, and retain it in his own hands, *until it be amended by the judgment of his court and of those who can and ought to judge me*." [3]

In 1224.—"When John de Nesle cited Jane, countess of Flanders, to the court of the king (Philip Augustus) on the ground that she had *failed in right* towards him, she, denying it, said, 'that John de Nesle had peers in Flanders by whom he ought to be judged in the court of the countess, and that she was ready to do him right in her court by the said peers.'" [4]

[1] Brussel, *Usage des fiefs*, t. i. p. 334.
[2] Rymer, i. p. 2.
[3] Brussel, *Usage des fiefs*, t. i. p. 349.
[4] Ibid. t. i. p. 261.

I might multiply these at my will. The principle was so powerful, so well established, that, even when the feudal judicial system had received a profound shock, when, under the name of baillies, there was a class of men specially charged with the function of judging, the necessity for judgment by peers was long continued, side by side with the new institution, and even in its very heart. The following passage from the *Coutume de Beauvaisis*, by Beaumanoir, leaves no doubt on the subject:

"There are some places where the baillies give judgments, and other places where the men, who are men of the fief to the seigneur, give them. Now we say thus; that in the places where the baillies give judgments, when the baillie has heard the cause, and it is waiting for judgment, he should call to his council the wisest men thereabout, and give judgment according to their counsel. For if an appeal be made from the judgment, and the judgment is found to be bad, the baillie is excused from blame, when it is known that he decided according to the counsel of wise folk. And in the places where cases are judged by the men, the baillie is bound, in the presence of the men, to take the words of those who plead, and must ask the parties whether they are willing to have sentence according to the reasons they have given, and if they say, 'Yes, sir;' the baillie must call upon the men to pass judgment."[1]

You here see the two systems co-existent, and even confounded.

Such was the fundamental principle of the feudal judicial organization, when the dispute arose between the vassals of the same suzerain. What happened when it took place between the suzerain and his vassal?

Here it is necessary to draw a distinction: the object of the dispute was either some of the rights and duties of the vassal towards his suzerain, or of the suzerain towards the vassal, by reason of their feudal relation and of the fief to which it gave rise; it was then to be judged in the court of the suzerain, by the peers of his vassal, like a dispute between vassals. Or else the dispute in no way ran upon the subject of the fief, or the feudal relation, but concerned some fact

[1] Beaumanoir, t. i. p. 11.

foreign to this relation, for example, some crime of the suzerain, or a violence done by him to some right, to some property of the vassal, other than his fief; and then the process was not judged in the court of the suzerain, but in that of the superior suzerain.

The distinction is clearly established in the monuments of the time. Witness the following from Pierre de Fontaine:

"Concerning an injury which the seigneur should do to his liegeman, either to his person, or to property of his which forms no part of the fief he holds of him, prosecution is not to be conducted in his own court, but an appeal must be made to the seigneur of whom the offending seigneur holds, for the man has no power of having judgment in the court of his seigneur, nor remedy for his misdeeds there, unless in reference to matters appertaining to the fief of which he is seigneur."[1]

The following text from Beaumanoir is not more precise, but it enters more into detail:

"All things which are brought before the baillie, cannot be carried to judgment there. For when the case is one touching the heritage of his seigneur, or its villanage, and the case is for the men who would aid each other in such matter against their seigneur, the baillie must not put it to judgment, for men should never judge their seigneur, but they should judge one another, and the quarrels of the common people, and if he who has complaint against the seigneur requires that right be done, the baillie, by the counsel of his seigneur, must do it him, according as he shall think reason is; and if he complains of what the baillie has done, he must carry his plaint to the count, (the superior suzerain,) and those of his council, and by these what the baillie has done wrong shall be amended; and this method we pursue in all cases which may touch the advantage or profit of all the men against their seigneur; but there are some cases in which the seigneurs have special plaint against particular men, or individual men against their seigneur, as if the seigneur claims a penalty for some offence committed in his land, or demands of the man some heritage, or some moveables which he occupies, and which the seigneur says belong to him, by the custom of the country; and the man re-

[1] Pierre de Fontaine, *Conseil à un ami*, c. 21, § 35.

sists, and says that the penalty is not so great, or not due, or that the heritage, or moveables, which the seigneur demands of him, are his own, and thereupon claims his right. All these disputes the baillie may and should submit to the judgment of the men."[1]

Such were the general principles of feudal jurisdiction. I do not enter into the examination of the rules relative to the conduct and judgment of the causes: they would form an interesting inquiry; but we study feudalism only in its relation with civilization in general, and we must proceed onwards.

It must have happened, and in fact, often did happen, that justice was not administered, or that the complainants found it ill administered. In the first case, if the lord refused, or, in the language of the time, *vèoit* (*vetavit*, hindered) justice in his court, the plaintiff drew up a complaint called *en defaute de droit*. He complained that justice was withheld from him, that his lord had refused to do him right; and he carried his plaint before the court of the superior lord. In the second case, if one of the parties thought the sentence unjust, he complained, *en faux jugement*, and in like manner carried his complaint before the court of the superior lord. The following are the texts in which the principles with regard to this subject are stated. I borrow them from the *Coutume de Beauvaisis*, more exact and more detailed than any other monument.

"*Defaute de droit* is where right is sought for him who requires it; and it may also be required in another case, as when the seigneur delays the proceedings in his court more than he ought to do against the custom of the land.[2]

"Whoever desires to appeal from his seigneur either *en faux jugement* or *en defaute de droit*, he must first of all formally, and in the presence of his peers, require his seigneur to do him right: and if the seigneur refuses to do so he has good appeal of *defaute de droit*, and if the man appeals before he has summoned his seigneur in this manner, he is sent back to the court of his seigneur, and shall be fined for having brought him into the court of the sovereign upon so bad a case,

[1] Coutume de Beauvaisis, c. i. p. 12.
[2] Id. c. 61, p. 318.

and the fine is at the discretion of the seigneur, extending at his will, to all that the appellant holds of him."[1]

"It is not fitting that he who appeals *en faux jugement* should delay his appeal; he should appeal immediately that the judgment is pronounced, otherwise the judgment shall be held as good, whether it be good or bad.[2]

"He who appeals, whether *en defaute de droit* or *de faux jugement*, must appeal to the seigneur immediately above him in whose court the false judgment was given, and not pass over him and appeal to the count or to the king; for it is fitting to appeal degree by degree, that is to say, according as homage ascends from one seigneur to his next superior; and from the provost to the baillie, and from the baillie to the king, in the courts where provosts and baillies administer justice; and in the courts where the men administer justice, the appeal must be made from degree to degree, in the regular ascent of homage, without passing over any intermediate seigneur."[3]

Now, I suppose these various degrees gone over, the feudal jurisdiction exhausted, definitive judgment given: how was it executed? in what consisted the second part of the system of guarantees? what were the means which assured the re-establishment or the maintenance of the right once acknowledged and proclaimed?

In the same way that originally, in the feudal society, there was no class of men especially charged with judging, so there was there no public force charged with causing the judgments to be executed. But it was much easier to supply the want of special judges, of magistrates, than the want of a force capable of causing the judgments to be executed. The members of society, the possessors of fiefs, might judge; but, their judgment given, if he whom they had condemned returned to his castle, in the midst of his men, and refused to obey, what was the consequence? There was no other way for the accomplishment of justice than war. The lord in whose court the judgment was given, or the plaintiff in whose favour he had given it, summoned his men, his vassals, and endeavoured to compel to obedience him who had been condemned. Private war, force employed by citizens them-

[1] Beaumanoir, c. 61, p. 318. [2] Ibid. p. 312. [3] Ib. p. 317.

selves, such, in fact, was the only guarantee for the execution of judgments.

I need not say that this was no guarantee at all. The execution of judgments, the re-establishment of rights judicially recognised after litigation, were wanting to feudal society.

Was the method of examining into, of ascertaining the contested rights, was the system of jurisdiction I have just described, of any higher worth? Was the judgment by peers and the feudal courts a veritable, efficacious guarantee? I doubt it very much. That society may effectually exercise the judicial functions, that a crime, any process whatsoever, may be properly judged by the citizens themselves, it is necessary that those who are called upon for this purpose be promptly, easily, and often assembled, that they live habitually near each other, that they have common interests and common habits; that it be easy and natural for them to consider under the same point of view, and thoroughly to understand, the facts concerning which they are called upon to pronounce sentence. Now nothing of this kind existed in feudal society. These vassals, convoked from time to time to judge their peers, were almost strangers to one another, lived isolated on their estates, without intimate or frequent relations. Nothing less resembled the institution of the jury, the veritable type of the intervention of society in judgment. The jury presupposes fellow-citizens, fellow-countrymen, neighbours; it is upon the easy assembling of the jurors, upon the community of sentiments and habits which unites them, upon the means which they hence derive of disentangling and appreciating the facts, that most of the advantages of the institution depend. How could these advantages be met with in feudal society? Often, oftener than not, the vassals cared little to come to the court of their suzerain; they would not come. Who could force them? They had no direct interest in coming; and general, patriotic interest could not be highly excited in such a social state. Accordingly the feudal courts were but scantily attended; they were obliged to content themselves with a very small number of assistants. According to Beaumanoir, two peers of the accused were sufficient to judge; Pierre de Fontaine will have it four; Saint Louis, in his *Etablissements*, fixes the number at three. The lord summoned those who suited him;

nothing obliged him to convoke all, to convoke one rather than another. Arbitrary will thus pervaded the composition of the feudal court, and those who attended it were most frequently drawn there either by some personal interest, or merely by the desire to please their suzerain. Here, as you see, there were no veritable guarantees, and that which did seem to result from the judgment by peers was rendered inefficacious by the social state.

Other means were accordingly sought. The feudal courts, judgment by peers, all that system of jurisdiction which I have just described, evidently imposed no confidence on feudal society, was not of easy and frequent application there. The possessors of fiefs decided their disputes by other means.

Every one has met in his readings with the judicial combat, private wars, and is aware that these two facts occupied a prominent position in the feudal period, and characterise it. They have, in general, been represented as the result of the brutality of manners, the violence of passions, of disorder, and general degradation. Doubtless, these causes greatly contributed to it. They are, however, not the only causes; the brutality of manners was not the only reason which so long maintained these two facts, and made them the habitual state, the legal state of feudal society. It was because the system of judicial guarantees was vicious and powerless, because no one had faith therein, and cared not to have recourse to them; in a word, it was in default of something better that men did themselves justice, that they protected themselves. What, then, was judicial combat and private warfare? It was the individual protecting himself and doing himself justice. He called his adversary to combat because peaceful guarantees inspired no confidence; he made war upon his enemy, because he did not believe in any public power capable of repressing him. There was, doubtless, an inclination, a taste, a passion, if you will, for this method of proceeding; but there was also a necessity for it. Accordingly, private warfare and judicial combat became established institutions, institutions regulated according to fixed principles, and with minutely determined forms; principles far more fixed, forms far more determinate, than were those of the peaceful process. We find in the feudal monuments far more details, precautions, directions as to judicial duels

than upon processes properly so called; upon private wars, than upon legal prosecutions. What does this indicate, except that judicial combat and private war were the only guarantee in which confidence was placed, and that men instituted them, regulated them with care, because they more frequently had recourse to them? I shall quote some texts from the *Coutume* of Beauvaisis; it was written, as you are aware, towards the end of the thirteenth century, after all the efforts of Philip-Augustus and of Saint Louis to abolish private wars. You will there see how deep were the roots of this fact, how completely it was still the true feudal institution :—

"War may be commenced in several ways, either by deed or by word; it is commenced by word when the one party menaces the other, that he will insult or injure his body, or when he simply defies him and his; and it is commenced by deed when a *mêlée* takes place, without previous notice, between the gentlemen on either side. It is to be known, that when warfare commences by deed, those who are engaged in the skirmish commence the war forthwith, but the kinsmen on either side do not commence warfare until forty days afterwards; and if war is commenced by menace or defiance, he who is defied or menaced commences the war from that time forth. But seeing that great inconvenience might arise from either party premeditately making an attack upon the other, without previous notice by menace or defiance, and then, after this sudden assault, sending a menace or defiance as above set forth, he shall not be excused from the consequences of opening the war by deed on account of such subsequent defiance or menace. The gentleman who so menaces or defies, must therefore make no complaint that the party defied forthwith takes measures for guarding and protecting himself.[1]

"Whoever declares war by word of mouth, must not make use of vague or ambiguous terms, but of words so clear and distinct that he to whom the words are said or sent may know that it behoves him to put himself on his guard; to do otherwise were treason."[2]

Of a surety, these are most provident and precise formalities; and the fact to which they apply should not be con-

[1] Beaumanoir, c. 59, p. 300. [2] Ibid. p. 301.

sidered as the mere explosion of brutality and violence of manners. Here are other texts still more remarkable:

When war arose between two possessors of fiefs, their kinsmen were engaged in it, but upon certain conditions and within certain limits, which great care was taken to regulate.

"War may not take place between two brothers, born of one father and of one mother, on no cause or dispute whatever; not even if the one have beaten or wounded the other, for neither has kinsmen who are not as nearly related to the other as to himself, and none may take part in a war who are as closely allied to the one of the principals as to the other. Therefore, if two brothers have a dispute together, or if the one wrongs the other, the wrong doer may not appeal to the right of war; nor may any of his kinsmen aid him against his brother, although they may like him better than his brother. Therefore, when such disputes arise, the seigneurs must punish the wrong doer and decide the dispute justly.[1]

"But though war may not take place between two brothers, sons of one father and of one mother, if they be brothers only on the father's side, and not by one mother, there may by the custom be war between them; for each has kinsmen that do not belong to the other, and so the kinsmen on the mother's side may aid each in war against the other."[2]

Are not these singular legal precautions? You will, perhaps, have been tempted to believe that in interdicting war between brother and brother, they rendered homage to a moral principle, to a natural sentiment: not so. The reason of the law was, that if there was war between two brothers, they would not be able to carry it on because they had the same relations. I might cite a thousand details, a thousand passages of this kind, which prove to what a degree private wars were an institution of which men had foreseen all the necessities, all the difficulties, and which they applied themselves to regulate.

It was the same with judicial combat. We find scarcely anything in the feudal monuments concerning the progress of peaceful procedure; but when judicial combat is the matter in hand, the details are abundant; the formalities which were

[1] Beaumanoir, c. 59, p. 299. [2] Ibid., p. 300.

to precede the combat are minutely described; every precaution is taken in order that honour and justice may preside over it. If, for example, it happened that in the midst of the combat any incident occurred to suspend it, the marshals of the lists and the heralds at arms present in the arena were called upon attentively to examine the position of the two adversaries at the moment of the suspension, in order that they might be obliged to resume it when the combat again commenced. Men at this period had recourse to force; it was force which was to decide the question; but they desired to introduce into its judgment as much regularity, as much equity, as it would allow of.

The more you examine the documents, the more clearly will you see that judicial combat and private war, that is to say, the appeal to force, the right of each to do justice to himself, was the true system of guarantee of the feudal society, and that the judicial guarantees by peaceful procedure, of which I have attempted to give you an idea, really occupied little space in the feudal system.

We have confined ourselves within the most simple feudal society. We have studied there, on the one hand, the system of the reciprocal rights and duties of the possessors of fiefs; on the other, the system of guarantees which were to protect those rights. We have now to consider the feudal society in all its extent and complexity; we have to investigate the past and examine the influence of the foreign elements which became joined to it. But I would first completely sum up the principles of the feudal organization, properly so called, by estimating its merits and its defects, in fine, foreshow you, in itself and in its proper nature, the causes of its destiny. I shall endeavour to do this in our next lecture.

ELEVENTH LECTURE.

General character of the feudal society—Its good principles: 1. Necessity of individual consent for the formation of the society; 2. Simplicity and notoriety of the conditions of the association; 3. No new charges or conditions without the consent of the individual; 4. Intervention of society in judgments; 5. Right of resistance formally recognised; 6. Right of breaking through the association; its limits—Vices of the feudal society—Twofold element of every society—Weakness of the social principle in feudalism—Excessive predominance of individuality—From what causes—Consequences of these vices—Progress of the inequality of force among the possessors of fiefs—Progress of the inequality of rights—Decline of the intervention of society in judgments—Origin of provosts and bailiffs—Formation of a certain number of petty royalties—Conclusion.

We are acquainted with the organization of feudal society. We know what relations united the possessors of fiefs among themselves, whether suzerain and vassal, or vassals of the same suzerain. We know what was the system of their reciprocal rights and duties, and also the system of guarantees, which insured the accomplishment of rights, the maintenance of rights, and the redress of wrongs. Before examining what effect it produced upon the foreign elements which were mixed with the society so constituted—before seeking how feudalism, royalty, and the commons were combined, and what results were progressively developed, whether by their amalgamation, or by their struggle, let us still dwell upon the feudal society itself; let us give an exact account of its organization, and of the principles which presided over it; let us endeavour to catch a glimpse of what it was to become, in virtue of its proper nature, its proper tendency, independently of all complex influence, of every foreign element. It is important to know what part of the destiny of feudalism

should be imputed to what it was in itself, and not to what was done for it by the external causes which combated or modified it.

I desire to sum up the constitutive principles, good or ill, of the feudal society, and to estimate both their intrinsic merit and their natural tendency, their necessary influence.

I shall commence with the good principles, the principles of right and liberty, which I have already exhibited in feudal society, and which have often been overlooked.

The first, that is the feudal tie, was only formed with the consent of those who were engaged in it, of the vassal as of the suzerain, of the inferior as of the superior; that is to say, that society commenced only at the will of its members. Homage, the oath of *fidelity*, and *investiture* were merely, as you have seen, the reciprocal adhesion of suzerain and of vassal to the tie which was to unite them. Doubtless, (as I have already remarked,) this principle was modified, limited by another principle, which likewise developed itself in feudal society, the inheritance of social situations and fiefs. A man was born proprietor, heir of such a fief—that is to say, vassal of such a suzerain. There was nothing here but what was conformable with the general course of things. The hereditariness of social situations and of fortunes is a natural, necessary fact, which is reproduced in every society. Upon this fact rest the connexion of generations among themselves, the perpetuity of the social order, the progress of civilization. If men did not succeed to the situation of their predecessors—if society was in each generation entirely subordinate to the will of individuals who were incessantly being renewed, it is evident that there would be no tie between human generations; all things would incessantly be brought into question—the social order would, so to speak, have to be created every thirty years.

Surely nothing is more contrary to the nature of man, to the destiny of the human race; or rather, there would then be no human race, no general and progressive destiny of humanity. Hereditariness of social situations is then a legitimate, providential fact, a consequence of the superiority of human nature, a condition of its development. But this fact did not stand alone, and has no right to all the empire. By the side of the hereditariness of social situations must also be placed the free

concurrence of the individual to his situation, the influence of his will over his destiny. Whenever a new individual arises upon the scene of the world, he surely has a good right of acting himself in what regards himself, of deliberating, and of choosing his situation—at least of trying to do so; and if this choice be interdicted him—if his will be absolutely stifled, abolished by an hereditary situation, there is tyranny. It is in the just balance of these two principles—the hereditariness of social situations on the one hand, and the individual consent on the other—it is, I say, in the just balance of these two principles that the equilibrium and good state of society consist.

Now, the principle of the hereditariness of social situations was more and more developed in feudal society, as in every other; but the principle of the necessity of individual consent for the formation of the society likewise subsisted there. Every time that a new generation presented itself; every time that, by the renewal of individuals, the tie could be renewed between the vassal and the suzerain, this principle was recognised, proclaimed. And not only was it recognised and proclaimed, but it, in fact, exercised a veritable influence over feudal relations—it gave them a character which they would not otherwise have had. This necessity in which the suzerain found himself of obtaining, from generation to generation, the homage and the oath—that is to say, the personal engagement of the vassal, established, to the benefit of the vassal, an independence, and for both of them a reciprocity of rights and duties, which would probably soon have weakened, or, perhaps, vanished altogether, if the vassalage had passed by right from generation to generation, without the formal consent of the individual incessantly renewing and confirming it.

This is the first of the salutary principles, of the principles of liberty and of right which are met with in feudal society. It is needless for me to say more in pointing out its value. Let us speak of the second.

In entering into the feudal society, in becoming the vassals of the suzerain, men became so upon certain arranged, determinate, previously understood conditions; the obligations, whether material or moral, of vassals and suzerains, the reciprocal services and duties which were imposed upon them, had nothing vague, uncertain, or unlimited about them. When he gave faith and homage, the new vassal knew exactly

what he did, what rights he acquired, what duties he contracted. It is not thus, far from it, in most societies, and especially in our great modern societies. Men there are born under the empire of laws with which they are unacquainted, obligations of which they have no idea; under the empire, not only of actual laws and obligations, but of a multitude of contingent possible obligations and laws, in which they have no part, and which they will not know until the time when they will have to submit to them. There is, perhaps, in this evil, something irremediable, and which arises from the extent of modern societies. Perhaps, in the immense variety, and continual increasing complexity of human relations, the progress of civilization will never arrive at such a point that each individual may know upon what conditions he enters and lives in society, what obligations he has to accomplish, what are his rights and his duties. But this fact, be it inevitable, will not any the less be a great evil. There lies the source, if not of all, at least of a large portion, of the clamours which arise against the present social state. Open the books impressed in this respect with a character of bitterness and revolt; for example, the treatise on *Political Justice*, by Godwin; you will there see inscribed, under the head of the iniquities and calamities of our social state, that ignorance, that powerlessness in which so many men are placed, as regards the conditions of their destiny. It is not necessary to have been long present at the spectacle of the world, in order to be struck, painfully struck, with that pitiless disdain with which the social power exercises itself over the thousands of individuals who only hear it spoken of as something they are to submit to without any concurrence of their intellect or their will.

Nothing of the kind existed in feudal society. Between the possessors of fiefs, the conditions of the association were neither numerous, vague, nor unlimited; men knew them, accepted them beforehand; men knew, in a word, what they did in becoming citizens of that society, what they did in the present, what they would have to do in the future.

Thence necessarily resulted a third principle, not less salutary to right and liberty: this was that no new law, no new charge could be imposed upon the possessor of the fief, without his consent. It is true, this principle was very often

violated; many new charges were imposed by the suzerains upon their vassals, and that solely by virtue of force. The legislative power was usurped, after a certain time, by the majority of the great suzerains. Still this was not the principle, the legal state of feudal society. Those maxims which we continually meet with in modern histories, and which, despite one violation of them after another, have still passed down to us: "No tax is legal, unless consented to by him who is to pay it; no one is bound to obey laws to which he has not given his consent;" these maxims, I say, belong to the feudal period; not that feudalism invented them and introduced them into the world, (they existed before feudalism, they constitute part of that treasure of justice and good sense which the human race never entirely loses); but they were explicitly admitted into feudal society, they constituted its public right. In the same way that each possessor of fiefs knew, upon entering into this relation, what obligations he contracted and what rights he acquired, so it was acknowledged that no new charge or law could be imposed upon him, without his formal consent.

A fourth principle, not less salutary, and which feudal society likewise possessed, was the intervention of the public in the administration of justice, the judgments of disputes arising among the proprietors of fiefs, by the proprietors of fiefs themselves. As M. Royer-Collard said, some years since, in terms as exactly true as they were energetic, a people which interferes not in judgments, may be happy, tranquil, well governed; but it belongs not to itself, it is not free, it is under the sword. All things, in the social state, lead to judgments; the intervention of citizens in judgments is therefore the veritable definitive guarantee of liberty. Now this guarantee existed, as you have seen, in feudal society; judgment by peers was the fundamental principle of jurisdiction, although very irregularly applied.

There is a fifth principle of liberty which is rarely found written in the laws, which it is rarely of any use to write, and which feudal society has formally written and proclaimed, perhaps more than any other society; I mean the right of resistance. You have seen what the private wars were; they were not a mere act of brutality, a mere usurpation of force; they were, in reality, a legal means, often the only

means of redressing many acts of injustice. What was this at the bottom, if not the right of resistance? And not only was this right thus sanctioned in the practice, the manners of feudalism, we find it recognised, inscribed in the very laws by which men undertook to repress private wars, and to introduce more order and peace among the possessors of fiefs. We read, in the *Etablissement de Saint Louis* :—

" If the seigneur say to his liege man: ' Come with me, for I am going to make war against my seigneur the king, who has refused me the judgment of his court,' the man must reply in this manner to his seigneur: ' Sir, I will go to know, from my lord the king, whether it is as you tell me.' Then he shall come to the seigneur the king, and say to him: ' Sir, Messire says that you have refused him the judgment of your court, and therefore I am come to you to know the truth, for Messire has summoned me to go to war against you.' And if the seigneur the king says to him that he will not give judgment in his court, the man must go forthwith to his seigneur and aid him at his expense; and if he did not go to him he would lose his fee by right. And if the chief seigneur reply: ' I will readily do justice to your seigneur in my court,' the man must go to his seigneur and say: ' Sir, my chief seigneur has told me that he will willingly do you right in his court.' And if the seigneur says: ' I will not enter his court, but do thou come with me as I have summoned thee to do;' then the man may say: ' I will not come;' for the which refusal he shall not of right lose his fee, nor anything else."[1]

This last phrase indicates a limitation, a condition newly imposed upon the right of resistance; but the right itself is positively proclaimed.

I will give a second text, which is not less remarkable. It is true, it does not belong to the feudal law of France; it is among the last paragraphs of the Great Charter of the English, the charter conceded in 1219, by king John. But the state of ideas and manners which it exhibits was that of feudalism at large; and if the right of resistance by force of arms has been nowhere so regularly instituted, it was every-

[1] *Etablissement de Saint Louis*, l. i. c. 49; *Ordonnances des rois de France*, t. i. p. 143.

where equally recognised. Towards the end of *Magna Charta* occur the following words:—

"But since we have granted all these things aforesaid, for God, and for amendment of our kingdom, and for better extinguishing the discord which has arisen between us and our barons, we, being desirous that these things should possess entire and unshaken stability for ever, give and grant to them the security under written,—namely, that the barons may elect twenty-five barons of the kingdom, whom they please, who shall with their whole power keep, and cause to be observed, the peace and liberties which we have granted to them, and have confirmed by this our present charter, in this manner,—that is to say, if we, or our justiciary, or our bailiffs, or any of our officers, shall have injured any one in anything, or shall have violated any article of the peace or security, and the injury shall have been shown to four of the said twenty-five barons, the said four barons shall come to us, or to our justiciary if we be out of the kingdom, and making known to us the excess committed, petition that we cause that excess to be redressed without delay. And if we shall not have redressed the excess, or if we have been out of our kingdom, our justiciary shall not have redressed it within the term of forty days, computing from the time when it shall have been made known to us, or to our justiciary if we have been out of the kingdom, the aforesaid four barons shall lay that cause before the residue of the twenty-five barons; and they, the twenty-five barons, with the community of the whole land, shall distress and harass us by all the ways in which they are able,—that is to say, by the taking of our castles, lands, and possessions, and by any other means in their power, until the excess shall have been redressed, according to their verdict; saving *harmless* our person, and *the persons* of our queen and children; and when it hath been redressed, they shall behave to us as they have done before. And whoever of our land pleaseth may swear, that he will obey the commands of the aforesaid twenty-five barons, in accomplishing all the things aforesaid, and that with them he will harass us to the utmost of his power; and we publicly and freely give leave to swear to every one who is willing to swear, and we will never forbid any to swear. But all those of our land who, of themselves, and of their own accord are unwilling to swear to the twenty-five

barons, to distress and harass us *together* with them, we will compel them by our command to swear as aforesaid; and if any one of the twenty-five barons shall die or remove out of the land, or in any other way shall be prevented from executing the things above said, they who remain of the twenty-five barons shall elect another in his place, according to their own pleasure, who shall be sworn in the same manner as the rest."[1]

It is surely impossible to establish more positively as a right, to convert more completely into an institution, that guarantee of recourse to force, which civilized nations, with good reason, dread so much to invoke, or even to proclaim. It is often the only guarantee in barbarous times; and feudalism, the daughter of barbarism, cared not to be so reserved as civilization, whether in writing it or making use of it.

Lastly, independently of the right of resistance, there was also in feudal society a last principle, a last guarantee of general liberty admitted: this was the right of quitting the association, of renouncing the feudal relation, its charges as well as its advantages. The vassal and the lord equally had this power. Certain cases were expressly provided for, in which this rupture might take place: for example, if the vassal thought he had some serious motive for challenging his lord to judicial combat, he was at liberty to do so; he had only to renounce his homage and his fief. This is shown in the following text of the *Coutume de Beauvaisis.*

"Also by our custom no one can challenge the seigneur whose man he is, until he has renounced his homage and what he holds of him. Therefore if any one desires to appeal against his seigneur, for any offence for which an appeal may be had, he must before the appeal come to his seigneur in the presence of his peers, and say to him thus: 'Sir, I have been for awhile in your faith and homage, and I have held of you these heritages in fief. Such fief, and homage, and faith I renounce, because you have done me wrong, of which wrong I am about to seek redress by appeal.' And after this renunciation he must summon him to the court of his sovereign and prosecute his appeal; and if he appeals

[1] Magna Charta, art. 61. Thomson's Hist. Essay 1829, page 97.

before he has renounced the fief and the homage, he gets no damages, but shall pay a fine to the seigneur for the ill he had said of him in court, and to the court also, and the fine in each case shall be sixty livres." [1]

The lord was in the same position; when he desired to challenge his vassal to judicial combat, he likewise had to renounce the feudal tie:

"And for this reason in the same way that the man cannot challenge his lord so long as he is in his homage, neither can the seigneur challenge his man. Therefore if the seigneur desires to challenge his man he must resign his homage in presence of the sovereign before whom he appeals, and then proceed with his challenge." [2]

Vassals often even set up a claim to the power of breaking the feudal tie, and separating themselves from their suzerain, arbitrarily, without any motive, by the sole act of their will. But the monuments of feudal legislation do not recognise this pretension as legitimate. We read in Beaumanoir:

"Some think that they can leave the fief they hold of their seigneur and their faith and homage, whenever it pleases them, but they cannot do this unless they have got reasonable cause. If, when they want to give them up, the seigneur will resume them of his good will, it is good; but if it happen that my seigneur has summoned me, in his own great need, or to aid the count or the king, and I were then seek to give up my fief, I should not well observe my faith and my loyalty towards my seigneur; for faith and loyalty are of a frank, generous nature, and ought to be observed especially to him to whom they are promised; for with homage we promise to our seigneur faith and loyalty, and since they are promised it were not loyal to renounce them at the time the seigneur has need of us. Now let us see, if I renounce my fief, because I will not aid my seigneur in his need, what can he do therein, for ordinarily he has no jurisdiction over me except in respect of what I hold of him, and this I have given up and resigned, what will he do then? I say, that if he please, he can summon me to the court of the sovereign on appeal; and can charge it upon me, that I have acted towards him

[1] Beaumanoir, *Coutume de Beauvaisis*, c. 61, p. 310, 311.
[2] Ibid., p. 311.

falsely, wrongfully, and disloyally, and thereupon he will have good cause of appeal." [1]

They thus assigned limits, forms, to that faculty of separating from one another, of breaking the social tie; but it was not the less the primitive, the dominant principle of feudalism.

People will perhaps say, that it has always and everywhere been thus: that any man who chooses to abandon his property, his position, is free to quit the society to which he belongs, and to carry his destiny elsewhere. This would be a great error, and that for more reasons than one. In the first place, in societies based upon the fact of origin, upon the principle of territory, the legislation everywhere follows the individual born under its empire. Thus, the French legislation passes with the French people into a foreign country, everywhere imposes the same obligation upon them, and only recognises their acts in as far as they have been accomplished under the conditions and in the forms which it prescribes. This is not all: among us it is in vain for a man to quit his country, to transplant himself elsewhere; his country always preserves rights over him, and imposes certain duties upon him; it will forbid him to carry arms against his old country, to consider himself entirely as a stranger to it. I do not discuss the merit of this legislation; I merely speak of the fact: it is certain that now the actual rupture with the society in the heart of which a man is born does not completely separate him from it, does not free him from all connexion with it. How can we be surprised at this? It is the consequence of the very principle upon which our societies are at present founded: as soon as the quality of a member of society does not arise from the consent of the individual, as soon as it is a fact independent of him, a simple consequence of his being born of such or such parents, upon such or such a territory, it is evidently not in his power to abolish that fact; it is beyond a man's power not to be born of French parents, or upon French territory. Man cannot therefore, in this system, absolutely renounce the society of which he has first formed a portion; it is for him primitive, a fatalism; his will has no choice, his will cannot entirely separate him from it.

[1] Beaumanoir, c. 61, p. 311.

When, on the contrary, the consent of the individual is the principle in virtue of which he belongs to society, one can easily understand that, if he withdraws his consent, if his will happens to change, he ceases to form part of the society. Now it thus happened in feudal society. As the free choice of the individual was the source, the condition at least of the relation, when he took another resolution, he resumed his full and primitive independence. This change of resolution was, it is true, subject to certain rules; the rupture of the feudal tie was not completely arbitrary; but when it did take place it was complete. The vassal no longer owed anything to the suzerain whom he had renounced.

Such were the principles of right and liberty which presided over the association of the possessors of fiefs. They were, assuredly, salutary guarantees, sound elements of political organization. Let us, however, penetrate beyond this first inquiry: let us endeavour to thoroughly estimate the social value of these guarantees, their meaning and true aim. To what were they related? What were they destined to protect? Individual liberty—the independence of the individual against all external force. Take, one after another, the six principles admitted by the feudalism that I have just placed before you; you will see that they have all the same character, that they all proclaim the rights of individuality, and tend to maintain it in its free and energetic development.

Is this the whole society? Is the sole end of social organization the guarantee of individual independence? I think not.

What, truly speaking, is individual independence in the social state? It is the portion of his existence and destiny which the individual does not put in common, which does not engage him in his relations with other men, of which he reserves the exclusive possession and disposition.

But this portion is not the entire man. There is also a portion of his existence, of his destiny, which the individual does put in common, which he does engage in his relations with his equals, and which, by a necessary consequence, he subjects to certain conditions, to natural or conventional conditions, to ties which unite him to them.

Society is the totality of these two facts. It comprehends, on the one hand, what men put in common, all the relations

which unite them; on the other, what in each individual remains independent of all relation, of every social tie; that portion of the human life and destiny which remains isolated and independent for each, even in the midst of his equals.

I wish to give a precise account of what is truly the portion of existence and destiny which men put in common, and which, properly speaking, constitutes society.

From the moment that individuals are engaged in some relation, from the moment when, for what end soever, they act in common, there is society between them, in that respect at least. Society, in at once its largest and most simple sense, is the relation which unites man to man.

It is evident that society can subsist independently of all external guarantee, of every political tie, of every coercive force. It is sufficient for men to will it. In all the epochs of the life of nations, in all degrees of civilization, there is a multitude of human relations which are regulated by no law, in which no public power interferes, and which are not the less powerful, the less durable, which do not the less attract and retain a portion of the existence of individuals in a common destiny.

At the present day, it is even a common remark, that in proportion as civilization and reason make progress, that class of social facts which is foreign to all external necessity, to the action of all public power, becomes daily larger and richer. The non-governed society, the society which subsists by the free development of human intellect and will, goes on extending itself in proportion as man proceeds towards derfection. It becomes more and more the basis of the social state.

By the side of those relations which create and regulate the will of those only who are engaged in them, there is placed another social element, the government, which also creates and maintains relations between men independently of their will. When I say *government*, I comprehend under that word the powers of every kind which exist in society, from domestic powers which extend not beyond the family, up to dublic powers which are placed at the head of the state. The entirety of these powers is accordingly a mighty social bond; they not only give birth to many relations between men which their will alone would not create, but they impose upon those

relations, and upon many others, perpetuity and regularity, the pledge of the peace and progressive development of society.

Individual wills and public powers, the free choice of men and the government, these are the two sources whence are derived human relations, and their transformation into active and permanent society. Now inquire of feudalism; recal to mind the study which we have just made of it; and you will see that both the one and the other of these social elements were there weak, barren, and could create but a precarious society. How is it with those free relations which individuals form among themselves, without any external coaction, and which hold so great a place among us? Among the possessors of fiefs they were rare and uncertain; neither a great movement, nor strong cohesion in society could result from them. Is it, on the contrary, the government which you consider, that social principle which resides in the presence of power, and in its efficacy in laying down and maintaining the relations of men? This, also, in feudalism, was without fertility and without energy. There was no central monarchical power, or scarcely any; nor was there any public power, that is, any power emanating from society itself; there was no senate, no public assembly; nothing resembling the active and vigorous organization of the ancient republics. In the association of the possessors of fiefs, there were neither subjects nor citizens. The action of the superior over the inferior was trifling: action among equals almost null. In a word, society, properly so called, that is, the common contribution of a portion of the life, the destiny, the activity, of individuals, was very weak and very limited; the portion of existence, on the contrary, which remained distinct and isolated, that is to say, individual independence, was very great. The inferiority of the social element to the individual element was the peculiar and dominant characteristic of feudalism.

It could not be otherwise. Feudalism was a first step out of barbarism, the transition from barbarism to civilization. Now the prevalent characteristic of barbarism is the independence of the individual, the predominance of individuality; each man in that state does what he pleases at his own risk and peril. The empire of wills and the struggle of individual forces, is the great fact of barbarous society; that fact was com-

bated and limited by the establishment of the feudal system. The influence alone of territorial and hereditary property rendered the wills of individuals more fixed, less disordered; barbarism ceased to be wandering; this was the first step, and a great step, towards civilization. Moreover, individual wills acknowledged duties, rules. The vassal bound himself to moral and material obligations towards his suzerain, more explicit, more permanent than were those of the companions towards their chief in the barbaric life. There was then, also, in this way, under the moral relation, a progress, and a very great one, towards civilization. Individual independence, however, still remained the predominant characteristic of the new social state. Its principles consecrated it; the special object of its guarantees was to maintain it. Now, it is not by the predominance of individual independence that society is founded and developed; it essentially consists in the portion of existence and destiny which men contribute in common, by which they are bound to one another, and live in the same ties, under the same laws. That, properly speaking is the social fact. Doubtless, individual independence is worthy of respect, is sacred, and should be preserved by powerful guarantees; man cannot give his whole life up to society; a large portion always belongs to him, isolated, foreign to every social relation. And even in the relations in which he is engaged, his independence should profit by all the progress made by his reason and his will. But in the feudal system, and among the possessors of fiefs, this independence was evidently excessive, and opposed itself to the formation, to the true progress of society; it was rather isolation than liberty. Accordingly, independently of every foreign cause, by its nature alone, by its own tendency, feudal society was continually in question, always upon the point of being dissolved; incapable, at least, of subsisting regularly, or of developing without perverting itself. Some general facts which I shall place before you, will show you this work of internal disorganization, this impossibility of duration, of fidelity to its primitive principles, which characterise feudalism.

And, first, an enormous inequality very rapidly introduced itself among the possessors of fiefs. You have seen that in the earlier times the increase of fiefs was speedy, and that the

practice of sub-infeudation gave birth to a multitude of petty fiefs and petty lords. From the middle of the eleventh century, the contrary phenomenon commenced; the number of petty fiefs and petty lords diminished, the larger fiefs extended themselves at the expense of their neighbours. Force presided almost alone over these relations; nothing could stop the effects of it; and as soon as inequality exhibited itself at all, it went on extending itself with a rapidity, a facility unknown in societies where the weak find protection and security against the strong. There is no need of any very great research in order to be convinced that such was the progress of things from the eleventh to the fourteenth century. Merely open the second volume of the *Art de verifier les Dates*, which contains the history of the principal fiefs of France; you will there see, in that interval, thirty-nine fiefs extinguished, absorbed by other fiefs more fortunate or more powerful. And observe that this is a mere question of considerable fiefs, which have a celebrated name, a history. What would it be if we sought the destiny of all the petty fiefs placed within the grasp of a powerful suzerain? We should see a large number of them disappear, we should everywhere see inequality develop itself, the suzerains extending their domains at the expense of their vassals.

When the inequality of forces is great, the inequality of rights soon becomes so too. You have seen that originally every possessor of fief had, in his domain, the same rights, legislative power, judicial power, often even the right of coining money. It was not long thus. Dating from the eleventh century,—with regard to jurisdiction, for example,—the inequality of the possessors of fiefs is evident; some possess what was called high justice,—that is to say, a complete jurisdiction, which comprehended every case; others have only low justice, an inferior and limited jurisdiction, which remitted the more important cases to the judgment of the suzerain. Under the legislative or political point of view, the same fact presents itself. The simple inhabitants of a fief,—coloni, or serfs,—entirely depended, as you have seen, upon the lord, who exercised pure sovereignty over them. After a certain time, we see the suzerain interfering in the internal government of the fiefs of his vassals, exercising a right of superintendence, of protection, in the relations of the

simple lord with the subject population of his domains. This protection was, doubtless, called for by necessity; it often repressed the intolerable tyranny of the petty possessor of fiefs over the unhappy coloni; and, upon the whole, the augmentation of power of the great suzerains was far more favourable than detrimental to the condition of men, and to the progress of society; but it was not the less an usurpation, an abandonment of the essential principles and the primitive state of feudalism.

Many other changes were accomplished therein at the same time, and always by the same causes, by the effect alone of the natural vices of the system, especially from the excess of individual independence. The fundamental principle in matters of private dispute was, as you know, judgment by peers, the intervention of society itself in the judicial power. But the vassals had few relations among themselves; it was difficult to assemble them, difficult to reckon upon their intelligence or their equity. Recourse to force, whether by judicial combat, or by private war, was the commonest way of putting an end to processes. But force is not justice; the rudest minds do not long confound them. The necessity for another judicial system, for a real judgment, became evident. Judgment by peers was almost impracticable. Another judicial system was then introduced into feudalism, a class of men devoted to the function of judges. This is the true origin of bailiffs, and even before bailiffs, of provosts, charged in the name of the suzerain, first with collecting his revenues, the rents of the coloni, the fines, and afterwards with administering justice. Thus commenced the modern judicial order, of which the great characteristic is the having made of the administration of justice a distinct profession, the special and exclusive task of a certain class of citizens. In the same way as you have seen, under the Carlovingian race, Charlemagne obliged to institute *scabini*, regular judges, permanent magistrates, in the place of the free men, who no longer repaired to local places, and no longer troubled themselves about their rights; so, in the feudal system, the proprietors of fiefs gave up the judicial power, ceased to judge among themselves, and the judicial power fell into the hands of special magistrates, of provosts and bailiffs.

Thus, solely because the social tie was wanting to feudalism,

feudal liberties rapidly perished; the excess of individual independence perpetually compromised society; it found, in the relations of the possessors of fiefs, neither wherewith regularly to maintain itself, nor to develop itself; it had recourse to other principles, to principles opposed to those of feudalism; it sought in other institutions that of which it had need in order to become permanent, regular, progressive. The tendency towards centralization, towards the formation of a power superior to local powers, was rapid. Long before general royalty, the royalty which has become French royalty appeared; upon all parts of the territory there were formed, under the names of *duchy*, *county*, *viscounty*, &c., many petty royalties, invested with central government, in such or such a province, and under the rule of which the rights of the possessors of fiefs, that is to say, local sovereignties, gradually disappeared.

Such were the natural, necessary results of the internal vices of the feudal system, and especially of the excessive predominance of individual independence. These consequences developed themselves far more rapidly, far more energetically, when foreign influences, when royalty and the commons in their turn, came to impel them onward, and to second this work of disorganization to which, by its very nature, feudalism was a prey. The study of these two new elements of modern France, and of their part in the heart of feudalism, will be the subject of the following lectures. We shall commence with the history of royalty.

TWELFTH LECTURE.

State of royalty at the end of the 10th century—Progressive debilitation of its various principles—Contradiction between the situation of right and the situation of fact in Carlovingian royalty—Necessity of its fall—Character of the accession of Hugh Capet—Progress of the principle of legitimacy—State of royalty under Robert, Henry I. and Philip I.—Was it as weak, as null as it is said to have been ?—Causes and limits of its weakness—Uncertainty of its character and its principles—New character of royalty under Louis VI.—It disengages itself from the past, and places itself in harmony with the social state—Wars and government of Louis VI.—Government of Suger under Louis VII.—State of royalty at the death of Louis VII.

Permit me here to recal, in a few words, the plan we have followed, and the point at which we have arrived.

It is with the feudal period that we occupy ourselves. In the feudal period, we have distinguished the history of civil society, the history of religious society, and the history of the human mind. We can in the present course treat only of the history of civil society. We have divided it into two sections. We have promised to study, on the one hand, the feudal element, the possessors of fiefs; on the other, the non-feudal elements, which also concurred to the formation and to the destinies of society, that is to say, royalty and the commons.

In studying the feudal element, properly so called, we have considered it under various aspects. We commenced by confining ourselves to the interior of the simple fief, of the elementary feudal domain. We first examined the progressive state of the possessor of this fief and of his family, that is to say, what passed in the interior of the feudal castle; afterwards

what passed around the castle, in the feudal village, that is to say, the state of the subject population.

The simple fief and the internal revolutions which befel in it from the tenth to the fourteenth century, thus thoroughly known, we considered the relations of the possessors of fiefs among themselves, the institutions which presided over those relations, the feudal society in its organization and in its whole.

Finally, we endeavoured to give a precise account of the general principles of feudalism, its merits and its vices; and we have thus sought in itself, in its proper nature, the principal causes of its destiny.

I will now examine that second portion of civil society which was not feudal in its origin or in its character; which, however, coexisted with feudalism, and at first powerfully modified, and afterwards conquered it; I mean royalty and the commons. I shall endeavour to follow these two great elements in their development from the tenth to the fourteenth century of our civilization. I begin with royalty.

You will recollect what was the state of royalty in France at the end of the tenth century, at the moment of the fall of the Carlovingian race, that is to say, at the commencement of the feudal period, properly so called. I have already made mention of it.[1] It had four origins; it was derived from four different principles. Its first origin was barbarous military royalty; the warlike German chiefs, those numerous, mobile, casual chiefs, often simple warriors themselves, surrounded by companions whom their liberality and bravery attracted, were designated by this same word, *kong*, *kœnig*, *king*, from which the modern title is derived; and their power, however limited, however precarious it may have been, was one of the bases upon which royalty raised itself after the territorial establishment.

It also found among the barbarians a religious basis. In the different German confederations or tribes, with the Franks among others, certain families, descended from the ancient national heroes, were invested, in virtue of this title, with a religious character and an hereditary pre-eminence which soon became a power.

[1] See the fourth lecture of the present course.

Such is the twofold barbaric origin of modern royalty. We at the same time recognised in it a twofold Roman origin. We have distinguished, on the one hand, imperial royalty, the personification of the sovereignty of the Roman people, and which commenced with Augustus; on the other, Christian royalty, the image of the Divinity, the representation, in a human person, of his power and his rights.

Accordingly, 1, chiefs of barbarous warriors; 2, descendants of heroes, barbarous demi-gods; 3, depositaries of the national sovereignty, the personification of the state; 4, the image and representative of God upon earth; such were kings from the 6th to the 10th century. These four ideas, then, these four origins, concurred in the formation of royalty.

At the end of the tenth century, (unless I am mistaken, I have already made the remark,) one of these four characters had entirely disappeared. There was no longer any trace of religious barbarous royalty. The second race of the Frank kings, the Carlovingians, had no pretension to a descent from the ancient German heroes, to be invested with a national religious pre-eminence. They were not, like the Merovingians, a separate family, distinguished by its long hair. Only three of the primitive characteristics of royalty were united among them. They were chiefs of warriors, the successors of the Roman emperors, the representatives of the Divinity.

The Roman idea, the imperial character, first predominated in the Carlovingian race. This was the natural result of the influence of Charlemagne. The revival of the empire, and not merely of the name of the empire, but of the real power of the emperors; such, as you know, was the dream of his thoughts, the constant aim of his efforts. He succeeded so far as to restore to royalty, considered as a political institution, its imperial physiognomy, and to strongly impress upon the minds of the people the idea that the chief of the state was the descendant of the emperors. But after Charlemagne, and on the brow of his successors, the crown did not long preserve that glorious and powerful physiognomy. Dating from Louis le Debonnaire, we find establishing in the kingdom of the Carlovingians, not exactly a struggle, but an uncertainty, a continual fluctuation between the descendant of the emperors, and the representative of the Divinity, that is to say, between the Roman idea and the Christian idea, which both served as the basis of royalty. It is sometimes from

one, sometimes from the other of those origins, of those ideas, that Louis le Debonnaire, Charles le Chauve, Louis le Begue, and Charles le Gros, demand the force and ascendancy escaping from them. As military chiefs they were no longer anything; here also was a source of power become exhausted for them; only the imperial Roman character, and the religious Christian character remained to them; their throne tottered upon these two bases.

Its ruin was an almost inevitable consequence. In virtue of this twofold title, as descendant of the emperors, and as allied with the Christian clergy, Carlovingian royalty at the end of the tenth century was in a false and weak condition. The empire of Charlemagne was dismembered, the central power the church, to her general constitution, to the frequent holddestroyed; that which essentially constituted imperial royalty, that omnipotence, that omnipresence, that sole and everywhere active administration had completely disappeared. The Christian clergy was at the same time greatly fallen from its ancient grandeur. It had owed much of it to the unity of ing of councils, to the ascendancy which these exercised over men's minds, to the central power which they established in the bosom of Christianity. By the triumph of feudalism, and the predominance of local institutions and ideas, this visible unity of the church underwent, if not an irreparable check, at least a temporary eclipse. The councils became rarer and less powerful. In the petty new states, the importance and power of the lay seigneur prevailed over the importance and power of the bishop. The clergy acting much less than before as a body, as a combined whole, its isolated members fell into a sort of inferiority. Hence a considerable, though transient enfeeblement of the church in general, and of all the institutions, all the ideas connected with it, among others, of royalty, considered in its religious aspect, and as an image of the Divinity. It is in the tenth century that this idea appears to have exercised the least empire.

Carlovingian royalty thus found itself deprived of its two fundamental supports, both of them altogether in a tottering condition. Moreover, it found itself in contradiction, in hostility even, with the new state, the new powers of society. Almost all these recently formed local sovereignties were so many dismemberments of the central power. These dukes,

counts, viscounts, marquises, now independent in their domains, were, most of them, former beneficiaries, or ex-officers of the crown. Ancient royalty, the royalty of Charlemagne, was, therefore, ever an object of distrust in their eyes, as a power from which they had usurped much, and which had, therefore, much to demand at their hands. It had rights superior to its power, and pretensions still greater than its rights. It was in the eyes of the feudal seigneurs the dispossessed heir of a power to which they had once rendered obedience, and on the ruins of which they had raised their own. By its nature, then, its title, its habits, its recollections, Carlovingian royalty was antipathecal to the new regime, to the feudal regime. Overcome by it, it accused it, and disturbed it by its presence; it became necessary that it should altogether disappear.

It did disappear. People are surprised at the facility with which Hugh Capet got possession of the throne; their surprise is unfounded. In point of fact, the title of king conferred upon him no real power calculated to alarm his peers; in point of right, the title, by its transference to him, lost that feature which had rendered it a subject of hostility and mistrust to them. Hugh, count of Paris, was not in the position of the successors of Charlemagne; his ancestors had not been kings, emperors, sovereigns of the whole territory; the great possessors of fiefs had not been his officers or his beneficiaries; he was one among them, a man from their own ranks, hitherto their equal; they might not like his self-appropriation of this title of king, but it gave them no serious umbrage. What had annoyed them in Carlovingian royalty was its recollections, its past. Hugh Capet had no recollections, no past; he was a parvenu king, quite in harmony with the new society about him. It was this which constituted his strength—at least, which rendered his position more easy than that of the race he had removed.

He encountered, however, a moral obstacle, which merits our attention. If the idea of imperial royalty, and even that of Christian royalty, was become greatly impaired, a new principle had developed itself, perceptible at the fall of the Merovingians, but manifestly apparent at that of the Carlovingians, a principle far more accredited, far more obvious—the principle of legitimacy. In the opinion—not of the people, that were saying too much, for there was at

this epoch neither people nor general opinion—but in the opinion of a great many considerable men, the descendants of Charlemagne were the only legitimate kings; the crown was their hereditary property. This idea did not place any very great or enduring difficulties in the way of Hugh Capet, yet it survived his success, and continued to operate upon men's minds. I read in a letter of Gerbert to Adalberon, bishop of Laon, written in 989—that is to say, two years after the accession of Hugh to the throne:

"The brother of the divine Augustus, Lothaire, the heir of the kingdom, has been expelled from it. His rivals have been placed in the rank of kings—such, at least, many people hold them to be; but by what right has the legitimate heir been disinherited and despoiled of his kingdom?"[1]

And this doubt as to the right of Hugh was so real that he seems to have himself respected and perhaps shared it, for, in speaking of his accession, a chronicle says:

"Thus the kingdom of the French departed from the race of Charlemagne. Duke Hugh was put in possession of it in the year of our Lord 987, and possessed it nine years, without, however, being able to assume the diadem."[2]

Nay more, three centuries afterwards this idea still preserved its influence, and the marriage of Philip-Augustus with Elizabeth (Isabel) de Hainaut, a daughter of the race of Charlemagne, is considered as a triumph of legitimacy. We read in the *Chronique de Saint Bertin*—

"Thus the crown of the kingdom of France departed from the race of Charlemagne, but it returned to it afterwards in the following manner. Charles (of Lorraine) who died in prison, (at Orleans in 992,) had two sons, Louis and Charles, and two daughters, Hermengarde and Gerberge. Hermengarde married the count de Namur. Among their descendants was Baldwin, count of Hainaut, (Baldwin V. 1171—1185,) who had to wife Marguerite, sister of Philip, count of Flanders. Their daughter, Elizabeth, married Philip II., king of the French, who had by her, Louis, his successor in the kingdom, from whom are since descended all the kings of the French. Thus it is clear that in the person of this Louis, and by his mother's side, the kingdom returned to the race of Charlemagne."[3]

[1] Historiens de France, tome x. p. 402. [2] Ib. 259, 279. [3] Ib. 298.

Unquestionably, notwithstanding the extreme facility with which Hugh appropriated the crown, these texts prove that the idea of the legitimacy of the ancient race was already developed, and that powerfully. In order to combat it, he adopted the only efficacious means open to him; he sought the alliance of the clergy, who professed the idea, and had more than any other class contributed to bring it into credit. Not only did he hasten to be crowned at Reims by the archbishop Adalberon, but he treated the ecclesiastics, both regular and secular, with indefatigable kindness; we find him incessantly seeking to conciliate their good will, lavishing donations upon them, and restoring to them such of their privileges as they had lost in the disorders of rising feudalism, and adding to these new concessions and exemptions. Among other privileges, he re-established in the monasteries on his domains the liberty of election, which, for a century past, had scarcely ever been exercised. He himself abdicated the dignity of abbot of Saint Germain and that of Saint Denis, with which he had been invested, as, at that time, was frequently the case with powerful laymen, and had ecclesiastical abbots regularly elected in his place. His conduct in this respect was so undeviating, and produced such effect, that near 600 years after his death, in 1576, at the States of Blois, the chapters of canons, demanding that the liberty of election should be restored to them, brought in aid of their application this argument, that the Carlovingian race had been of short duration, because it arrogated to itself the right of disposing of ecclesiastical dignities; whilst the Capetian race, which, from its origin, after the example of its founder, had habitually respected the independence of the church, had reigned for more than five centuries.

In this conduct of Hugh, how much is to be ascribed to sincerity, how much to skilled judgment, I cannot decide. That it partook of sincerity is not to be denied, for he acted upon the same principle, long before his elevation to the throne, and when evidently he had not as yet thought of that elevation; however it may be, the interests of his position dictated the same course pointed out by his faith; and he pursued the course so laid down to him. The Roman character of royalty was almost entirely effaced; that of legitimacy belonged to his adversaries; its Christian character alone

remained at his disposal; he appropriated it, and omitted nothing that might give it development.

Aided by the general tendency of things, he succeeded in this object without difficulty. It was evidently upon the Christian basis that the royalty of the Capetians acquired its strength; and during the reigns of the three first successors of Hugh Capet, Robert, Henry I., and Philip I., it bore the impress of this system, and lived under its empire. It is more especially to this cause that several modern historians, M. de Sismondi among others, have attributed the effeminacy and inertness of these princes. Whilst around them the warlike spirit was everywhere developing itself, in them, say these writers, the ecclesiastical spirit was omnipotent; amidst feudalism in its full force, and chivalry in its powerful youth, they were the kings of priests, sustained by their alliance, governed by their influence, and taking but a very little share in the external and temporary activity of the period.

I do not, for my part, believe that the insignificance of the first Capetians, of Robert, Henry I., and Philip I., was such as is supposed. When we closely examine the documents and events of their period, we find that they played a more important part, that they exercised far more influence than is ordinarily assigned to them. Read their history: you will find them constantly interposing, either with the sword or by negotiation, in the affairs of the count of Burgundy, of the count of Anjou, of the count of Maine, of the duke of Aquitaine, of the duke of Normandy; in a word, in the affairs of all their neighbours, and even in those of remote seigneuries. There was no contemporary suzerain, except the dukes of Normandy, the conquerors of a kingdom, whose action was felt so often and at so great a distance from the centre of his domains. Open the letters of the period, those, for example, of Fulbert and of Yves, bishops of Aquitaine, and those of William III., duke of Aquitaine, and many others, and you will at once perceive that the king of France was not without importance; that, on the contrary, the most powerful sovereigns of the time felt it necessary to keep on good terms with him. Of these three princes, the most apathetic, the most averse from all serious and earnest activity, was, perhaps, Philip I.; and yet his court, or, as it was then termed,

his *family*, that is to say, the assemblage of young men sent to form themselves as knights under his patronage and direction, was so numerous as sometimes to supply for him the place of an army. I will lay before you the official account of his coronation, a very curious monument in itself, for it is the earliest narrative extant of such a ceremony, and which will show you that the position of the king of France was not so insignificant as the statements of many of the historians might lead you to suppose.

"The year of the incarnation of our Lord, 1059, the 32nd year of the reign of the king Henry, on the 10th day before the calends of June (23 May) .... king Philip was crowned by the archbishop Gervais, in the cathedral, before the altar of St. Mary, with the following ceremonies:

"Mass having commenced, before the epistle was read, the archbishop turned towards the king, and having briefly recapitulated to him the catholic faith, asked him whether he believed in and would defend it. On his replying in the affirmative, his profession of faith was brought to him, fairly written out: he took it, and though only seven years old, read it and signed it. This profession of faith was conceived in the following terms: 'I, Philip, being about, by the grace of God, to become king of the French, on the day of my coronation promise, in the presence of God and his saints, to preserve for each of you, my ecclesiastical subjects, the canonical privileges, the law, and the justice due unto you; and, God aiding, to the utmost of my power, to defend them with that zeal which a king should ever exhibit in favour of the bishops, and of the church committed to him. We will also secure, by our authority, unto the people at large, the full and legitimate exercise of their rights.'

"This done, he replaced his profession of faith in the hands of the archbishop, in the presence of—(here follow the names of fifty-three archbishops, bishops, and abbots.) Then assuming the staff of St. Remy, the archbishop set forth, in mild and gentle language and tone, how that to him in preference appertained the election and coronation of the king, ever since St. Remy had baptised and crowned king Clovis. He set forth also, how that pope Hormisdas had given to St. Remy, and pope Victor to him, Gervais, and to his church, with that staff, the right of coronation, and the primacy of

all Gaul. Then, with the consent of his father Henry, he elected Philip king. After this, under the archbishop's formal protest, that the pope's consent was not necessary in the matter, the legates of the holy see, not officially, but in order to do honour to prince Philip and to exhibit their affection, also proclaimed him king. Next came the archbishops and bishops, the abbots and priests, and then Guy, duke of Aquitaine, and then (here follow the names of sixteen grand feudatories present, either in person, or by their representatives), and then the knights and the people, great and small, who all, with one unanimous voice, gave their consent and approbation, exclaiming thrice: 'We will have it so!' Then Philip, according to the custom of his predecessors, issued an ordinance respecting the goods of St. Mary's church, the county of Reims, and the lands of St. Remy and other abbeys, which ordinance he signed and sealed.

"The archbishop also signed it. The king then named the archbishop grand chancellor, as the kings his predecessors had always done in the case of Gervais' predecessors, and the prelate then crowned him king. The archbishop having returned to his throne, and being seated thereon, his officers brought to him the privilege granted to him by pope Victor, which he read aloud, in presence of the bishops. All these things passed amid general devotion and joy, without any disturbance, any opposition, any detriment to the state. Archbishop Gervais received all the persons taking part in the ceremony with the utmost kindness, entertaining them all liberally at his own expense, though he owed this to none but the king; but he did it for the honour of his church, and out of his generous nature."[1]

Assuredly, no other suzerain of the period took possession of his rank with so much solemnity amid so imposing a cortége, and it is not possible but that a real and decided influence must have attended a situation so manifestly superior.

With this limitation, however, of the prevalent idea, I have no intention of absolutely contesting its general truth. It is certain that the first Capetians did not reign with that activity, that constantly increasing power, which generally accompanies the foundation of a new dynasty; and that their inactivity was

[1] Collect. de Mem. relat. à l'Hist. de France, vii. 89—92.

not unobserved by their contemporaries. We read in a chronicle of Anjou, under the year 959—

"This year died duke Hugh, abbot of St. Martin, son of the pseudo-king Robert, and father of the other Hugh, who was afterwards made king with his son Robert, whom we have seen reigning in disgraceful effeminacy, and whose apathy is fully shared by his son Henry, our present kinglet."[1]

But do not let us too implicitly adopt these representations; the tone of contempt with which some of the chroniclers speak of the kings in question, is no just measure of their position. The fallacy arises in a considerable degree from the writers having too summarily compared that which the kings were with that which, in the historian's judgment, they ought to have been, their real power with the sounding title they bore. Now this title, the mere name of king, awakened in the mind ideas of grandeur, of superiority, inseparable from the memory of Charlemagne, but altogether inapplicable to the new state of things. It seemed a matter of course that whoever called himself king, should, like Charlemagne, reign supreme over an immense territory, command, conquer, soar high above all other men. Beside this colossal figure of Charlemagne, of him who formed the theme of each popular romance, and filled the thoughts of all men, Robert, Henry I., and Philip I., appeared miserable abortions. They themselves felt this; they themselves, by their title of king, seemed placed in the elevated, majestic position which Charlemagne had created, and called upon to exercise the grand, the enormous power directed by his sceptre; yet this power they were conscious they did not possess; they were, in reality, and they knew it, nothing more than great proprietors of fiefs, surrounded on all sides by other proprietors of fiefs, as powerful as they, perhaps even more so. They looked upon themselves as heirs of the throne of Charlemagne, yet they felt incapable of filling it. Hence an extreme uncertainty and hesitation, a sort of stagnation in their position. They did not comprehend the new character which it behoved royalty to adapt itself to, amidst a society so completely changed in all other respects; they knew not how to play the part of kings of that new society; and at the same time they were incapable of

[1] *Chronique d'Anjou*, in the Historiens de France, viii. 252.

carrying on that old royalty, that sovereign and superb royalty, of which they deemed themselves the depositaries.

It is perhaps in this inconsistency that we should seek the cause, the most real if not the most apparent, of the comparative inertion and powerlessness of the first Capetians. They had expelled the last Carlovingians, and yet they ruled in much the same way that these had done—inactive, shut up in the interior of their palaces, under the imperious influence of priests and of women, unable either to remain kings after the fashion of Charlemagne, or to become kings after the fashion required by the times in which they lived, and succumbing beneath the weight of this double dilemma.

It was not until the beginning of the twelfth century, at the end of the reign of Philip I., and in the person of his son Louis, that royalty comprehended the change which had taken place in its situation, and thought of assuming the character which that change necessitated. From Louis le Debonnaire down to Louis le Gros, notwithstanding the usurpation of Hugh Capet, we find it crawling along in the old beaten track, half imperial, half religious, and losing itself more and more in the uncertainty of its nature. With Louis le Gros commences the new royalty, the royalty of the feudal epoch, the predecessor of modern royalty. I will endeavour, by the aid of contemporary monuments, to make you acquainted with this important revolution.

Of all these monuments, the most authentic and the most instructive is unquestionably the *Vie de Louis le Gros*, by Suger—a work which it is impossible to study with too earnest an attention. It sheds the utmost light upon the state of French society at that epoch. I shall derive from it almost all the extracts I am about to submit to you.

And first, with reference to the conduct of Prince Louis whilst his father still reigned, I read in this history:

"This young hero, gay, conciliating all hearts to him, and of such extreme good nature, that to some men he seemed almost weak, had no sooner attained adolescence than he manifested himself a valiant defender of his father's kingdom; he was intent upon the real needs of the church, and, a care long neglected, watched over the security of the labouring people, the artisans, and helpless poor."[1]

[1] Vie de Louis le Gros, par Suger, c. 11, in my Collection, viii. 8.

And, a little further on:

"About this time, in 1101, it happened that there arose between the venerable Adam, abbot of St. Denis, and Bouchard, a noble, seigneur of Montmorency, certain disputes touching certain customs, which disputes grew so fierce, and produced, unhappily, such a degree of irritation, that the spirit of revolt bursting asunder all the ties of faith and homage, the two parties assailed each other with fire and sword. This fact having reached the ears of the lord Louis, he manifested thereat a lively indignation, and rested not until he had compelled the said Bouchard, duly summoned, to appear at the castle of Poissy before the king his father, and there to remit the matter to his judgment. Bouchard, having lost his cause, refused to submit to the condemnation pronounced against him, and retired without being detained prisoner—*a detention, indeed, which the custom of the French would not have sanctioned. But he soon experienced all the ills and calamities with which the royal majesty is empowered to punish the disobedience of subjects.* The fair and youthful prince forthwith levied arms against him,"[1] &c.

Are you not struck with the new attitude here assumed by royalty, with the new language spoken in its name? We are evidently in the heart of feudal society; the facts are exactly as I have described them: a vassal of the duke of France, the seigneur de Montmorency, is cited before the court of his suzerain; the court condemns him; he refuses to submit to its judgment, and retires in all tranquillity, no one even attempting to arrest him; *for this the custom of the French would not have permitted.* So far all is feudal, all is entire conformity with the ordinary relations of suzerains and vassals. But now a new element intervenes: "He (Bouchard) soon experienced all the ills and calamities with which the royal majesty is empowered to punish the disobedience of subjects." This is no longer feudalism. This same Bouchard, whom his suzerain had not dared to arrest, though he had condemned him, finds a new master, his king, who pursues him. and inflicts upon him all the calamities with which the royal majesty *is empowered to punish the disobedience of subjects.* Royalty here appears independent of feudalism,

[1] Vie de Louis le Gros, par Suger, c. 11.

respecting feudal rights and relations, conforming in the first instance to its principles, its forms, and then disentangling itself from them, and claiming and exercising in the name of other principles, in its own name, the right of pursuing and punishing the contumacious.

I will not stop here: let us see and attentively observe more facts of this class:—

"The noble church of Reims," says Suger, "saw its property, and that of its dependent churches, ravaged by the tyranny of the most valiant but very turbulent baron Ebble de Roussy, and his son William. The most lamentable complaints against this man, so formidable for his valour, had been laid a hundred times before the lord king Philip without effect. Ere they had of late been laid before his son more than twice, he, in his indignation, assembled a little army of scarce seven hundred knights—marched in all haste towards Reims, punished within the space of less than two months, by a series of incessant attacks, the wrongs theretofore done to the churches, ravaged the lands of the tyrant and his accomplices, and spread through them desolation and flames;—a laudable act of justice, whereby those who had pillaged were pillaged in their turn, and those who had harassed and afflicted men, were in themselves even more severely punished. . . . . He acquired equal honour by lending the aid of his arms to the church of Orleans."[1]

"It was by such proofs of valour that the future lord of France exalted himself in the estimation of his subjects. He sought, with courageous determination, every time that a favourable opportunity presented itself, to provide with prudence and sagacity for the administration of the kingdom, to quell the rebellious seigneurs, and to take or reduce to submission, by all possible means, the castles conspicuous as the haunts of oppression.[2]

Philip died; Louis succeeded him. The first idea that suggests itself to the mind of his historian is this:

"Louis become, by the grace of God, king of the French, did not lose the habit he had acquired in his youth, of protecting the churches, succouring the poor and unfortunate, and watching over the defence and peace of the kingdom."[3]

[1] Suger, c. v. and vi. [2] Ibid., c. viii.
[3] Ibid., c. xiv.

And he proceeds to give several proofs of this, among which I will select the following anecdote:

"It is well known that kings have long arms ——."

A singular phrase for this epoch! Who, think you, would have said of Robert, Henry I., of Philip I., that they had long arms? their flatterers, the priests, by whom they were surrounded, might have talked to them of the majesty of their title, of the sublimity of their rank; but no one ever spoke or thought of the real extent of their power, of the *reach of their arms*. This latter idea, however, reappeared in the time of Louis le Gros, and royalty once more presented itself to the minds of men as a general power, having right everywhere, and able to enforce that right everywhere.

"It is well known that kings have long arms," says the historian, and he thus proceeds to develop his idea:

"In order that it might clearly appear that the efficacy of the royal virtue was not restricted within the narrow limits of particular places, one named Alard de Guillebaut, an able man and with a good gift of speech, came from the frontiers of Berry (in 1117) to the king. He set forth in elegant language the plaint of his son-in-law, and humbly entreated the seigneur Louis to cite before him, in virtue of his sovereign authority, the noble baron Aymon, surnamed Vair-Vache, seigneur de Bourbon, who refused to right his son-in-law; to repress the presumptuous audacity with which this uncle despoiled his nephew, son of his eldest brother Archimbaut, and to fix, by the judgment of the French, the portion of goods which each ought to have. Fearing that private warfare might give occasion to the increase of wickedness, and inflict upon the poor the punishment due to the pride of their superiors in rank, the monarch forthwith cited the said Aymon. He did so in vain: the latter, doubting the issue of the judgment, refused to present himself. Then, without allowing either pleasure or indolence to detain him, Louis marched to the territory of Bourges at the head of a numerous army, advanced direct upon Germigny, a strongly fortified castle, belonging to this Aymon, and assaulted it with vigorous determination. Then Aymon perceiving that no resistance of his would avail, and losing all hope of saving his person and his castle by force, saw no other chance of safety than that of going and throwing himself at the feet

of the seigneur-king, which he did, prostrating himself several times, to the great astonishment of the crowd assembled around; he earnestly entreated the king to be pitiful towards him, surrendered his castle, and placed himself entirely at the disposal of the royal majesty. The lord Louis kept the castle, conducted Aymon into France to take his trial there, concluded with equal justice and righteousness the quarrel between the uncle and nephew by the judgment and arbitration of the French, and by great personal exertion and the expenditure of much money put an end to the oppression and misery which many people in those parts had theretofore endured. He subsequently made it a frequent custom to perform similar expeditions, which he fulfilled with like moderation and success, securing the tranquillity of churches and of the common people. It would only fatigue the reader were we to relate all these beneficent excursions of his; we shall therefore abstain from doing so."[1]

All the facts of this class are summed up by the writer in this general reflection:

"It is the duty of kings to repress by their powerful hand, and in virtue of the original right of their office, the audacity of the tyrants who tear the state in pieces by incessant wars, who place their pleasure in pillaging, who afflict the poor, destroy charities, and abandon themselves to a licence which, when not checked, inflames them with ever increasing fury."[2]

This assuredly is not the effeminate, inert royalty of Philip I., of Robert; but neither is it the ancient royalty of the Carlovingians, in the time of its power and its glory. In the passages I have laid before you, it were vain to seek the Roman idea or the imperial type. The new royalty claims not absolute power, the right to rule alone and everywhere—it makes no claim to that heritance of the emperors of old; it acknowledges and respects the independence of the feudal seigneurs; it leaves them to exercise their jurisdiction freely in their own domains; it neither abnegates nor destroys feudalism. What it does is to separate itself from feudalism; it places itself above all these powers as a distinct and superior power, which, by the original title of its office, is

[1] Vie de Louis le Gros, par Suger, in my Collection, viii. 103.
[2] Ibid. 99.

authorized to interfere for the purpose of re-establishing order, of protecting the weak against the strong, the unarmed against the armed; a power of justice and of peace amidst general violence and oppression; a power whose essential character, whose real force, consists not in any anterior fact, but in its harmony with the real, pressing wants of society, in the remedy which it applies, or at all events promises to the evils under which society labours. For—and this is to be carefully observed—the religious character scarcely occupies any greater place in the royalty of Louis le Gros than does the imperial character; it has scarcely any more resemblance to the royalty of Robert than to that of Charlemagne. The prince is the friend, the ally of the church, or rather of the churches; he honours them upon all occasions, protects them when they need protection, and receives from them in return useful support; but he seems very indifferent about the divine origin of his power—the Christian theory has little place in his mind and in his administration; he does not invoke it as a sanction for his assumption of absolute power; it in no way influences the character of his acts, the turn of his language. There is nothing scientific or systematic in his government; he is no theorist—he troubles himself very little about the future; all his care is to provide as best he may, according to the dictates of common sense, for the present; to maintain or re-establish order and justice to the utmost of his power, in every direction. He deems it his mission, he holds himself empowered to do this, but he proceeds upon no general principle, contemplates no broad, mighty design.

This was the true character of the government of Louis le Gros; a character so entirely conformable with the spirit and wants of the period, that we see it continue and develop itself after his death, under the reign of his son Louis le Jeune, one of the feeblest sovereigns that ever ruled over France, one of the most dissolute, the most enslaved to their personal tastes, the most indifferent to the public welfare. Yet the revolution accomplished in the time of his father, in the nature and position of royalty, was so natural, so decided, that in the hands of a priest, the abbot Suger, the royal power under Louis le Jeune followed the same route, preserved the same physiognomy, as under Louis le

Gros, unquestionably the most energetic, the most warlike knight of his epoch. You are aware that Suger was the chief counsellor of Louis VII., and that during the long absence of that prince in the Holy Land, it was Suger who really ruled the state. I will lay before you some letters written to him, or by him, which will give you a clear idea of his government, and exhibit the development of that which you have seen the commencement of under Louis VI.

In 1148, while the king, undergoing one disaster after another, was traversing Asia Minor, the citizens of Beauvais addressed to Suger the following letter:—

"To the lord Suger, by the grace of God reverend abbot of St. Denis, the community of Beauvais offer salutation and respect as to their lord.

"We appeal to you and complain to you as to our lord, since we have been committed to your hands and your guardianship by the lord king. A certain man, a jurat of our place, having heard that two horses which had been carried away from his stable during Lent were at Levemont, proceeded thither to claim them on the Thursday in Christmas week. But Galeran, seigneur of that town, holding in no respect the sacred season, arrested this man, who had committed no offence, and compelled him to purchase his liberty at the price of ten sols Parisis, and that of his horses at fifty. As the man is poor, and has been obliged to borrow this amount, and several other sums, at usurious interest, we intreat in the name of the Lord, that your holiness would by God's grace and favour do right justice upon Galeran, so that he may restore to our jurat his money, and henceforth never again dare to harass any who are committed to your care.—Health."[1]

Would the commune of Beauvais have used any different language from this in addressing Louis le Gros himself?

I will now present you with a letter from Suger, written in 1149, to Samson, archbishop of Reims, to claim his assistance in support of the royal power which had been assailed:

"To the venerable Samson, by the grace of God archbishop of Reims, Suger, abbot of the blessed Denis, wishes health.

"As the glory of the body of Christ,—that is to say, of the

[1] *Lettres de et à Suger*, in the *Recueil des Historiens de France*, xv. 506.

church of God, consists in the indissoluble union of royalty with the priesthood, it is self-evident that what benefits the one must benefit the other; for it is clear to all the wise, that the temporal power exists by the church of God, and that the church of God derives benefit from the temporal power; for the which reason, seeing that during the long absence abroad of our dearly-beloved Louis, king of the French, the kingdom is grievously disturbed by the backslidings and assaults of the wicked; and fearing that the church may hence suffer even more heavily than the temporal state, and it being necessary to take immediate steps, we invite you, we intreat you, we summon you, by the common bond of the common oath which you and we have sworn to the throne, to be with us at Soissons, you and your suffragans, on the Monday before Rogation. We have convoked for the same time and place, the archbishops, bishops, and chief great men of the kingdom, in order that, according to our fealty and oath, we may provide for the safety of the kingdom, aiding one another to bear the burden, and placing ourselves as it were a rampart for the house of Israel; for, be assured, unless we remain firmly fixed in the position whereof it is said, *the multitudes that believed were one heart and one soul*, the church of God will be in peril, and the kingdom, divided against itself, will be given up to desolation."[1]

Nor did Suger solicit the assistance of the bishops in vain; he made valuable use of their co-operation in his exercise of the royal charge, and in maintaining somewhat of order in the more remote provinces. The following letter, written to him in 1149, by Geoffrey, archbishop of Bordeaux, is one of those which give us the clearest idea of the state of the country, and of the manner in which power exercised its intervention.

"Geoffrey, archbishop of Bordeaux, to Suger.

"To his reverend and dear brother in Christ, Suger, by the grace of God abbot of Saint Denis, Geoffrey, called bishop of Bordeaux, wishes love and respect in the Lord.

"We have been for some time past intending to communicate to you the state of our country, according to the agree-

[1] Hist. de France, xv. 511.

ment entered into between us; but we have delayed doing so until now, in order that we might not announce to you other than the known and unchanged state of things. In the first place, you shall understand, that on the day of the Assumption of the blessed Mary, at Mansan, where were assembled the archbishop of Auch and nearly all the bishops and grandees of Gascony, we, in the presence of all, assailed the viscount du Gabardin for having with his people attacked and despoiled the lands of the lord king, and besieged the city of Dax, the property of the said king; and we then had read in the presence of all, and fully explained, the letters of the lord pope, whereby the said viscount and all his people are excommunicated, unless they desist for the future from disquieting the king's lands. The viscount and his people seemed to think the sentence very severe, and were moreover greatly displeased that these things should be set forth concerning them in public. We did not fully attain the end we wished, but, after considerable difficulty, we effected this arrangement—that, on a day to be named, the affair shall be thoroughly investigated, and the case we have put forward on the part of the lord pope and the lord king judged. We know not what the said viscount may do thereupon, but it is said he will not long withstand the sentence, if it be carried into effect rigorously. It is, therefore, necessary that the lord pope should renew the order for his sentence to be rigorously executed, and with even additional severity; for there are people who, though they tremble, will not yield at a first summons. The other great men seem, by the grace of God, better disposed than is their wont to consult the good and peace of the country. Martin, who was entrusted with the custody of the tower of Bordeaux, has recently gone the way of all flesh. The tower, on being returned to our possession, we find, on the report of persons we have sent to inspect it, to be altogether destitute of munition and victual. Martin represented that he had faithfully and justly expended, in furnishing the tower with necessaries, and supplying the wants of himself and his men, the fourteen livres that were given him last year. But now that he is dead, those who remain behind him seem ill fitted for executing his charge. It were well, therefore, since the government and the care of the kingdom rest upon you and upon count Raoul,—whom we

pray you to salute in our name, and to inform of this matter,—it were well for you two, desiring as you do to preserve the lands of the king, forthwith and diligently to occupy yourselves with furnishing forth the tower with valorous and competent keepers, and with a good purveyor, supplied with all the things they need. As to the officers established by the king in Aquitaine, and those who are set over them, brother N——, the bearer of these presents, will inform you touching them and other matters, with which he is well acquainted. We pray you to give him full credit as to ourself; and, indeed, you already know him for a man full of truth, faithful and devoted to the utmost of his power to the interests of the king. By him you can communicate to us that which you desire we should hear."[1]

Notwithstanding all his efforts, Suger succeeded but very imperfectly in maintaining order and in defending the domains and the rights of the king. He was accordingly always urging his sovereign to return. Among other letters of his, in 1149, is the following:—

"Suger to Louis, king of the French.

". . . . Disturbers of the public tranquillity have returned in numbers, while you, whose duty it is to protect your subjects, remain, as it were, a captive in a foreign land. What can induce you, my lord, to leave the sheep intrusted to you thus at the mercy of pitiless wolves? No, sire, it is not permissible that you remain any longer remote from us. We therefore supplicate your highness, we exhort your piety, we invoke the goodness of your heart, we conjure you by the faith which reciprocally binds together the prince and his subjects, not to prolong your stay in Syria beyond the festival of Easter, least a longer delay render you guilty, in the eyes of the Lord, of having violated the oath you took on receiving the crown. You have reason, I think, to be satisfied with our conduct. We have delivered into the hands of the Knights Templars the money we had arranged to send to you. We have also repaid the count de Vermandois the three thousand livres he had lent us for your service. Your lands and your men are, for the present, in the enjoyment of entire peace. We keep for you on your return the reliefs paid upon fiefs

[1] Hist. de France, xv. 515.

held of you, and the taxes of various kinds received from your lands. You will find your houses and palaces in excellent condition, owing to the care we have taken to keep them in repair. I am in the decline of life, in point of age, but the occupations in which I have been engaged from love of God and out of attachment to your person, have, I hesitate not to say, materially contributed to make me older than I am in mere years. As to the queen your wife, I am of opinion that it were best for you to conceal the dissatisfaction she occasions you until you are once more in your kingdom, where you may deliberate at leisure upon that and other matters."[1]

Louis at length returned, and in the course of this same year, while on his way back to France, he wrote to Suger:

"We cannot express on this paper the ardour of heart with which we desire the presence of your Dilection. But several causes have delayed our progress. On landing in Calabria, we waited there three days for the queen, who had not yet arrived. When she came, we directed our course to the palace of Roger, king of Apulia, who would needs keep us three days with him. Just as we were about to depart, the queen fell ill: on her recovery, we proceeded to visit the pope, with whom we remained two days, and in the city of Rome one; we are on our return to you at our utmost speed, safe and well; we order you to come and meet us secretly, a day before our other friends see us. We have heard certain rumours touching our kingdom, the truth of which we know not, and we should be glad to learn from you in what manner to comport ourselves towards various officers of our state and others. Let this be so secret, that none but yourself know of it."[2]

The king, on his arrival in Paris, resumed the government, to which his presence was more detrimental than his absence had been. In the course of the next year, 1150, I find the following letter addressed to him by Suger, who was now living in almost complete retirement in his abbey of St. Denis. It is the last I shall cite in the present lecture:

"We earnestly intreat your majesty's royal highness, in whom we have ever been accustomed to confide, not to throw yourself without reflection and without the counsel of

[1] *Rec. des Historiens de France*, xv. 500. [2] Ibid. 518.

your archbishops, bishops, and great men, into the war against the duke of Anjou, whom you have created duke of Normandy. If you were to attack him inconsiderately, you could afterwards neither draw back with honour, nor proceed without great difficulty and embarrassment. Therefore, notwithstanding that you have convoked your men for this purpose, we counsel you and intreat you to pause for awhile, till you have collected the opinions of your faithful, that is to say, of your bishops and great men, who then, according to the faith they owe to you and the crown, will aid you with all their force to accomplish what they shall have advised."[1]

Thus, whether Suger writes or is written to, whether he addresses the king or the king's subjects, in all these documents royalty appears under the same aspect. It is evidently no longer either the imperial royalty contemplated by Charlemagne, nor the ecclesiastical royalty aimed at by the priests; it is a public power of undefined origin and extent, but essentially different from the feudal powers, and which undertakes to superintend them, to keep them within certain limits dictated by the public interest, to protect the weak against them; a sort of universal justice of the peace for France, as I said on a former occasion. It is the rise and development of this fact which communicates to the reigns of Louis le Gros and Louis le Jeune the character of an epoch in our political history. From that period modern royalty dates its real existence; from that period it has played its established part in our society.

In the next lecture we shall see its progress under Philip Augustus, and the manner in which that monarch availed himself of the new instrument bequeathed to him by his predecessors, to advance further than they, royalty, and to reconstitute that which they had not left him, the kingdom.

[1] *Rec. des Historiens de France*, xv. 522.

THIRTEENTH LECTURE.

Condition and various characteristics of royalty at the accession of Philip Augustus—State of the kingdom in point of territory—Possessions of the kings of England in France—Relations of Philip Augustus with Henry II., Richard Cœur-de-Lion, and John Lackland—Territorial acquisitions of Philip Augustus—Provostries of the king—Progress of the monarchical power—Efforts of Philip Augustus to rally round him the great vassals, and to constitute of them a means of government—He applies himself, at the same time, to separate royalty from feudalism—The crown emancipates itself from the empire of the clergy—Legislative labours of Philip Augustus—His efforts to advance material and moral legislation—Effect of his reign on the mind of the people—Royalty becomes national—Manifestation of this result after the battle of Bovines, and at the coronation of Louis VIII.

I HAVE described the condition of royalty from Hugh Capet to Louis le Gros, the causes which first plunged and then kept it in an apathy and insignificance, real, though exaggerated by historians; and then its revival at the commencement of the 12th century under Louis le Gros.

I have now to examine its progress under Philip Augustus. But in the first place I should wish to recal to you the point at which we are now arrived, what royalty actually was at the accession of that prince, and to describe its new characteristics in somewhat of detail.

The first of these characteristics, as I have already stated, was, that royalty had now become a power foreign to the feudal regime, distinct from suzerainty, unconnected with territorial property; a power, *sui generis*, standing apart from the hierarchy of feudal powers, a power really and purely political, with no other title, no other mission than government.

This power was at the same time regarded as superior to the feudal powers, superior to suzerainty. The king was, as such, placed above all suzerains.

Moreover, royalty was a sole and general power. There were a thousand suzerains in France, but only one king. And not only was royalty sole, but it had a right over all France; the right was vague, and practically of small effect; the political unity of French royalty was not more real than the national unity of France; yet neither the one nor the other was absolutely chimerical. The inhabitants of Provence, of Languedoc, Aquitaine, Normandy, Maine, &c. had, it is true, special names, laws, destinies of their own; they were, under the various appellations of Angevins, Manceaux, Normands, Provençaux, &c., so many petty nations, so many petty states, distinct from each other, often at war with each other. Yet above all these various territories, above all these petty nations, there hovered a sole and single name, a general idea, the idea of a nation called the French, of a common country, called France. Despite the force of local distinctions, the variety, the opposition even of interests and manners, the idea of national unity has never completely disappeared from amongst us : we see it appear amid the highest power of the feudal regime, obscure, doubtless, and weak, taking no share in the events, in the realities of life, yet always present, always possessing some influence.

Such was also the case with the idea of political unity, such the state of royalty, considered as a central and general power. When all has been said that can be said as to its weakness, as to the independence of the local sovereigns, we must still revert to royalty, and admit that, notwithstanding all this, it existed. In the same way that, despite the variety of power and of particular destinies in it, there has always been a country called France, a people named the French, so there has always been a power called the French royalty, a sovereign denominated the king of the French: a sovereign, indeed, very far from governing the whole of the territory called his kingdom, and exercising no action over the larger portion of the population inhabiting it; yet known everywhere and to all, and having his name set forth at the head of all the deeds of the local sovereigns, as that of a superior to whom they owed certain tokens of deference, who possessed certain rights over them.

The political extent, the general value, so to speak, of royalty, did not, at the period under consideration, go beyond this; but it went thus far, and there was no other power which participated in this characteristic of universality.

There was another characteristic of royalty, not less important to observe: royalty was a power which, neither in its origin nor in its nature, was well defined or clearly limited. No one at that time could have assigned to it a special and precise origin. It was neither purely hereditary, nor purely elective, nor regarded as solely of divine institution. It was neither coronation, nor ecclesiastical anointing, nor hereditary descent, which alone and exclusively conferred the royal character. All these conditions, all these facts, were requisite; and other conditions, other facts, were afterwards added. You have seen the official account of the coronation of Philip I., and have recognised there evident indications of election; the persons present, the grand vassals, knights, people, expressed their consent: they said: *We accept, we consent, we will.* In a word, principles the most various, principles generally considered as wholly contradictory, combined and met together round the cradle of royalty. All the other powers had a simple, definite origin; the manner of their erection and the date were readily assignable; every one knew that feudal suzerainty was derived from conquest, from the concession by the chief to his companions of territorial property; the source of that power was easily traced back, but the source of royalty was remote, various: no one knew where to fix it.

Its nature was as indeterminate, as vague as its origin. It was not absolute; had royalty at this epoch claimed absolute power, a thousand facts, a thousand voices would have contravened its pretensions. It accordingly made no such pretension, and said very little about the traditions of the Roman empire, or the maxims of the church. Yet it was without known, definite, prescribed limits, whether in the laws or in the customs. At times, it exercised a power which, from the loftiness of its language, and the extent of its action, closely resembled absolute power; and then again, it was not only as a matter of fact limited and curbed, but itself recognised limits, itself bowed to other powers. It was, in a word, both in its origin and in its nature, essentially inde-

finite, flexible, capable of contracting and expanding itself, of adapting itself to the most various circumstances, of playing the most different parts; old in name, young in reality, and manifestly entering upon a vast career, of which no one could measure the extent.

Such, if I mistake not, was the true position of French royalty, when it came into the hands of Philip Augustus. It possessed, as you perceive, many of the elements of strength, but of a strength remote and hidden. It is more especially in the moral order, and in reference to its future destinies, that royalty, at this period, appears to us already great and powerful. If we confine ourselves to material, external facts, if, in the twelfth century, we look to the present alone for the measure of French royalty, we shall find it singularly weak and restricted, in the extent and in the efficacy of its power. The territory which Louis le Gros could really call his own, comprised only five of our present departments, namely—those of Seine, Seine-et-Oise, Seine-et-Marne, Oise, and Loiret. And within this petty territory, in order to exercise anything like authority, the king of France had to maintain a constant struggle, sword in hand, against the counts of Chaumont, Clermont, the seigneurs of Montmorency, Montlhery, Montfort-l'Amaury, Coucy, du Puiset, and many others, always disposed and almost always in a position to refuse him obedience. At one time, during the reign of Louis VI., the territory of French royalty received a considerable extension. The marriage of his son with Eleonore d'Aquitaine added to the kingdom of France Touraine, Poitou, Saintonge, Augoumois, Aquitaine, that is to say, nearly all the country between the Loire and the Adour, as far as the frontiers of the Pyrenees. But you are aware that the divorce of Eleonore from Louis VII. transferred this territory from that monarch to Henry II. king of England. On the accession of Philip Augustus, the kingdom of France had returned within the limits which bounded it under Louis le Gros; and the new monarch had scarcely ascended his throne, when the same resistance, the same coalition of vassals which had called into such exercise the activity and perseverance of his grandfather, once more burst forth. He was weak at the time, and but little in a position to repress them, but in an old chronicle we find

him saying at this juncture:[1] "Whatever they do now, they are so strong I must bear their outrage and villanies; but please God, they shall become weak, and I will grow strong and powerful, and then in my turn I shall take vengeance upon them." These are the first words that history assigns to Philip Augustus; they manifest at once his weakness and his eager desire to relieve himself from it. He did relieve himself from it, and both the kingdom and royalty were at his death altogether different from what they were at his accession.

I have no intention of giving you here a narrative of his reign; I shall merely point out its true and leading characteristic. He applied it wholly, first to the reconstruction of the kingdom, and then to the equalization of royalty *de facto* with royalty *de jure*, to the making its external, real position harmonize with the ideas already spread about and accepted as to its nature. As a moral power, and in the common thought of the time, royalty had already, under Louis le Gros and Louis le Jeune, recovered much grandeur and force; but in material grandeur, in material force, it was almost wholly deficient; with these it was the incessant labour of Philip Augustus to endow it.

Judging from the state in which he found things, this must have been a protracted and severe task. Not only was the royalty which he inherited restricted within a very narrow territory, and even there combated by jealous vassals, but the instant he essayed to go beyond his own particular states, to extend their limits, he encountered a neighbour far more powerful than himself, the king of England, Henry II., possessor of all that marriage portion of Eleonore d'Aquitaine, which Louis le Jeune had lost; or, in other words, master of nearly the whole of western France, from the Channel to the Pyrenees, and consequently very superior in force to the king of France, though his vassal.

It was against this vassal and his possessions that the efforts of Philip Augustus were directed. So long as Henry II. lived, those efforts had but little success, and, indeed, were but hesitatingly made. Henry, an able, energetic, stubbornly pertinacious prince, formidable at once as warrior and as poli-

[1] Inedited Chronicle, in the *Art de verifier les Dates*, i. 578, fol.

tician, had every advantage of position and of experience over Philip. He used these advantages wisely, habitually preserved a peaceful attitude with his young suzerain, and quietly frustrated most of the secret practices and armed expeditions which Philip Augustus set on foot in order to induce him openly to take the aggressive. So long as he lived, there were very few alterations in the territorial relations of the two states.

But after the death of Henry II., Philip had to do with his two sons, Richard Cœur de Lion and John Lackland. Richard, as you are aware, was the very type of the manners and passions of his time. In him, in full energy, were the thirst for movement, for action; the constant desire to display his own individuality, to carry out his own will at the risk not merely of the happiness and rights of his subjects, but of his own safety, of his own power, of his crown even. Richard Cœur de Lion was, undoubtedly, the feudal king *par excellence*, or, in other words, the most daring, reckless, and passion-led, the most brutal, the most heroic adventurer of the middle ages. Philip Augustus could cope advantageously with such a man. Philip was a prince of calm, cool temperament, patient, persevering, very slightly touched with the spirit of adventure, ambitious, but not ardent in his ambition, capable of long designs, and not over scrupulous as to his means. He did not achieve over Richard those sweeping and definitive conquests which were to restore to France the larger portion of Eleanore's dowry; but he prepared the way for these by a multitude of petty acquisitions and petty victories, and in assuming to himself by slow but sure degrees the ultimate superiority over his English rival.

Richard was succeeded by John Lackland, a braggart and coward, at once a knave and a hair-brained coxcomb, passionate, debauched, indolent, quite the roguish valet of the comic dramatists, with all the pretension to be the most despotic of kings. Philip had even greater advantages over him than he had over his brother Richard, and he made such good use of these, that after a struggle of some years, from 1199 to 1205, he deprived John of the greater part of the territories to which he had succeeded in France; namely, Normandy, Anjou, Maine, Poitou, and Touraine. Philip would probably have dispensed with any legal sanction for

these acquisitions, but John himself furnished him with an excellent pretext for one. On the 3rd April, 1203, he assassinated with his own hand, in the tower of Rouen, his nephew Arthur, duke of Brittany, and, as such, vassal of Philip Augustus, to whom the unfortunate young man had just done homage. Philip hereupon cited John as his vassal, to appear before the Court of the Barons of France, and justify the act he had committed. The English historian, Matthew Paris, has left us a circumstantial narrative of what passed on this occasion, a narrative, it is true, somewhat confused, for it is in reference to the appeal subsequently made to the court of Rome against the condemnation of king John that the historian introduces it, and he consequently mixes up the facts of the case with the discussion maintained upon the subject before the pope, by the envoys of France and England, but still a narrative which exhibits those facts accurately and clearly, and I shall therefore lay it before you:

"'It is the custom of the kingdom of the French,' said the envoy of France, 'for the king to have full jurisdiction there over his liege men, and, as count and duke, the king of England was his liege man: thus, though John was a crowned king, he was, in his quality of count and duke, subject to the jurisdiction of the lord-king of the French. Now, as count and duke, if he committed a capital crime in the kingdom of the French, he could and ought to be adjudged to death by his peers. Even had he been neither duke nor count, but merely liege man to the king of France, had he committed a crime in the kingdom of France, the barons might have condemned him to death by reason of that crime. Otherwise, and if the king of England, because he is a crowned king, were not liable to be adjudged to death for a capital crime, he might with impunity enter the kingdom of France, and kill the barons, as he had killed Arthur.'

"This is the truth of the affair. In point of fact, king John was not legally or justly deprived of Normandy, for after having been despoiled of it, not by due judgment but by violence, he sent to Philip, king of France, in order to obtain restitution, ambassadors of great wisdom and consideration, namely, Eustace, bishop of Ely, and Hubert de Burgh, men

of a fluent eloquence, who were charged to say to Philip on his part, that he would readily come to his court to plead and implicitly obey judgment, if he were first accorded a safe-conduct.

"And king Philip replied, but with a ruffled heart and countenance: 'Ay, let him come in peace and security.' Whereunto the bishop: 'And so return, my lord?' And the king: 'Yes, if the judgment of his peers allow it.'

"And when the envoys of England entreated that he would grant it to the king of England both to come and to return in safety, the king of France passionately exclaimed, with his accustomed oath: 'No, by all the saints of France, not unless the judgment so permit!'

"Then the bishop, enumerating all the perils that John would incur, said: 'Sir king, the duke of Normandy cannot come, without the king of England also come, since the duke and the king are one and the same person; the baronage of England would not let the king come, and if he essayed it against their will, he would be, as you know, in danger of his liberty, if not of his life.'

"To which the king: 'What is all this, sir bishop? We know perfectly well that the duke of Normandy, my vassal, acquired England by violence. What then! because a vassal increases in honour and power, is his seigneur suzerain to lose his rights over him? Impossible!'

"The envoys seeing they had no valid answer to this, returned to the king of England, and related to him what they had seen and heard.

"But the king would not trust himself to the judgment of the French, who loved him not; and he more especially feared their assailing him touching the disgraceful death of Arthur; and according to Horace

"Quia me vestigia terrent,
Omnia te adversum spectantia, nulla retrorsum."

"The great men of France proceeded all the same to judgment, which they were not legally in a position to do, since he whom they had to judge was absent, and had expressed his willingness to come if he could. Therefore, when king John was condemned and despoiled by his adversaries, it was illegally done." [1]

[1] Matthew Paris, p. 725.

Legal or illegal, the condemnation was carried into full effect, and Philip in virtue of it resumed possession of nearly all the territory which his father Louis had so briefly held. After this, he successively added other provinces to his states, so that the kingdom of France, limited, as you have seen, under Louis le Gros to the Ile de France, and some portions of Picardy and Orleanois, comprised in addition to these, in 1206, Vermandois, Artois, the Vexin-Français, and the Vexin-Normand, Berri, Normandy, Maine, Anjou, Touraine, Poitou, and Auvergne.

A distinction, however, was still observed in this territory between the kingdom of France, properly so called, and the new acquisitions of the king; the proof of which is, that of the offices established in the thirteenth century, called *Royal Provostries*, that is to say, the king's own lands, administered by his provosts, there were comprehended under the name of *prevotés de France* only those situated within the territory possessed by Philip before his acquisitions from England: the other provostries were denominated *prevotés de Normandie, de Touraine*, &c.

In 1217, Philip Augustus possessed sixty-seven provostries or manorial domains, of which thirty-two had been added to the royal estates of France by himself; altogether they produced him a revenue of 43,000 livres.[1]

Such, in the territorial point of view, were the results of the reign of Philip Augustus. Before him, under Louis VI. and Louis VII., royalty had become once more powerful as an idea, as a moral force; Philip Augustus gave it a kingdom to rule. Let us now see how, having secured a kingdom, he exercised the royal power.

That in which government was more especially wanting under the feudal system, was, as you are aware, unity, the presence of a central power. It could not have entered the mind of even the most ambitious of rulers, at once and directly to set up royalty as a central power amidst the feudal society, still in all its vigour. Philip Augustus, accordingly, made no such attempt, but he endeavoured to collect around him the grand vassals, and to constitute them an assembly, a parliament; to give to the feudal courts, to the courts of peers,

[1] Brussel, *Usage des Fiefs*, i. 421—465.

a frequency, a political activity previously unknown, and thus to advance her government some steps towards unity. His personal preponderance had already become such, that he took the lead without difficulty at all such meetings, and thus rendered them far more useful than perilous to him. We accordingly find them occurring under his reign, in political matters, and even in legislation, far more frequently than before. Many of the ordinances of Philip Augustus were rendered "with the concurrence and assent of the barons of the kingdom," and thus had the force of law throughout the extent of the kingdom, or at all events, in the domains of all the barons who had sanctioned them.

In order to collect around him his great vassals, and to make use of them as a means of government, Philip availed himself successfully of the recollections of the court of Charlemagne. From a series of causes which I shall mention when we come to the literary history of this epoch, the name of Charlemagne and the memory of his reign resumed at this juncture a very great influence over men's minds. This is the period of the actual composition and of the great popularity of the romances of chivalry, more especially of those of which Charlemagne and his paladins are the heroes. It is only necessary to open the *Philippide* of Guillaume le Breton, to see to what a degree the public mind was then filled with these productions. Philip Augustus sought to take advantage of these memories and this taste of his period for the purpose of collecting around him the barons, so as to renew the court of Charlemagne, and thus create a principle of unity. The attempt had no decided results, but it merits attention.

Philip was more successful in his efforts to emancipate royalty from the ecclesiastical power. As I mentioned in the last lecture, from Hugh Capet to Louis le Gros, royalty had lived under the domination and, so to speak, under the banner of the clergy, national or foreign. Under Philip Augustus commenced the efficacious resistance of the crown both to the national clergy and to the papacy. The fact, which has played so important a part in our history, the separation of the temporal from the spiritual power, royalty independent, insisting that it subsists of its own right, alone regulating civil affairs, and without intermission defending itself from the ecclesiastical pretensions, under Philip Augustus we see

rise and rapidly develop itself. In this design Philip very skilfully made use of the support of his great vassals. An example of this is seen in the following letter, which was addressed to him, in 1203, by twelve of them, when Innocent III. menaced him and his kingdom with interdict, if he did not immediately conclude peace with John Lackland.

"I, Eudes of Burgundy, make known to all those to whom the present letters shall come, that I have *counselled* my lord Philip, the illustrious king of the French, to make neither peace nor truce with the king of England, for the violence or correction of the lord pope or any of the cardinals. If the lord pope undertakes any violence upon this subject against the lord king, I have promised my lord king as my liege lord, and have bound myself by all which I hold from him, that I will come to his assistance with my whole power, and that I will make no peace with the lord pope but by the mediation of the said lord king. Given, &c."[1]

Any one may here already recognise the language which the barons and lay officers of the crown of France have often used since on similar occasions.

It was not only the foreign ecclesiastical power, the pope, whom Philip could thus resist: he submitted as little to the yoke of the national clergy. In 1209, the bishops of Orleans and Auxerre refused their contingent due for the fiefs which they held from the king. Philip seized their domains, what has since been called their temporalities. The pope laid an interdict on him; he braved the interdict, and succeeded in obliging the bishops to fulfil their feudal duties. We find many analogous facts under his reign.

To bring some kind of unity into the royal government, by making the great barons its centre, and to lay the foundation of its independence by freeing it from the ecclesiastical power, were the first two political labours of Philip Augustus. I approach a third.

He occupied himself with legislation more than any of his predecessors since Charlemagne and his children. Under the first Capetians, we find scarcely any general act of legislation; nay, of legislation at all, properly so called. On the one hand, as you know, everything was local, and all the possessors of

[1] Dumont, Corpus Diplom. t. i. p. 129.

fiefs first, and afterwards all the great suzerains, possessed the legislative power within their domains. On the other, men did not trouble themselves as to the regularity of social relations; no one thought of introducing into them any fixedness, any order, or of giving laws to them. Philip Augustus recommenced taking this part of the government into consideration. We find in the *Recueil des Ordonnances des Rois de France*, fifty-two ordinances or official acts, emanating from him, some entire, others in fragments, others again only mentioned in some monument of the time. They may be classed as follows: 1. Thirty are relative to local or private interests; these are concessions of charters, privileges, measures taken with respect to such or such a town, such or such a corporation. 2. Five are acts of civil legislation, which apply to the burghers, coloni, or peasants established in the domains of the king; sometimes to authorize them to nominate a guardian for their children, sometimes to regulate the rights of the woman on the death of her husband, &c. These are customs which royalty converted into written laws. 3. Four are acts of feudal legislation decreeing certain points in the situation of the possessors of fiefs. 4. Lastly, thirteen may be classed under the head of political legislation, and are, in point of fact, acts of government. I shall not here go through their enumeration; several of them, indeed, are of no importance whatever; but I will lay before you the principal of these acts, the instrument which Philip Augustus left behind him on his departure for the crusades, and by which he regulated the government of his states during his absence. It is unquestionably the most remarkable of all these monuments.

"In the name of the Holy and Indivisible Trinity, amen. Philip, by the grace of God, king of the French:

"It is the duty of a king to provide for all the wants of his subjects, and to prefer the public welfare to his own personal interests. As we are eager to accomplish the vow of our pilgrimage, undertaken for the purpose of carrying succour to the Holy Land, we have determined first to regulate, with the aid of the Most High, the manner in which the affairs of our kingdom are to be managed in our absence, and to make our last dispositions in this life to meet the event of any misfortune occurring to us, according to the condition of humanity, during our expedition.

"1. In the first place, then, we order that our bailiffs select for each provostry, and commit to them our powers, four men of good fame, wise, and trusty. The affairs of the town and district are not to be managed without their counsel and consent, or without the counsel and consent of at least two of them. As to Paris, we order that it have six such, all of them true and good men, and we name the following: J——, A——, E——, R——, B——, N——.

"2. We have also placed bailiffs on our lands, and have set forth their names. Once a month each of these in his bailiwick shall assign a day, called *Jour d'Assises*, wherein all those who have any complaint to make shall, without delay, receive justice and satisfaction at their hands. On the same day our bailiffs shall also, on our part, receive satisfaction and justice. On the same day, further, there shall be inserted in a book the particulars of forfeitures which may from time to time accrue to us.

"3. We will and order, moreover, that our beloved mother, the queen, Adéle, and our dear and trusty uncle, William, archbishop of Reims, fix every four months, at Paris, a day in which they will hear the complaints and demands of the subjects of our kingdom, and do them right for the honour of God, and the interest of the realm.

"4. We order, further, that on the same day, men from each of our towns, and our bailiffs holding assizes, shall come before them and set forth in their presence the affairs of our land.

"5. If any of our bailiffs be found guilty of any other crime than murder, rape, homicide, or treason, and he cannot be convicted before the archbishop, the queen and the other judges, nominated to hear charges against our bailiffs, we will that letters be sent to us three times a year, to inform us of the bailiff who has offended, the nature of the crime, what he has received, and who the man is whose money, presents, or services have made him sacrifice our rights or those of our people.

"6. Our bailiffs shall make us the same reports concerning our provosts.

"7. The queen and archbishop cannot deprive our bailiffs of their charges, except for the crime of murder, rape, homicide, or treason, nor can the bailiffs deprive the provosts

except for the same offences. For all other cases we reserve it to ourselves, with the counsel of God, to take such vengeance upon the wrongdoers, when we shall know the truth of the matter, as shall serve for a lesson to others.

"8. The queen and the archbishop shall report to us thrice a year the affairs and position of the kingdom.

"9. If an episcopal see or an abbey become vacant, we desire that the canons of the vacant church or the brethren of the vacant monastery come before the queen and the archbishop, as they would have come before ourselves, to claim the right of free election; and we will that this right be accorded them without hesitation. We advise all such chapters and monks to elect as their pastor one who will please God, and do good service to the kingdom. The queen and the archbishop will retain in their own hands the revenues until the successor has been consecrated and blessed, after which they shall transfer it to him without hesitation.

"10. We moreover desire that if a prebend or an ecclesiastical benefice becomes vacant, and the revenue thereof is placed in our hands, the queen and the archbishop take care to confer it by the counsel of brother Bernard upon men of honour and distinction, the best and most honourable they can discover, reserving such particular donations as we have made to individuals by our letters patent.

"11. We forbid all prelates of churches to give tax or impost so long as we shall be employed in the service of God. And if God our Lord should dispose of us, and we should happen to die, we expressly forbid all the men of our land, clerks or laymen, to give tax or impost until our son (whom God deign to preserve whole and well for his service,) have attained the age when, with the grace of the Holy Spirit, he may duly govern our kingdom.

"12. But if any one should make war upon our son, and his revenues do not suffice to sustain it, then let all our subjects assist him with body and goods, and let the churches give him the same succour that they are wont to give us.

"13. Moreover, we forbid all provosts and bailiffs to seize a man or his goods when he shall offer good bail for his appearance in our court, except in cases of homicide, murder, rape, or treason.

"14. We desire that all our revenues, services, and rents

be brought to Paris, at three particular periods of the year: 1, at the Saint Remy; 2, at the Purification of the Holy Virgin; 3, at the Ascension; and delivered to our under-named citizens and to the vice-marshal. If either of these die, Guilliaume de Garland is to name a successor.

"15. Adam, our clerk, shall be present at the reception of our revenues, and register the particulars. Each of the persons named shall have a key of all the coffers in which our revenues shall be deposited in the Temple. The Temple shall have one also. They shall send to us, of this revenue, the amount, which from time to time we shall indicate in our letters.

"16. . . . . .

"17. . . . . .

"18. We also order the queen and the archbishop to retain in their own hands, until our return from the service of God, all the honours which we are entitled to dispose of when they become vacant—those, at least, that they may retain decently; such as our abbeys, deaneries, and other dignities. Those which they may not retain they shall bestow according to God, and after the counsel of brother G——, and always to the honour of God and the welfare of the kingdom. But should we die in our pilgrimage, our will is, that all ecclesiastical honours and dignities be conferred upon the most worthy."

I omit some other articles, and I have not time to enter into any detailed commentary upon those which I have placed before you; but they exhibit an intention of regular government, some ideas of administration, some notions of order and liberty. It is evident from this single document that royalty made, under Philip, great progress, not only in the amount of territory which it swayed, but also in the efficacy and regularity of its action.

He in like manner took great pains to draw a distinction between, to separate, royalty from all the feudal powers. Before his time, this distinction was, as you have seen, already laid down and recognised; royalty was a special power, *sui generis*, completely out of the circle of feudalism. Philip Augustus applied his efforts to render the distinction more clear, more complete, to remove more and more from royalty every vestige of a feudal character, and to give it greater

elevation and effect in its own character. At the same time that he sedulously availed himself of his suzerainty as a means of rallying his vassals around him, he lost no opportunity of placing the king apart, of elevating him above the suzerain. To give proofs of this: the king of France, holding, as you are aware, fiefs of other persons, was in this respect their vassal, and consequently owed them homage. Philip Augustus laid down the principle that the king could not, nor ought to do homage to any one. I find, in Brussel, the following royal ordinance:—

"Philip, &c. It becomes the royal dignity to recompense by benefits those who are devoted to it, in order that our recompence, worthily corresponding with their merits, may, by the example, induce others to imitate them.

"Let all, therefore, present and to come, know that Philip, count of Flanders, having resigned to us the town and country of Amiens, we have clearly proved the fidelity and devotion towards us of the church of Amiens; for not only has it shown in this affair infinite devotion, but the dependence of the land, and of the said country belonging to this church, and homage, therefore, being paid to it, this church has benignantly consented and agreed that we should hold its fief without doing homage to it therefore, *for we ought not, and cannot do homage to any one.*

"Wherefore, in consideration of this devotion, we discharge it from all liability to entertain us or our officers, and enjoin it to remain tranquil on this head, so long as we and our successors, kings of France, shall hold the country and lands of Amiens. If one day this land should be held by any one who may do homage to the church of Amiens, he shall do homage to the bishop for the said fief; and then the bishop, as the bishops of Amiens have been wont to do of old time, shall perform the rites of hospitality due to us and our successors, kings of France, and our officers."[1]

There are several other documents which exhibit the application of the same principle.

Philip did not limit his activity to the extension of his power, or to the direct and personal interests of royalty. Although we cannot distinguish in him any regular moral intention, any

[1] Brussel, *Usage des Fiefs*, t. i. p. 152.

strong purpose of justice, or of the social welfare of men, he had a straightforward active mind, ever full of a desire for order and progress; and he effected many things in promotion of what we should call the general civilization of the kingdom. He had the streets of Paris paved; he extended and heightened the walls; he constructed aqueducts, hospitals, churches, market-places; he occupied himself earnestly with improving the material condition of his subjects. Nor did he neglect their moral development. The University of Paris owed to him its chief privileges, and received even excessive protection. To him, also, we are indebted for the institution of the royal archives. It had before his time been the usual custom of the kings to carry their archives—acts, titles, &c. of the crown—with them wherever they went. In 1194, in a Norman ambuscade near Vendôme, Philip lost a number of important securities which he was in the habit of then carrying with him. He at once resolved to discontinue the practice, and founded an establishment in which, for the future, all government documents were deposited. To these facts, I might add many others of the same description; but time presses. Let me, therefore, at once state the general fact, in which all the rest result. Of the Capetian kings, Philip Augustus was the first who communicated to French royalty that character of intelligent and active good-will towards the amelioration of the social state, and the progress of national civilization, which for so long a period constituted its strength and popularity. All our history evidences this fact, which received its final and most glorious development in the reign of Louis XIV. It is traceable back to Philip Augustus. Before his time, royalty had been neither strong enough nor high minded enough to exercise such an influence in favour of the civilization of the country; he gave it that direction, and enabled it to advance therein.

The effects of this new character of royal power upon men's minds were speedily manifested. Open the monuments of that period, the *Vie de Philippe Auguste*, by Rigord, that of Guillaume le Breton, the poem *La Philippide*, by the same author, the minor poem of Nicholas de Bray on the sieges of Rochelle and Avignon by Louis VIII., and you will at once see royalty becoming national, occupying the thought of the people. You will meet with an enthusiasm, often ridi-

culous in form, and prodigiously exaggerated, but genuine at bottom, the ebullition of a sincere gratitude for the influence exercised by that royalty, and for the progress which it enabled society to make. I will quote but two passages, but these will leave no doubt in your mind on this subject. The first, which I borrow from Guillaume le Breton, describes the public rejoicings after the battle of Bovines. Many a battle had before this been fought by kings of France, many a great victory achieved; but none of them had been as this was, a national event, none had in this manner excited the entire population:—

"Who can imagine, or narrate, or trace with the pen upon parchment or tablets, the joyful plaudits, the hymns of triumph, the innumerable dances of the people, the soft chants of the priests, the harmonious sounds of the warlike instruments in the churches, the solemn ornamenting of the churches both within and without, the streets, the houses, the roads from all the castles and towns festooned with curtains and tapestries of silk, covered with flowers, herbs, and green boughs; the inhabitants of every condition, of each sex and every age, hastening from all parts to see so great a triumph; the peasants and reapers interrupting their labours, suspending at their necks their sickles, their mattocks, and their nets, (for it was then the time of the harvest,) and hastening in crowds to see in irons this Ferrand, whose arms they had but lately feared. . . . The whole road was like this until they arrived at Paris. The inhabitants of Paris, and especially the multitude of the scholars, the clergy, and the people, going before the king, singing hymns and canticles, testified by their gestures the joy which animated their minds; and it did not suffice for them to give themselves up to mirth during the day, they continued their pleasure during the night, and even for seven consecutive nights, amidst numerous torches, so that the night appeared as brilliant as the day; the scholars, especially, ceased not to make sumptuous feasts, continually singing and dancing."[1]

Now, see how Nicholas de Bray describes the entrance of Louis VIII. into Paris, and the reception which the town gave him after his consecration at Reims:—

[1] Guillaume le Breton, *Vie de Philipe-Auguste*, in my Collection, t. xi. p. 361. See also his Philippide, twelfth canto.

"Then shone before the eyes of the prince the venerable town, in which were exposed the riches amassed in former times by the provident solicitude of his ancestors. The splendour of the precious stones rivalled that of the orb of Phœbus; the light marvelled at being outshone by a new light; the sun thought that another sun illuminated the earth, and complained to see his accustomed splendour eclipsed. In the squares, cross-roads, and in the streets, one saw nothing but clothes all glittering with gold, and on all sides shone silk stuffs. Men laden with years, young people impatient at heart, men to whom age had imparted greater gravity, could not wait for their purple robes; men and women-servants scattered themselves through the town, happy to bear on their shoulders such rich weights, and thinking they owed no service duty to any one, while they amused themselves with seeing all the splendid costumes around them. Those who had not ornaments with which to clothe themselves on fêtes so solemn, paid for the loan of habits. In all the squares, and in every street, all gave themselves up, in emulation of one another, to each kind of public amusement. The rich did not banish the poor from the hall of their festivities; everybody spread themselves in all places, and eat and drank in common. The temples were ornamented with garlands, the altars surrounded with precious stones: all aromatics united in the perfume of the incense which arose in clouds. In the streets and large cross-ways, joyous youths, and young timid girls formed bodies of dancers; singers appeared, making men marvel with their joyous songs; mimics ran about, drawing from the viol sounds full of sweetness; instruments re-echoed on all sides; here the cithern, the timbrel, the psaltery, guitars, making an agreeable symphony; all gave their voices, and sang friendly songs for the king. Then also were suspended processes, labours, and the studies of logicians. Aristotle speaks no longer; Plato presents no more problems, no longer seeks enigmas to resolve: the public rejoicings have caused all kinds of work to cease. The road by which the king advanced is agreeably strewn with flowers. He at last joyously enters his palace, and places himself in his royal seat, surrounded by his great men."[1]

[1] Nicolas de Bray, in my Collection, t. xi.

These fragments, more than many facts, paint truly what royalty was at this epoch, what influence it exercised over minds, and how, in the common opinion, its power was connected with the improvement of public activity, the progress of civilization. This is one of the great results of the reign of Philip Augustus. Before him, under Louis le Gros, and Louis le Jeune, the general principles, the moral ideas upon which royalty rests, had gained vigour; but the fact did answer to the right; the royal power was very limited in its compass, and very weak in its action.

Philip Augustus conquered, gave it a large territory, and the strength to rule it; and, by that natural law which wills that ideas metamorphose themselves into facts, and facts into ideas, the material progress of royalty, the result of the moral ascendancy which it already possessed, gave to that ascendancy more extension and energy. What use did Saint Louis make of it? What became of royalty in his hands? This will be the subject of the next lecture.

FOURTEENTH LECTURE.

Royalty under the reign of Saint Louis—Influence of his personal character—His conduct with regard to the territorial extent of the kingdom—His acquisitions—His conduct towards the feudal society—His respect for the rights of the seigneurs—True character of his labours against feudalism—Extension of the judicial power of the king—Progress of legislation and of parliament—Extension of the legislative power of the king—Progress of the independence of royalty in ecclesiastical affairs—Administration of Louis within his domains—Summary.

We have seen royalty again spring up under Louis le Gros, the kingdom form itself under Philip Augustus. What did Louis with royalty and the kingdom? This is the question with which we shall now occupy ourselves.

Saint Louis began by doubting the legitimacy of what his predecessors had done. In order to understand properly the political history of his reign, it is necessary first to know the man. Rarely has the personal disposition of one man exercised so great an influence over the general course of things.

Saint Louis was above all a conscientious man, a man who before acting weighed the question to himself of the moral good or evil, the question as to whether what he was about to do was good or evil in itself, independently of all utility, of all consequences. Such men are rarely seen and still more rarely remain upon the throne. Truly speaking, there are hardly more than two examples in history; one in antiquity, the other in modern times: Marcus Aurelius and Saint Louis. These are, perhaps, the only two princes, who, on every occasion, have formed the first rule of their conduct from their moral creeds—Marcus Aurelius, a stoic, Saint Louis, a Christian.

Whosoever loses sight of this fundamental fact, will form a false idea of the events accomplished under the reign of St. Louis, and of the direction which he desired to give to royalty. The man alone explains the progress of the institution.

Independently of the strictness of his conscience, Saint Louis was a man of great activity, of an activity not only warlike, chivalric, but political, intellectual even. He thought of many things, was strongly preoccupied with the state of his country, with the condition of men, required regularity, reformation; he concerned himself about evil wherever he saw it, and everywhere wished to give a remedy. The need of acting, and of acting well, equally possessed him. What more is necessary to ensure the influence of a prince, and to give to him a large share in the most general results?

Swayed by his moral exactitude, he began, as I have just said, by doubting the legitimacy of what his predecessors had done, especially the legitimacy of the conquests of Philip Augustus. Those provinces, formerly the property of the king of England, and which Philip Augustus had joined to his throne by way of confiscation, that confiscation, and the circumstances which attended it; the continued claims of the English prince; all this weighed upon the conscience of Saint Louis. This is not a conclusion simply drawn from his conduct; the fact is formally attested by the contemporaneous chroniclers. I read in the *Annales* of the reign of Saint Louis, by Guillaume de Nangis:

"His conscience smote him for the land of Normandy, and for other lands which he held, which the king of France, his ancestor, had taken away, by the judgment of his peers, from king John of England, called Lackland, who was father of this Henry, king of England."

He essayed at peace with his whole power; so that, in 1259, after lengthened negociations, he concluded a treaty with the king of England, Henry III., by which he gave up to him, Limousin, Perigord, Quercy, Agenois, and that part of Saintonge lying between Charente and Aquitaine. Henry on his side renounced all pretensions to Normandy, Maine, Touraine, and Poitou, and did homage to Louis as duke of Aquitaine.[1]

[1] *Annales du Règne de Saint Louis*, by Guillaume de Nangis, p. 245, folio edition of 1761.

The conscience of Saint Louis was then tranquil, and he considered himself the legitimate possessor of the conquests which he kept; but everyone was not so particular.

"At which peace many of his council were angry, and said to him thus: 'Sire, we marvel much that you should give to the king of England so large a portion of the land which you and your predecessor have acquired from him and his predecessors, kings of England, by reason of their misdeeds. It seems to us that if you consider yourself not entitled to these territories, you render not enough to the king of England, unless you render to him all the land which you and your predecessor acquired from him; and if you consider that you have right to hold them at all, it seems to us that you do damage to your crown by restoring that which you have restored.' Whereunto the holy king thus replied: 'My lords, I know that the predecessors of the king of England justly lost these lands, and that which I give I do not give because I am bound to him or to his heirs to do so, but to create love between my children and his, who are cousins German; and it seems to me that that which I give him is well employed, since that he who was not my man has now become so.'"[1]

The reasons of Saint Louis did not convince every one. The provinces which thus came under the English rule, complained bitterly; and this anger lasted so long, that we read in a manuscript chronicle of the time of Charles VI., with regard to this treaty of 1259 between Louis IX. and Henry III.:

"At which peace the Perigordians and their neighbours were so indignant, that they never liked the king afterwards, and for that reason, even to the present day in the borders of Perigord, Quercy and other places, although Saint Louis is canonized by the church, they regard him not as a saint, and do not keep his festival as is done in other parts of France."[2]

Notwithstanding the disapprobation thus manifested both by politicians and by the people, Saint Louis adhered to his scruples and to his maxims. He had not deemed it just to retain, without due compensation to the parties, that which

[1] Joinville, *Hist. de Saint Louis*, p. 142, ed. of 1761.
[2] *Observations de C. Ménard sur Joinville*, edition of Du Cange, p. 371.

he did not regard as having been legitimately obtained; and neither by force nor fraud did he attempt any new acquisition. Instead of seeking to profit by the dissensions which arose within and around his states, he assiduously applied himself to allay them, and to prevent their resulting in ill consequences.

"He was," says Joinville, "ever laboriously intent upon making peace between his subjects, and more especially between the great men about, and the princes of the kingdom."[1]

And elsewhere:

"Touching the foreigners whose quarrels the king had appeased, some of his council said that he did ill not to allow them to continue their warfare; for were he to let them mutually impoverish one another, they would not be in so favourable a position for attacking him. Whereunto the king replied, that they said not well: 'for if the neighbouring princes see that I allow them to make war on one another without remonstrance, they may take counsel together, and say, it is the king's maliciousness that induces him to let us go on fighting; it would thus happen that by the hatred they would have for me, they would come and attack me, whereby I might very well be lost, not to speak of the hatred of God, who says: 'blessed are the peacemakers.'"[2]

Well, notwithstanding this reserve, notwithstanding this scrupulous antipathy to conquest, properly so called, Saint Louis is one of those princes who most efficaciously laboured to extend the kingdom of France. While he ever refused to avail himself of violence and fraud, he was vigilantly attentive never to lose an opportunity of concluding advantageous treaties, and of acquiring by fair means additional territory. He thus annexed to the kingdom, either through his mother, the queen Blanche, or by his own means, and sometimes for a pecuniary consideration, sometimes by disherison, sometimes by other measures:

1. In 1229, the domains of the count de Toulouse on the right bank of the Rhone, namely—the duchy of Narbonne, the counties of Beziers, Agde, Maguelone, Nîmes, Uzes, and Viviers; a part of the country of Toulouse; half of the country of Alby, the viscounty of Gevaudan, and the claims

[1] Joinville, p. 143. [2] Ibid., 144.

of the count of Toulouse, over the ancient counties of Velay, Gevaudan, and Lodeve.

2. In 1234, the fiefs and jurisdiction of the counties of Chartres, Blois et Sancerre and the viscounty of Chateaudun.

3. In 1239, the county of Macon;

4. In 1257, the county of Perche;

5. In 1262, the counties of Arles, Forcalquier, Foix, and Cahors; and at various periods, several towns with their districts, which would take up too much time to detail.

This you perceive was, in a territorial point of view, not a fruitless reign; and notwithstanding the entire difference of the means employed, the work of Philip Augustus found in Saint Louis a skilful and successful continuator.

What political changes were introduced by his influence into the kingdom thus extended? What did he for royalty?

I will say nothing to you about the state of weakness into which it seemed fallen at the period of his accession. A minority was for the powerful vassals an excellent occasion of self-aggrandizement, for asserting their independence, and for escaping awhile that supremacy of the crown which Philip Augustus had begun to make them sensible of. Such a movement as this appears throughout the thirteenth century, at the opening of each new reign. The ability of queen Blanche, and some fortunate circumstances, prevented Saint Louis from experiencing any very enduring consequences from this movement in his instance; and when he himself began to reign, he found royalty once more in very nearly the same position in which Philip Augustus had left it.

Thoroughly to appreciate what it became in the hands of Saint Louis, it is necessary to consider, on the one hand, his relations with the feudal society, his conduct towards the possessors of fiefs, great and small, with whom he had to do; on the other, his administration of the interior of his domains, his conduct towards his subjects peculiarly so called.

The relations of Saint Louis with feudalism have been presented under two very different aspects; there have been attributed to him two wholly contradictory designs. According to some writers, far from labouring as his predecessors had done to abolish feudalism, and to usurp, for the benefit of the crown, the rights of the seigneurs, he fully accepted

the feudal society, its principles and its rights, and applied all his efforts to regulate it, to constitute it, to give it a fixed form, a legal existence. The other class of writers will have it that Saint Louis had no other thought, during the whole course of his reign, but that of destroying feudalism, that he incessantly struggled against it, and systematically laboured to invade the right of the possessors of fiefs, and to raise royalty upon their ruins, sole and absolute.

And accordingly as the writers have been friends or enemies of feudalism, they have admired and celebrated Saint Louis for the one or for the other of these his alleged purposes.

In our opinion, neither purpose can be really attributed to him: both are equally repugnant to the facts, carefully considered and presented in their real aspect.

That Saint Louis, more so than any other king of France, spontaneously respected the rights of the possessors of fiefs, and regulated his conduct according to the maxims generally adopted by the vassals around him, cannot be doubted. I have already had occasion to show you the right of resistance, even to the extent of making war upon the king himself, formally recognised and sanctioned in his *Etablissemens.* It were difficult to render more marked homage to the principles of feudal society; and this homage frequently recurs in the monuments of Saint Louis. He had evidently an exalted idea of the reciprocal rights and duties of vassals and suzerains, and admitted that, on a variety of occasions, they were entitled to prevail over the pretensions of the king.

And it was not merely in theory that he recognised these rights; in practice, also, he scrupulously respected them, even when he was the sufferer by their exercise. In 1242, he took by storm the castle of Fontenay, afterwards called L'Abattu, in Poitou, belonging to the count de la Marche, and which had been for a long time defended by a bastard of the count's, "forty-one knights, eighty sergeants, and a body of common soldiers under them." He was advised to put all the prisoners to death, as a punishment for their obstinacy, and the losses which they had occasioned him, but he refused. "No," said he, "the leader could not be to blame,

for that he acted in obedience to his father, nor the others in serving their seigneur." [1]

There is in these few words more than one impulse of generosity; and there is, what is still rarer, the formal recognition of the right of his enemies. In refusing to punish them, Saint Louis believed he was doing, not an act of clemency, but an act of justice.

The right of resistance was not the only right which Saint Louis recognised in his barons, and carefully respected. It is only necessary to run your eye over the ordinances of his which remain, to be convinced that he almost always consulted them whenever their domains were at all in question, and that he frequently summoned them to take part in the measures of his government.

Thus, the ordinance of 1228, respecting the heretics of Languedoc, is rendered *with the advice of our great men and prudhommes.*[2]

That of 1230, concerning the Jews, *with the common counsel of our barons.*[3]

That of 1246, concerning levies and redemptions in Anjou and Maine, runs thus:

"We make known that some people having doubts as to the custom in force with respect to bail and redemption in the counties of Anjou and Maine, we, wishing to know the truth, and make sure that which was doubtful, having called around us, at Orleans, the barons and great men of the said counties, and having held attentive counsel with them, have learned, by their common counsel, what is the said custom, namely, &c." [4]

We read in the preamble of the *Etablissemens:*

"And these establishments were made by the great council of wise men, and good priests." [5]

The following fact is not of precisely the same description; for it is no longer barons, the possessors of fiefs, but simple burghers, who are concerned. An ordinance of 1262, concerning money, ends with the following words:

"This ordinance was made at Chartres, in the year 1262,

[1] Matthew Paris, p. 521. Guillaume de Nangis, p. 183.
[2] *Recueil des Ordonnances*, t. i. p. 51. [3] Ibid., p. 53.
[4] Ibid., p. 58. [5] Ibid., p. 107.

about the middle of Lent; and to make it there were present the undermentioned freemen: Clement of Visiliac (Vezelai?) John, called le Roide, John Hermann, citizen of Paris; Nicholas du Châtel, Garin Fernet, Jacques Fris, burghers of Provence; John de Lorry, Stephen Morin, citizens of Orleans; Evrard Maleri, John Pavergin, citizens of Sens; Robaille du Cloitre, Pierre des Monceaux, citizens of Laon."[1]

Is not this a remarkable example of the care taken by Saint Louis, when he made use of the legislative power, to seek the advice and the adhesion of all those from whom he might expect good counsel, or who had any direct interest in the measures in question.

Here is another proof of the respect of Saint Louis for the feudal principles and rights. In 1248, says Joinville:

" The king cited his barons to Paris, and made them take oath that his children should receive faith and loyalty, if anything happened to him on the way. He cited me; but I would not make oath, for I was not his man."[2]

And the king saw no harm in one who was not his man refusing to take the oath, and Joinville was not the less his friend.

Can it be said that the prince who observes such conduct, and such language, had systematically undertaken the destruction of the feudal society, and neglected no occasion of abolishing or invading the rights of the possessors of fiefs, for the benefit of royalty?

Or is it any more true that he accepted feudalism entire, and was not occupied in giving it that regularity, that general and legal organization which it had always wanted? I do not think so.

It will be recollected that in examining feudal society in itself, and particularly in its judicial organization, we found that it had never been able to arrive at true institutions, that no regular, peaceful administration of justice had been established in it; and that, sometimes under the form of private war, sometimes under that of the judicial duel, recourse to force was the true jurisdiction of feudal society.

[1] *Recueil des Ordonnances*, p. 94.
[2] Joinville, p. 25, edit. of 1761.

To him who penetrates somewhat deeper into its nature, the private war and judicial combat were not, as you have seen, simple facts inherent in the brutality of manners; they were the natural means of ending differences, the only means in accordance with the predominant principles and the social state.

Private wars and judicial combats were therefore the proper institutions, the two essential bases of feudalism. Now, these are precisely the two facts which Saint Louis attacked the most energetically. We have two ordinances of his upon this subject, which I shall quote entire; because they are perhaps the two most important legislative acts of his reign, and clearly show its tendency.

The first institutes that truce which was called *Quarantaine du Roi.* We find some trace of it before Saint Louis: we read in the *Coutume de Beauvaisis:*

"A very ill custom of warfare used to be prevalent in the kingdom of France; when any person had killed, or maimed, or severely beaten another, he to whom the injury had been done, or his friends, if he were dead, looked to revenge himself on the relations of the offender, though they lived at however great a distance, and knew nothing whatever of the matter; and thereupon they went in search of them, by night or day, and as soon as they had found one of them, killed him, or maimed him, or beat him, without any warning or putting him on his guard, though he knew nothing of the misdeed that the person of his lineage had committed. In consequence of the great evils which rose from this custom, the good king Philip made an ordinance that when any wrong had been done, they who were present at the wrong doing should hold themselves on their guard, without further notice, and that there should be no truce for them until so settled by justice, or by the intervention of friends; but all the kinsmen of both sides who were not present at the fact have by this regulation of the king forty days' truce, after which forty days they are at war."[1]

That is to say, that no one can attack the relations of one of the parties, nor commit any depredation in their lands, nor do them any harm, for forty days from the breaking

[1] Beaumanoir, *Coutume de Beauvaisis*, c. 60, p. 306.

out of the quarrel, and until they may be looked upon as having knowledge of it, and are put upon their guard.

Although it has often been disputed, it is, in my opinion, Philip Augustus whom Beaumanoir means by these words, *the good king Philip*, and consequently it is to him that the first invention of the "quarantaine of the king" should be attributed. But it succeeded ill, and Saint Louis felt the need of again prescribing it in much more formal terms. His ordinance to this effect is given entire in an ordinance of king John, given the 9th of April, 1353, of which the following is the text:—

"At this same time, by ordinances of happy memory, St. Louis of France, our royal predecessor, during his own life-time, established and ordered that whenever any discords, quarrels, or skirmish took place between subjects of this kingdom, in ambush or otherwise, and death, mutilation, or other injury befel in consequence, as often happened, the relations of those engaged in the said skirmish should remain at peace for forty continuous days from the said skirmish, except only those persons who actually took part in it; which latter persons, for that their misdeed might be taken and arrested, as well during the said forty days as after, and might be confined in the prisons of the justiciaries in whose jurisdiction the offence was committed, until justice were done in their case, according to the law; and if within the term of forty days aforesaid, any of the kinsmen of either of the principal parties engaged, should assail or maltreat any of the kinsmen of the other party, to take vengeance upon them, except the principal malefactors aforesaid, who might be pursued at once, the persons so offending, as infringers of the royal statutes and ordinances, shall be punished by the judge in whose jurisdiction they shall commit the said offence, or by the judge of the place where they shall be taken; which ordinances, in various parts of our kingdom, and not without reason, are still firmly observed for the public good, the safety of the country, and the protection of the inhabitants of our said kingdom."[1]

Such a truce was doubtless a strong barrier against and a great restriction to private wars. Saint Louis made it his constant business to secure its observance.

[1] *Recueil des Ordonnances*, t. i. p. 56—58.

He at the same time attacked judicial duels; but here his task was far greater. The judicial duel was, even still more than private warfare, a regular institution, deeply and widely rooted in feudal society. The possessors of fiefs, great and small, adhered tenaciously to it, as to a custom, a right. The attempt to interdict it all at once throughout the kingdom, was impracticable; the great barons would instantly have denied the right of the king thus to change the institutions and practices of their domains. Accordingly, Saint Louis contented himself with formally suppressing the judicial duel in the royal domains. His ordinance on the subject ran thus:

"We prohibit all private battles throughout our domains; whatever right of claim, and answer thereto, whatever peaceful modes of settling disputes have been in force hitherto, we fully continue; but battles we forbid; instead of them we enjoin proof by witnesses, and further, whatever other just and peaceful proofs have been heretofore admitted in courts secular.

"We command that if any one seek to accuse another of murder, he be heard. When he demand to make his charge, the officer shall say to him: 'If you wish to enter an accusation of murder, you shall be heard, but with this understanding, that if you fail in your proof, you subject yourself to the penalty your adversary would endure were he found guilty. And be sure you shall not have trial by battle; you must make good your charge by witnesses, as best you may, and shall have all just aid in doing so; no proof heretofore received in courts secular shall be refused you, except the proof by battle; and understand that your adversary shall have full liberty to disprove your witnesses, if he can.'

"And if he who sought to make accusation, having heard the officer say thus, does not wish to pursue his plaint, he shall be allowed to withdraw it without damage. If, on the other hand, he prosecute it, he shall do so after the custom of the country, and after such custom in like manner have justice administered unto him. And when the case comes to that point at which battle would have taken place, had proof by battle continued, that which would have been proved by battle shall be proved by witnesses; and the witnesses shall attend at the expense of him who requires them, if he is able to pay.

"And if the defendant has any reason to allege why the witnesses brought against him ought not to be heard, he shall be at liberty to state his reasons, and if they are found good and valid, the witnesses shall not be heard; if the reasons, controverted by the other party, be found inadequate, then the witnesses on both sides shall be heard, and judgment shall be given according to the evidence, after it has been read to the parties.

"And if it should happen that after the said reading the party against whom the witnesses have appeared should declare himself to have legitimate exception to what they have stated, they shall be examined again; and after this judgment shall be given. Such shall be the rule, in all disputes touching treason, rapine, arson, theft, and all crimes imperilling life or limb.

"In all the aforesaid cases, when any one is accused before any of our bailiffs, he shall inquire into the matter up to the point when proof is to be taken; and then he shall report the question to us, and leave it to us to hear the evidence; and send such witnesses as are fitting, and we will take counsel thereupon with those who are duly called upon to assist at the judgment.

"In disputes arising out of serfage, he who claims a man as his serf shall make his demand, and pursue it as heretofore up to the point of battle. Then, instead of battle, he shall prove his case by witnesses, or documents, or other good and legal proofs, such as have been accustomed to be admitted in courts secular. All we prohibit is the trial by battle; that which used to be tried by battle, shall now be made matter of testimony. And if the plaintiff fails in his proof, he shall be fined at the discretion of the seigneur.

"If any one charge his seigneur with *deffaute de droit*, the default must be proved, not by battle, but by witnesses. If it be not proved, the plaintiff shall pay a fine, according to the custom of the country; if it be proved, the seigneur shall do him right, and pay him or restore to him his due.

"In cases of disputed serfage, and when a man appeals against his seigneur, for *deffaute de droit*, if, after the evidence has been read, he who is proceeded against claims to say anything excepting to the witnesses, he shall be heard.

"Whoever is found guilty of perjury in any of these cases, shall be punished by the hand of justice.

"And these battles we prohibit in our domains for all time to come, retaining all our other customs of the said domains, heretofore in force, but so that we may prohibit or discontinue any of these should we think fit to do so."[1]

The solicitude with which the king repeats, at the close of the ordinance, the intimation given in the outset, that it *is in his own domains* that he suppresses the trial by battle, is a clear proof that more extended pretensions on his part would not have been admitted.

But that which Saint Louis could not absolutely order, he endeavoured to effect by his example and personal influence. He negotiated with his grand vassals, and induced several of them to abolish the judicial duel in their domains. This practice, so deeply rooted in feudal manners, still continued, it is true, to subsist for a long time after this, and we come upon more than trace of it at later periods, but it doubtless received a powerful shock from the ordinance of Saint Louis.

Thus, while respecting the rights of the possessors of fiefs, while adopting many of the maxims of feudal society, Saint Louis assailed its two fundamental supports, its most characteristic institutions. Not that he had conceived any general and systematic project against feudalism; but the judicial duel and private wars were not, in his view, consistent with a regular and Christian society; they were manifestly relics of the ancient barbarism, of that state of individual independence and warfare which has been so habitually designated the state of nature: now, the reason and the virtue of Saint Louis both revolted against this condition of things; and in combating it, his sole idea was the suppression of disorder, the institution of peace for war, of justice for brute force, of society, in a word, for barbarism.

But this fact alone accomplished a change highly to the advantage of the crown. Throughout all the king's domains, the vassals, the burghers, the free or demi-free men, instead of having recourse, as theretofore, to the wager of battle for the decision of their disputes, were now obliged to refer their quarrels to the king's judges, his bailiffs, provosts, and so forth. Royal jurisdiction thus took the place of individual force; its officers decided by their sentence questions which

[1] *Recueil des Ordonnances*, i. 86.

before were settled by the champions on either side. Had this been the only point achieved, it would assuredly have been an immense step taken in the judicial power of royalty.

But it was not the only point achieved: Saint Louis effected many others, which I shall here merely indicate to you. When we come specially to examine the great legislative monuments of the feudal epoch, among others the *etablissemens* of this monarch, we shall see what changes were operated in the various jurisdictions, and how those powers which had appertained to the feudal courts were progressively transferred to the courts of the king. Two facts, the introduction, or rather the considerable extension of the *cas royaume* and of the *appels*, were the decisive instrument of this revolution. By the operation of the *cas royaux*—that is to say, the cases in which the king alone had the right of judgment, his officers, parliaments, or bailiffs, restricted the feudal courts within narrower and narrower limits. By the operation of the appeals, which greatly aided the confusion of sovereignty and royalty, they made these courts subordinate to the royal power. Thus feudal jurisdiction witnessed the decline at once: 1, of its true and natural institutions, judicial combat, and private warfare; 2, of its extent; 3, of its independence; and it soon found itself under the necessity of recognising in the judicial power of the crown, a conqueror and a master.

Much the same thing took place with reference to legislative power. We read in the chronicle of Beauvaisis:

"Kings are supreme sovereigns, and have of right the general guardianship of the kingdom; wherefore they may make such ordinances as they think fit for the common advantage; and what they establish must be observed."[1]

Had this maxim been received as a general and absolute rule, it must at once have destroyed the legislative independence of the proprietors of fiefs, for it was nothing less than the clear and unqualified recognition of the general legislative power of the king, and of the king alone. But practically, no such sovereignty was attributed to him; and, as you have just seen, Saint Louis, for the most part, made it a point in legislation to summon to his counsels the

[1] Coutume de Beauvaisis, c. 34, p. 181.

barons, or others of his subjects, who were directly interested in the matter. Yet it is quite certain that the legislative sovereignty of the king was gaining ground at this time. To be convinced of this, we need only glance at the ordinances rendered by Saint Louis in the course of his reign, from 1226 to 1270. Of these the Louvre collection contains or mentions fifty, which I have thus classified:

20 on subjects of private interest, local privileges, parish matters, &c.

4 on the Jews, and their position in the kingdom.

24 of political feudal penal legislation, viz.:

1. In 1235, an ordinance touching the relief or redemption of fiefs.
2. In 1245, an ordinance touching private wars, called "la quarantaine du roi."
3. In 1246, an ordinance touching the leasing and redemption of fiefs in Anjou and Maine.
4. In 1248, letters, whereby the king, on his departure for the crusades, confers the regency on the queen mother.
5. In 1250, letters, touching the regulation of Languedoc.
6. In 1254, ordinance touching the reformation of manners both in Languedoc and in Languedoil.
7. In 1254, further ordinance on the same subject.
8. In 1256, ordinance for the general improvement of the kingdom, and on the administration of justice.
9. In 1256, ordinance touching the mayoralties throughout the kingdom.
10. In 1256, ordinance touching the election of mayors in the good towns of Normandy.
11. In 1257, ordinance touching private wars, and the *quarantaine du roi.*
12. In 1259, letters containing regulations for Languedoc.
13. In 1260, ordinance on the judicial duel.
14. In 1261, ordinance respecting the prosecution of debtors in the royal domains.
15. In 1262, ordinance on the coinage.

16. In 1263, ordinance on the retreat at Pont Audemer.
17. In 1265, ordinance on the circulation of English money.
18. In 1265, on the coinage.
19. In 1268, ordinance on ecclesiastical election, &c.
20. In 1268, ordinance against blasphemers.
21. In 1269, ordinance respecting tithes.
22. In 1269, letters to the two regents of the kingdom during his last crusade.
23. In 1269, ordinance respecting tithes.
24. In 1269, ordinance against blasphemers.

2 miscellaneous.

In this table I have not included either the *Establissemens* of Saint Louis, or the *Establissemens des Metiers de Paris*, his two greatest legislative labours; and yet, in the simple series of legislative acts I have enumerated, who would not recognise a character of sovereignty which has not been exhibited in the preceding reigns? The fact alone that the acts relating to matters of general interest are far more numerous there than those which have reference to local or private interests, this fact alone, I say, clearly shows the immense progress of the legislative power of royalty.

The same progress becomes visible under the reign of Saint Louis, in what concerns ecclesiastical affairs. I shall at present merely speak of it in passing. When we treat of the history of religious society during the feudal period, we shall see what then were its relations with the civil authority, and how they were successively modified. It is only necessary to call to mind that famous ordinance of Saint Louis, called *la Pragmatique,* by which he so positively affirmed and maintained the independence and the privileges both of his crown and of the national church, in their relation with papacy. It has been printed so often that I shall dispense with quoting it here. And it must not be supposed that this ordinance was an isolated act, an insignificant protest on the part of Saint Louis. In the habitual conduct of affairs, this, the most pious of kings, the only one of his race who obtained the honours of canonization, acted effectively and constantly according to the principles laid down in the *Pragmatique,* and allowed no ecclesiastical influence to

invade, or even to direct his government. The following fact, related by Joinville, will prevent all doubt upon the subject:

"Archbishop Guy, of Auxerre, spoke for all the prelates of the kingdom of France:—"Sire, the archbishop and bishops here present, have charged me say to you that Christianity becomes deteriorated and falls away in your hands; and will fall away still more, unless you take counsel so that no one may have further cause to fear. We require you, sire, to command your bailiffs and sergeants to compel such as have been excommunicated a year and a day, to give satisfaction to the church;" and the king answered them that he would readily command his bailiffs and sergeants to take measures against the excommunicated as required, on condition of his being first made acquainted with the particulars of the case, so that he might know whether the sentence were a just one. To which, after consulting with one another, they replied, that they considered they were not called upon to give him cognisance of matters connected with religion. Thereupon the king replied, that if they would not give him cognisance of these matters, neither would he command his sergeants to compel the excommunicated, right or wrong, to submit themselves to the church; "for if I were to do so I should act against God and against justice; and I will give you an example of this. The bishop of Brittany held the count of Brittany for seven years under excommunication, and yet after all he was absolved by the court of Rome; so that had I constrained him to submit himself to the bishops in the first year, I should have done wrong."[1]

Such was the government of Saint Louis in its general features; and such under his reign was the progress of royalty, both in its relations with feudalism and with the church. Let us now follow him into his domains: there he was free, and administered at his own will.

Two great ordinances of his for the reform of that internal administration, have reached us. One is of the month of December, 1254, in thirty-eight articles; the other of 1256, which contains twenty-six. They are nearly alike, but the second is more general and more definite. I will

[1] Joinville, p. 140.

analyse it article by article; its character deserves to be thoroughly known.

In articles 1—8, the king imposes on his seneschals, bailiffs, provosts, magistrates, viscounts, mayors, foresters, sergeants, and other officers, high and subalterns, an oath to make or receive no present, to administer justice without regard to persons; and then he enumerates a number of abuses and frauds which have introduced themselves into the administration, and which he desires to prevent. The eighth article runs thus:—

"And in order that this oath may be the more firmly adhered to, we will that it be taken in full court, before all clerks and laymen; so that, having sworn it before us, he may hesitate to incur the crime of perjury, not only for fear of God and of us, but for shame of the people."

This appeal to publicity is a remarkable circumstance, and indicates a firm design to ensure the efficacy of regulations, often in themselves illusive.

Articles 9—12 interdict public games, evil places, and blasphemies: regulate the police of taverns and of all places where the inferior population meet.

Articles 13—15 forbid all superior officers of the king, bailiffs, seneschals, or others, to purchase moveables, to give their children in marriage, to procure them benefices, or to make them enter monasteries, in places where they exercise their office.

Articles 16—24 are directed against a number of abuses detailed, such as the sale of offices without the permission of the king, too great a number of sergeants, excessive fines, the intercepting the free transport of grain, &c.

Article 25 runs thus:—

"We will that all our seneschals, bailiffs, and other officers, after they have quitted their offices, remain for forty days' space in the districts which they have administered, either in person or by deputy, so that they may appear before the new seneschals, bailiffs, or other official commissioners, to answer any who may have complaint against them."

Is not this a real responsibility imposed upon the administrators? a responsibility efficacious in itself, and perhaps the only one which was then practicable.

Lastly, by the 26th article, the king reserves to himself the right of amending his ordinance, according as he shall learn the state of the people and the conduct of his officers.[1]

In order to learn this he took a measure which has been too little remarked: he re-established the *missi dominici* of Charlemagne. We read in the *Vie de Saint Louis*, by the confessor of queen Marguerite his wife:

"The blessed king hearing many times that his bailiffs and provosts wronged the people of his land, either by iniquitous judgments, or by tyrannically depriving them of their goods, appointed certain commissioners from time to time, either minorite brothers and preachers, or secular priests, or occasionally knights, to inquire into the conduct of the various bailiffs and provosts and sergeants throughout the kingdom; and he gave the said commissioners power, whenever they found that goods had been wrongfully taken from any person by the said bailiffs or other officers, forthwith to restore the goods, and to dismiss the wrong-doing provosts or other officers."[2]

Indeed, in the history of Saint Louis, we find many inspections of this kind, and from which practical results accrued. A bailiff of Amiens, among others, in consequence of a similar inspection, was deprived of his office, and forced to give up all that he had taken from the people.

Upon the state and administration of the provostship of Paris in particular, Joinville has given us details which show that the reforming activity of Saint Louis was everywhere and truly efficacious: I will place these details before you.

"The provostry of Paris was at that time sold to the citizens of Paris or to any one who chose to purchase it; whence it happened that the persons who had bought it so supported their sons and nephews in their outrages, that the young men went on offending without fear, having full confidence in their relations and in their friends who stood by them. Whence the lower people came to be grievously oppressed, having no means of obtaining redress for the injuries of the rich, who by great gifts and presents gained over the provosts. . . . . By which great injuries and spoliation committed in that provostry, the common people

[1] *Recueil des Ordonnances*, t. i. p. 79—81.

[2] *Vie de Saint Louis*, by the confessor of queen Marguerite, p. 387, edit 1761.

were deterred from remaining in the king's land, and went to live in other provostries and lordships, whereby the king's land became so depopulated of the more creditable common people, that when he held his pleas there were not more than ten or twelve persons who attended them. All this while Paris and its suburbs were full of malefactors and thieves, who daily and nightly scoured the country around. The king, who was earnestly desirous that the common people should have full protection, diligently inquired into the truth, and thereupon commanded that the provostry of Paris should never again be sold, but be given to trusty and worthy persons who should receive good wages for the discharge of its duties; all the evil customs by which the people had been aggrieved he put down, and sent commissioners throughout the kingdom to do good and rigid justice, not sparing the rich man more than the poor. The first provost so appointed was Stephen Boileau, who so well executed his charge that no malefactor, robber, or murderer could remain in Paris without being hanged or thrown into prison; neither kinsman nor friends, nor gold nor silver, could save the ill-doer from punishment. The king so improved the condition of his land that the people came there for the sake of the inflexible justice which he administered. The population thus increased to such an extent that rents and redemptions and reliefs of lands and other property produced twice as much as before the king took the matter in hand.[1]

Stephen Boileau was the principal author of one of the great legislative works of Saint Louis, the *Etablissements des Corps et Métiers* of the town of Paris. This curious document, still in manuscript in the king's library, gives the enumeration and internal regulations of all the industrial corporations which then existed at Paris, regulations of which the largest portion were the work of Stephen Boileau himself.

Such was the administration of Saint Louis in the interior of his domains. You clearly see that there, as in his relations with the possessors of fiefs, was nothing systematic, nothing which seemed to have a general principle for a starting point, and which tended towards a sole, long premeditated end. He undertook neither to constitute, nor to

[1] Joinville, p. 149.

abolish feudalism. Despite the strictness of his conscience and the influence of his devotion, there was, in his practical life, a remarkably sensible and free spirit, which saw things as they were, and gave them the remedy which they needed, without troubling himself as to whether they were conformable with such or such general view, whether they led to such or such distant consequence. He went to the actual pressing fact; he respected right wherever he recognised it; but when behind right, he saw an evil, he directly attacked it, not in order to use that attack as a means of invading the right, but really to suppress the evil itself. I repeat: a firm good sense, an extreme equity, a good moral intention, the taste for order, the desire for the common weal, without systematic design, without forethought, without political combination, properly so called, is the true character of the government of Saint Louis; it was hence that feudalism was greatly weakened under his reign, and royalty in progress.

In our next lecture we shall see what it became after Saint Louis, especially under the reign of Philip le Bel and his three sons, to the end of the feudal epoch, properly so called.

FIFTEENTH LECTURE.

State of royalty after the reign of Saint Louis—In right it was neither absolute nor limited—In fact, incessantly combated, and yet far superior to every other power — Its tendency to absolute power—This tendency appeared under Philip le Bel—Influence of the personal character of Philip le Bel—Various kinds of despotism—Progress of absolute power in the legislation—Examination of the ordinances of Philip le Bel—True characters of the composition and of the influence of national assemblies under his reign—Progress of absolute power in judicial matters—Struggle between the legists and the feudal aristocracy—Extraordinary commissions—Progress of absolute power with regard to taxes—Reaction of the feudal aristocracy against absolute power under the three sons of Philip le Bel—Associations of resistance—Embarrassment in the order of succession to the throne—Enfeeblement of royalty at the end of the feudal epoch.

We have already been present at the progressive development of royalty during about three hundred years, from the accession of Hugh Capet, in 987, to the death of Saint Louis, in 1270. Let us recapitulate in a few words what it was at this period.

In right, it was not absolute; it was neither imperial royalty, founded, as you know, upon the personification of the state, nor Christian royalty, founded upon the representation of the Divinity. Neither one nor the other of the principles predominated in French royalty at the end of the thirteenth century; neither one nor the other gave it absolutism.

Still, if it was not absolute in right, neither was it limited. In the social order there was no institution which balanced it; no regular counterpoise, either by any great aristocratical body, or by any popular assembly. In the

moral order, there was no principle, no powerful idea generally admitted, and which assigned limits to the royal power. Men did not believe that it had a right to do everything, to extend to all things; but they knew not, they did not even seek to know where it ought to stop.

In fact, royalty was limited and incessantly combated by independent, and to a certain point, rival powers—by the power of the clergy, and especially by that of the great proprietors of fiefs, direct or indirect vassals of the crown. Still, it possessed a force infinitely superior to any other—a force which, as you have seen, was formed by the successive acquisitions of Louis le Gros, Philip Augustus, and Saint Louis, and which, at the end of the thirteenth century, without any doubt, placed the king beyond comparison at the head of the great lords of France.

Thus, in right, here was no sovereignty systematically unlimited, but no limits converted into institutions or into national doctrines; in fact, adversaries and embarrassments, but no rivals; such, in truth, was the condition of royalty, when Philip le Hardi succeeded Saint Louis.

There was here, I need hardly say, a fertile germ of absolute power — a marked inclination towards despotism. Hitherto, we have not seen this germ develop itself. It would be totally unjust to pretend that, from the tenth to the middle of the thirteenth century, royalty laboured to render itself absolute; it laboured to re-establish some order, peace, justice; to raise some shadow of society and general government. There was no question of despotism.

There is nothing to be surprised at in this. All institutions, all social forms begin, in their development, by the good they are to do. It is by this title, as they are more or less useful to society, more or less in harmony with its existing general wants, that it becomes accredited and increases. Such was the progress of royalty under the reigns of Louis le Gros, Philip Augustus, and Saint Louis: Louis le Gros, by repressing a number of petty tyrants in and about his domains, and by giving to royalty its character of a public power and protector; Philip Augustus, by reconstructing the kingdom, and by again giving to the nation through his wars against foreigners, the splendour of his court, and his efforts at

civilization, the sentiment of nationality; Saint Louis, by impressing upon his government the character of equity, respect for rights, love of justice and the public good, which is seen in all his acts, assuredly rendering to France the most important, the most essential services; and it may be said without hesitation that, during this epoch, good prevailed over evil in the development of French royalty, and moral principles, or at least principles of public interest, over principles of absolute power.

Still the germ of absolute power was there, and we now arrive at the epoch when it began to be developed. The metamorphosis of royalty into despotism is the characteristic of the reign of Philip le Bel. If we believe a somewhat old-fashioned theory, but one which has resumed in our times confidence in itself, and some degree of credit—if it be true that all things here below are necessarily, fatally connected, without human liberty having anything to do or anything to answer for—we should simply understand that at the end of the thirteenth century, the circumstances amidst which royalty was displaying itself, the social and intellectual state of France, made of that invasion of absolute power, a necessity which no one brought about or could prevent; that, accordingly, it can be attributed to no one, and that no one is guilty of this evil. Fortunately, the theory is false.

In fact, as I have already remarked, the personal character, the free-will of the kings who reigned from the eleventh to the thirteenth century, powerfully influenced the course of things, especially the destinies of royalty. You have seen, among others, how great a part Saint Louis, in person, took in the turn of the institutions under his reign. It was the same under Philip le Bel; his personal character had much to do with the new phase which royalty then assumed. Independently of all the general causes which doubtless concurred to it, evil in himself and despotic by nature, he impelled it, perhaps, more violently than any other cause towards absolute power.

There are great varieties in despotism; I do not merely speak of great inequalities as regards the degree of despotism, but of great varieties in the very nature of despotism and in its effects. For some men absolute power has scarcely been more than a means; they were not governed by completely

egoistical views; they turned over in their minds plans of public utility, and made use of despotism to attain them. Charlemagne, for example, and Peter the Great in Russia, were true despots, but not exclusively egoistical despots, occupied solely with themselves, consulting merely their own caprices, acting only with a personal end in view. They, each of them, in his own country, had general and disinterested views and wishes concerning the destiny of men, views in which the satisfaction of their own passions held but the least place. Despotism, I repeat, was for them a means, not an end—a means vicious in its nature, and which carries evil into the bosom of the good which it accomplishes; but which serves, at least sometimes, to hasten the progress of good, while giving it an impure alloy.

For other men, on the contrary, despotism is the end itself, because they blend egoism with it; they have no general views, form no design of public interest, seek, in the power of which they have the disposition, the satisfying of their passions and caprices, of their miserable and ephemeral personality. Such was Philip le Bel. During the whole course of his reign, we encounter no general idea which relates to the good of his subjects. He is a selfish despotic, devoted to himself, who reigns for himself, and asks of power only the accomplishment of his own will. Just as great as was the place which the personal virtue of Saint Louis held in his government, so great was the influence exercised by that personal wickedness of Philip le Bel over his, and as powerfully did it contribute to the new turn—to that moral and despotic turn which royalty took under his reign.

I shall not recount the history of Philip le Bel; I always take some knowledge of events as granted. It is more especially in original documents, in the legislation or political acts of all kinds, that I seek the history of institutions, and that of royalty in particular.

It is only necessary to open the ordinances of the Louvre, in order to be struck with the different character which the royal power assumed in the hands of Philip le Bel, and the changes introduced into its mode of action. I have hitherto placed before you, in each reign, the number and nature of the ordinances and other political acts which remain to us of different princes. Under Philip le Bel, the

number of these acts, all at once, became infinitely greater. The collection of the Louvre contains 354 of them, which may be classed in the following manner:

44 of political legislation and of government properly so called;

101 of civil, feudal, or demesne legislation;

58 concerning coinage, whether royal coinage, coinage of the lords, or foreign coinage;

104 concerning affairs of local privilege or private interest, concession or confirmation of boroughs, privileges granted to certain places and to certain corporations, or to certain persons, &c.;

21 concerning Jews, and Italian and merchants traders;

38 upon various subjects.

Royalty is evidently far more active, and interferes in a far larger number of affairs and interests than it had hitherto done.

If we entered into a detailed examination of these acts, we should be still more forcibly struck with this fact, by following it in all its forms. I have made a complete summary of these 354 ordinances or acts of government of Philip le Bel, in order properly to understand the nature of each. I shall not place this table before you in its whole extent, but I will give you an idea of it. You will see what was the variety of interests in which royalty interfered under this reign, and how much more decisive and extensive was its action than it had hitherto been.

I will rapidly analyse the ordinances of the first years of the reign of Philip le Bel, and of these, those only which are contained in the first volume of the collection of the Louvre.

In 1286, I find but two acts without interest in the present day: instructions in matters of redemption, and a local concession.

In 1287, there are three ordinances, two of which are very important: the object of the one, in ten articles, is the mode of acquiring the burgesship, and regulates how he who wishes to establish himself in a town may become a burgher; what formalities he will have to fulfil; what relations will subsist between him and the lord whose domains he has quitted, or him whose domains he has entered,

&c. This ordinance is general, and for the whole extent of the king's domains.

The second is conceived in the following terms:

"It is ordered, by the council of the lord king, that the dukes, counts, barons, archbishops, bishops, abbots, chapters, colleges, knights, and all those in general who possess the temporal jurisdiction in the kingdom of France, shall institute and exercise the said jurisdiction, a bailiff, a provost, and lay-serjeants, not clerks—to the end, that if the said officers should happen to fail, their superiors may proceed against them, and if there be any clerks in the said offices let them be dismissed.

"It has likewise been ordered that all those who have, or shall have, after the present parliament, a cause before the court of the king and the secular judges of the kingdom of France, nominate lay attorneys. Nevertheless, chapters may name attorneys from among their canons, and the abbots and convents from among their monks."

Assuredly, to exclude every ecclesiastic from every kind of judicial function, and not only in the courts of the king, but in those of the lords, and wherever any temporal jurisdiction whatever existed — is one of the most important and the most energetic acts of power which could then be accomplished.

In 1288, two ordinances: the one upon private interests; the other forbids any religious person, of whatever order he may be, to imprisòn a Jew, without informing the lay judge of the place to which the Jew is taken.

In 1289, an ordinance concerning private interests.

In 1290, six ordinances: I shall speak of two. The one takes from the Templars the privileges of their order, whenever they do not wear the habit. This is one of the first symptoms of the ill-will of Philip towards the Templars. The other grants various privileges to ecclesiastics, especially to bishops; among others that the causes of the latter shall always be carried before parliament, never before the inferior jurisdiction.

In 1291, four ordinances. The most important contains, in eleven articles, the first precise organization of the parliament of Paris. The king orders the formation of a special chamber for the examination of requisitions, points out what

persons shall possess seats there, upon what days they shall meet, how they shall proceed, &c. Another ordinance contains dispositions favourable to the clergy, with regard to domains acquired by churches.

In 1292, four unimportant ordinances: the last is a fragment of an ordinance concerning fishing, which contains singularly minute provisions. There is no certainty of its belonging to Philip le Bel.

In 1293, two without importance.

In 1294, three, one of which is a sumptuary ordinance to which I shall soon return.

In 1295, four. The principal one grants privileges to Italian merchants, in consideration of a duty upon their merchandise.

In 1296, six, of which the first is an ordinance to interdict private wars and judicial combats during the war of the king in Flanders.

2. The king secures to the duke of Brittany the maintenance of his rights in matters of citation before the court of the king.

3. A detailed confirmation of a regulation upon the salt mines of Carcassonne.

In 1297, three. One establishes free commerce between France and Hainault, so long as the alliance of the two princes shall last.

In 1298, three. The king orders the duke of Burgundy to forbid foreign money.

In 1299, four. The king forbids the bâiliffs of Touraine and Maine to trouble the ecclesiastics within their jurisdiction.

He prescribes measures against the robbers of game and fish.

In 1300, two. He reduces the number of the notaries to the chatelet to sixty.

He declares clerks punishable, even when absolved in the ecclesiastical court, if the crime be evident.

In 1301, four. He orders the provost of Paris to cause the execution of his ordinance as to the number of notaries to the chatelet, and regulates their functions.

He regulates the succession of bastards who die in the domains of the lord.

In 1302, seventeen. 1. He limits the powers of the seneschals over the churches of Languedoc.

2. He represses the seneschals who, under the pretext of private wars, invade the jurisdiction of the lords, especially of the archbishop of Narbonne, in all cases of public dispute and troubles.

3. He exempts men who are very poor from military service for the army of Flanders.

4. He appropriates to himself the plate of his bailiffs, and partially that of his subjects, on condition of a future and incomplete reimbursement.

5. He confiscates the domains of bishops, abbots, &c., who leave his kingdom in spite of his prohibition.

6. He levies a subsidy for the war in Flanders upon his subjects whether noble or not. He forbids the lords to levy any upon those of their men whom he has exempted.

7. He forbids the exportation of corn, wine, and other provisions.

8. He regulates the number and the functions of the various officers of the chatelet.

9. A grand ordinance for the reformation of the kingdom. He regulates the functions and duties of seneschals, bailiffs, sergeants, &c.

"For the advantage of our subjects, and for the despatch of causes, we shall every year hold two parliaments at Paris, two courts of exchequer at Rouen, and twice a year two days' court at Troyes. There shall be a parliament at Toulouse, if the people of that province consent that there be not appeal from the presidents of that parliament."

10. He levies a subsidy for the war in Flanders, exempting all those who pay it from various other charges. He gives an instruction to his commissaries which ends with these remarkable words:

"And do not raise these finances in the lands of the barons against their will; and keep this ordinance secret, even the article about the lands of the barons, for it would be great injury to us if they knew of it. And by every conciliatory means that you can bring them to consent; such as you shall find opposed to it, write to us forthwith their names that we may take counsel how to make them withdraw their opposition. Be careful to give them fair and courteous words, and let no unseemly disputes arise."

I must desist; it were easy for me in this way to analyse

the 354 ordinances of Philip le Bel; but those cited are sufficient to show you to what various subjects royalty applied itself under his reign, and what the progress of its intervention was in almost all things. A last example will show you to what a point of minuteness this intervention was carried; I extract it from that sumptuary ordinance of 1294, which I just spoke of. We there read:

"1. No woman citizen shall keep a car.

"2. No citizen, male or female, shall wear fur, grey or ermine, and they shall discontinue such as they now have within a year from next Easter. They shall not wear any ornaments of gold, nor precious stones, nor gold nor silver fillets.

"4. A duke, count, or baron of six thousand livres a year and upwards from land may have four suits a year and no more. Their ladies as many and no more.

"8. A knight or baronet with three thousand livres and upwards from land may have three suits a year and no more, and one of them shall be a summer suit.

"11. Boys shall have only one suit a year.

"14. No one shall have more at dinner than two dishes, and a *potage au lard*. And at supper one dish and a by-dish; and if it be fast day, two dishes of herrings and soup, and two other dishes, or three dishes and one soup, and each dish shall only consist of one piece of meat, or one sort of soup.

"15. It is ordered, in further declaration of the rule touching dress, that no prelates or barons, however high in rank, shall wear a suit of more than twenty-five sols Tournois the Paris ell.

"And these ordinances, &c., are commanded to be kept by the dukes, counts, barons, prelates, priests, and by all manner of people whatsoever of this kingdom under our faith. Whatever duke, count, baron, or prelate shall do anything against this ordinance, shall be fined 100 livres Tournois for each offence. And they are bound to have this establishment observed by their subjects of whatever rank, and to fine any banneret who acts in disobedience thereto fifty livres Tournois, and any knight or vavasour twenty-five livres Tournois. The informer to have one-third of the penalty."[1]

[1] In 1294. *Recueil des Ordonnances*, t. i. p. 541—543.

We have hitherto met with nothing resembling this in acts of French royalty. This is the first time we observe the appearance of that claim to mix itself with all things, that regulation mania which has played so great a part in the administration of France. Its rapid development is more especially attributable to two causes, to the double circumstance that power was exercised both by ecclesiastics and by jurisconsults. It is the constant tendency of ecclesiastics to consider legislation under a moral point of view, to desire to make morality thoroughly pervade the laws. Now in morality, and particularly in theological morality, there is no action in life indifferent; the slightest details of human activity are morally good or evil, and should consequently be authorised or interdicted. As instruments or counsellors of the royal power, the ecclesiastics were governed by this idea, and endeavoured to introduce into penal legislation all the foresight, all the distinctions, all the prescriptions of theological discipline or casuistry. The jurisconsults, from a different cause, acted with the same tendency. What predominates in the jurisconsults is the custom of pushing a principle to its last consequences; subtleness, logical vigour, the art of following a fundamental axiom in its application to numerous different causes without losing its thread, such is the essential character of the legist spirit; and the Roman jurisconsults are the most striking examples of this. Hardly then had royalty given to the lawyers, its chief instruments, a principle to apply, than by that natural tendency of their profession they laboured to develop that principle, and each day to draw new consequences from it, and thus to make the royal power penetrate into a multitude of affairs and details of life, to which, naturally, it would have remained a stranger.

Such is the character which this power began to take under the reign of Philip le Bel. Although he had excluded them from the judicial order, the ecclesiastics still enjoyed a large share in his government, and the jurisconsults daily played a larger part in it. Now both of these classes, from different causes, exercised an analogous influence over royalty, and impelled it in the same direction.

What is no less remarkable is, that the greater portion of these ordinances emanate from the king alone, without men-

tion being made of the consent or even the counsel of the barons or other great possessors of fiefs. With regard to legislation, royalty evidently isolates and frees itself from feudal aristocracy; it scarcely ever deliberates except with counsellors of its own choice, and who hold their commission from it alone. Its independence increases with the extent of its power.

There is but one kind of acts in which, under this reign, we see the interference not only of the barons, but of other persons also; and these are precisely the acts which, according to modern theories, least call for such a concurrence, that is to say, acts of peace and war, and all which concerns external relations. People conceive in the present day, that affairs of this kind appertain to the royal power only, and that the collateral powers have no right of interference therein, unless very indirectly. Under Philip le Bel, the directly contrary fact prevailed. The acts which we call legislative, which regulated at home the condition of persons and properties, very frequently emanated from the king alone. But when the question was of peace or war, negotiations with foreign princes, he often invoked the concurrence of the barons and other notables of the kingdom. Practical necessity, and not any particular theory, then decided all things. Since the king could not make war alone, and as, in order to treat with foreigners, he wished to be and to appear supported by his subjects, it was necessary that he should prosecute no great enterprise of that kind without assuring himself of their good will, and he called upon them simply because he could not dispense with them.

It was the same cause which, at this epoch, sometimes introduced a certain number of deputies of the principal towns into the counsels of the prince. It has often been asserted that Philip le Bel was the first who called the third estate to the states general of the kingdom. The phrase is too grand, and the fact was not new. Under Saint Louis, as you have seen, deputies of towns, whose very names we know, were called around the king to deliberate upon certain legislative acts. There are other examples of this. Philip le Bel, then, had not the honour of the first call; and, with regard to assemblies of this kind which occur under his reign, far too great an idea of them is formed. These meetings

were very brief, almost accidental, without influence upon the general government of the kingdom, and in which deputies of towns held but a very inferior place.

The fact thus reduced to its just dimensions, it is true that under Philip le Bel it became more frequent than it had yet been.

In 1302, engaged in his great quarrel with Boniface VIII., and wishing to present himself at the fight with the support of all his subjects, Philip convoked the states general, and their assembly was held at Paris in the church of Notre Dame, from the 23rd of March to the 10th of April. The three orders, the nobility, the clergy, and a certain number of deputies from large towns had seats there. Their deliberations were very brief; each order merely acceded to the desires of the king, by writing a letter to the pope. That of the burghers is not preserved, and we only know of it from the answer of the cardinals, which is addressed, "To the mayors, sheriffs, freemen, and consuls of the communities, towns, cities, and boroughs of the kingdom of France."

In 1304, we find Philip treating with the nobles and commons of the seneschal jurisdictions of Toulouse, Cahors, Perigueux, Rhodez, Carcassonne, and Beaucaire, to obtain subsidies for his expedition into Flanders.

In 1308, he convoked the states general at Tours to deliberate upon the proceedings of the Templars; and the canon of Saint Victor, the chronicler of the time who gives us most details concerning this assembly, speaks thus of it:—

"The king caused the assemblage at Tours of the nobles and commons of all the castellanies and towns of his kingdom. He wished, before repairing to the pope at Poitiers, to receive their counsel as to what it was desirable to do with the Templars after their confession. The day was assigned, to all those who were invited, on the first of the month following Easter, (it was that year the 14th of April.) The king wished to act with prudence; and, that he might not be censured, he wished to have the judgment and consent of men of every condition in the kingdom. Accordingly, he not only wished to have the deliberation of the nobles and men of learning, but also of the burghers and laymen. The latter, appearing personally, pronounced, almost with one voice, that the Templars deserved death. The University of Paris, and

especially the masters in theology, were expressly required to give their sentence, which they did, by the hands of their notary, the Sunday after Ascension."[1]

We read also in *l'Histoire de Languedoc*:—

"Aymar of Poictiers, count of Valentinois; Odilon de Guarin, lord of Tournel; Guarin de Chateauneuf, lord of Apchier; Bermont, lord of Uzès and Aymargues; Bernard Pelet, lord of Alais and Calmont; Amaury, viscount Narbonne; Bernard Jourdain, lord of the isle of Jourdain; and Louis of Poitiers, bishop of Viviers, gave procuration to Guillaume de Nogaret, knight of France, to go in their name to this assembly. The prelates of the province of Narbonne, on their part, deputed the bishops of Maguelonne and of Béziers, and they levied a tax upon the clergy of the country for this journey. Finally, they had letters of the king given at Tours the 6th May, in the year 1308, to order the seneschal of Beaucaire to cause the deputies of that town who were sent to Tours to be paid by all the inhabitants of the town of Bagnols, in the diocese of Uzès.[2]

It is almost always, you see, in cases of peace and war, or important foreign relations, that these convocations took place. In almost every other part of the government, and especially in what we look upon in the present day as essentially legislative, neither the deputies of towns, nor even the barons interfered; the king decided alone.

Such under this reign was the development of royalty, considered in a legislative point of view. There is here a remarkable progress towards absolute power. Royalty mixes itself with a great number of affairs, in which it had not formerly interfered: it regulates them in their smallest details; it declares its acts valid throughout the whole extent of the kingdom, independently of the diversity of domains; it finally puts them forth, for the most part at least, without the concurrence of the possessors of fiefs; and when it calls either the possessors of fiefs or the burghers to concur with it, it is from motives entirely foreign to the internal government of the country, from purely political and temporary necessities.

The judicial power of royalty at the same time received a development of the same kind.

[1] John, canon of Saint Victor, p. 456. Continuation of Guillaume de Nangis, p. 61.

[2] T. iv. p. 139.

You will recollect the details which I have given of the judicial system of feudalism. Its fundamental principle, as you know, was the judgment by peers, the vassals judging among themselves at the court of their lord, of their common suzerain. You have seen that this principle was found to be well nigh impracticable: the vassals were so isolated, such strangers to one another; there were so few relations and common interests between them, that it was very difficult to collect them in order that they might judge among themselves. They came not, and when some did come, it was the suzerain who arbitrarily selected them. That great and beautiful system, the intervention of the country, therefore, incessantly fell into decline from the most powerful of causes, from its *inapplicability*.

We have seen another system progressively rise in its place, that of a judicial order, of a class of persons especially devoted to the administration of justice. This was the great change which, in this respect, was brought about from the eleventh to the thirteenth century, and of which I spoke while we were occupied with feudalism.[1]

At the end of the thirteenth century, then, royalty had at its disposition real magistrates, under the names of seneschals, bailiffs, provosts, &c. It is true, these magistrates very often did not judge alone; they called upon some of the men of the place to give judgment with them. This was a reminiscence, a remnant of the judicial intervention of society; and I have cited many texts of Beaumanoir, among others, which formally sanction this practice. Those accidental assessors of magistrates, whom they called *jugeurs*, in certain places even rendered actual judgment, and the bailiff merely pronounced it. For some time the small possessors of fiefs, who came to fulfil the functions of *jugeurs*, met thus around the bailiffs. The bailiffs themselves were at first considerable possessors of fiefs, barons of the second class, who accepted functions which the great barons did not care for. But, after a certain lapse of time, from the incapacity of the ancient possessors of fiefs, from their ignorance, from their excessive taste for war, the chase, &c., they abandoned this last wreck of judicial power; and in place of knight-

[1] See Lectures 10 and 11, in the present volume.

judges, of the feudal judges, there was formed a class of men solely occupied with studying both customs and written laws, and who gradually, by the title either of bailiffs, or of *jugeurs* associated with bailiffs, remained in almost exclusive possession of the administration of justice. This was the class of lawyers; and after having been taken for some time, in part at least, from the clergy, they ended by all, or almost all, coming from the bourgeoisie.

Once instituted in this way, in possession of the judicial power, and separated from all others, the class of lawyers could not fail to become an admirable instrument in the hands of royalty against the only two adversaries whom it had to fear, the feudal aristocracy and the clergy. It so happened, and it is under the reign of Philip le Bel that we see it engaging with distinction in that great struggle which has held so important a place in our history. In that struggle the lawyers rendered immense services, not only to the throne, but to the country; for it was an immense service to abolish, or almost to abolish, the feudal and the ecclesiastical power from the government of the state, in order to substitute for them the power to which that government should belong, the public power. Such a progress was doubtless the condition, the indispensable preliminary of all the others. But, at the same time, the class of lawyers, from its origin, was a terrible and fatal instrument of tyranny. Not only did it on many occasions take not into consideration the rights, the real rights of the clergy and the proprietors, but with regard to government in general and in judicial affairs in particular, it laid down and established principles contrary to all liberty. The history of the epoch which now occupies us offers an indisputable proof of this. It is after Saint Louis, under Philip le Hardi, that we see the commencement of those extraordinary commissions, those judgments by commission, which have since so often saddened and sullied our annals. The seneschals, bailiffs, jugeurs, and other judicial officers, then nominated by the king, were not for life; he dismissed them at will, and even selected them on any particular occasion, and according to necessity, perhaps from a recollection of the feudal courts, where, in fact, the suzerain almost arbitrarily summoned such or such of his vassals. It hence happened that, in great trials, the king found himself at

liberty to institute what we call a commission. Now it should be observed, that great processes, great criminal affairs, had necessarily at that time one or other of these two characters—either royalty pursued a formidable enemy, ecclesiastic or layman, a great lord or a bishop; or else, after a reaction, the feudal aristocracy or the clergy, having resumed their ancient influence with royalty, in their turn employed its force or its agents to pursue their enemies. In either case the royal judicial order, the lawyers, served as an instrument to the enmities, to the revenge of party, of power; and one or other of these parties, as conqueror, selecting commissaries at its will, judged its enemies as arbitrarily, as iniquitously as it had been judged itself before.

I find, from the death of Saint Louis to the accession of Philip de Valois, five great criminal trials which have become historical. You shall see the character of them; and if the general fact which I have just asserted is not the faithful summary of them.

The first is the prosecution in 1278 of Pierre de la Brosse, favourite of Philip le Hardi.

"This Pierre de la Brosse," says Guillaume de Nangis, "when he first came to court, was chirurgeon of the holy king Louis, father of this Philip. He was a poor man, a native of Touraine. After the death of Louis he was chamberlain to Philip; and this king loved him so much, confided so thoroughly in him in all things, and raised him so high, that all the barons, the prelates, and knights of the kingdom of France testified the profoundest respect for him, and often brought him rich presents. In reality they greatly feared him, knowing that whatever he desired of the king he always obtained. The barons in secret felt great disgust and indignation at seeing him exercise so much power over the king and the kingdom."[1]

In 1278, after a struggle, the account of which will be found in all histories of France, Pierre de la Brosse succumbed; he was sentenced by a commission composed of the duke of Burgundy, the duke of Brabant, and the count of Artois, and was hanged on the 30th of June, after a prosecution so secret, so unjust, that his crime and the legal

[1] Guillaume de Nangis, *Gesta Phil.-Aud.*, p. 529.

grounds of his condemnation are still unknown. Here is evidently a case of the feudal aristocracy revenging itself upon, and hanging a parvenu.

About 1301, Philip le Bel engaged in a quarrel with Bernard de Saisset, bishop of Pamiers, legate of Boniface VIII. He set upon him his lawyers, Pierre Flotte, Enguerrand de Marigny, Guillaume de Nogaret. The prosecution against the bishop of Pamier is a pattern of iniquity and violence. I have not time to speak of it in detail. It is a case of royalty sustaining its political struggle against the clergy by the hand of the lawyers and at the expense of the accused party.

From 1307 to 1310 the prosecution of the Templars, from 1309 to 1311 the process instituted against the memory of Boniface VIII., offer upon a larger scale a renewal of the same facts. It is always the lawyers, the judicial commissioners, putting justice at the service of policy and at the orders of royalty.

Philip le Bel died; the chance turned; feudal aristocracy resumed the ascendant: Woe to the upstart lawyers! In 1315, Enguerrand de Marigny, one of the principal of them, was in his turn judged by a commission of knights, and hung, the 30th of April, at Montfaucon, after the most odious procedure and the most absurd accusations.

Thus the history of the judicial order, scarcely created, is a series of continual reactions between the feudal aristocracy and the clergy on the one hand, and the lawyers on the other. Each party judged in its turn, according to the system, and by the arbitrary, violent prosecutions which the lawyers had introduced, and which they had partly borrowed from the Roman law, from the ecclesiastical law, and from perverted feudal customs, and partly invented for the occasion, as might be necessary.

Is not this the introduction of despotism into the administration of justice? Is it not clear that, under the judicial as under the legislative relation, royalty at this epoch took an immense step in the direction of absolute power?

There is a third, which I shall merely point out; it concerns taxes.

Philip le Bel arrogated to himself the right of taxing, even beyond his domains, and more especially by the medium of

the coinage. The right of coining money, as you know, did not belong exclusively to royalty; most of the possessors of fiefs had originally possessed it, and more than eighty of them enjoyed it even in the time of Saint Louis. Under Philip le Bel this right was gradually concentrated, although as yet incompletely, in the hands of the king. He bought it from some of the lords, usurped it from others, and soon found himself, as regards the coinage, if not absolutely the sole master, at least in a condition to give the law throughout the kingdom. There was here a convenient and tempting way of taxing the subject. Philip made use of it largely, wildly. The alteration of coin appears almost every year in his reign; and out of fifty-six ordinances emanating from him with regard to coin, the subject of thirty-five is the debasement of the coinage.

He did not, however, confine himself to this, merely for taxing his subjects arbitrarily; sometimes by express subsidies, sometimes by taxes upon provisions, sometimes by measures which affected internal or external commerce, he occasionally procured large resources. He did not succeed in founding any regular right for the benefit of royalty; in getting it admitted that it belonged to royalty to tax its people at will; he did not even raise a general and systematic pretension; but he left precedents for all kinds of arbitrary imposition and in every way opened that fatal path to his successors.

It cannot be misunderstood in a legislative relation, in a judicial relation, and with regard to taxes, that is to say, in the three essential elements of all government, royalty at this epoch took the character of absolute power; a character which, I repeat, was never acknowledged as a right, and which did not completely prevail as a fact, for resistance arose every moment and at all points of society, but which was not the less dominant in practical application, as in the moral physiognomy of the institution.

At the death of Philip le Bel, and in the interval which elapsed till the extinction of his family, and the accession of Philip de Valois, that is to say, under the reigns of his three sons, Louis le Hutin, Philip le Long, and Charles le Bel, a strong reaction broke out against all these usurpations or new pretensions of royalty. It did not even wait till the

death of Philip IV.; in 1314, that is, in the last year of his reign, many associations were formed to resist him, and they drew up their designs and their engagements in the following terms:

"We, the nobles and commons of Champagne, for ourselves, for the countries of Vermandois, Beauvaisis, Ponthieu, La Ferre, Corbie, and for all the nobles and commons of Burgundy, and for all our allies and associates within the limits of the kingdom of France, to all who shall see and hear these presents, health. It is known unto you all that the very excellent and puissant prince, our dearly beloved and redoubtable lord Philip, by the grace of God king of France, has made and imposed various taxes, subsidies, undue exactions, depreciations of the coinage, whereby and by several other things which have been done, the nobles and commons have been sorely aggrieved and impoverished, and great evils have ensued and are still taking place. Nor does it appear that, on the other hand, these things have turned out to the honour and profit of the king or his kingdom, nor to the common benefit in any way. We have at various times devoutly requested, and humbly supplicated the said lord king to discontinue and utterly put an end to these grievances, but he has not attended to our entreaties. And just lately, in this present year, 1314, the said king has made undue demands upon the nobles and commons of the kingdom, and unjust subsidies which he has attempted by force to levy; these things we cannot conscientiously submit to, for thereby we shall lose our honours, franchises, and liberties, both we and those who shall come after us. Wherefore, we the said nobles and commons, for ourselves, our relations and allies, and others throughout the kingdom of France, as above set forth, have sworn and promised by our oaths, for ourselves and our successors, to the countries of Auxerre and Tonnerre, to the nobles and commons of the said countries and their allies and associates, that we will aid them at our own cost, to the best of our ability in resisting the said undue subsidy of this year, and all other unjust exactions and innovations, made or to be made by the king of France now and to come, upon us and our successors. Always provided, that in doing so we preserve entire and unimpaired all lawful obedience, fealty, and homage, sworn

or not sworn, and all other rights justly due from us and our successors to the king of France and his successors." [1]

There are in the archives of the kingdom, in the *Tresors des chartres*, in the case entitled *Ligues des nobles*, several other acts of similar associations of the same epoch—namely, those of Burgundy, of the counties of Auxerre and of Tonnerre, of Beauvaisis, of the county of Ponthieu, of Champaigne, of Artois and of Fores. Can we conceive a stronger and more official protest against the turn that Philip le Bel had given to royalty?

This protest was not without effect. The time presses, and I cannot describe to you in detail the struggle entered into, under the sons of Philip le Bel, between royalty and the feudal aristocracy. But let us look at the following ordinance of Louis le Hutin, given in 1315, almost immediately after his accession, and which is nothing more than a redressing of the grievances of the aristocracy. You will there see what was the extent and momentary efficacy of the reaction.

"Louis, by the grace of God, king of France and Navarre, &c., to all present and to come: the nobles of the duchy of Burgundy, of the bishopries of Langres, and Ostun, and of the county of Fores, for themselves, the ecclesiastics and commons of the said districts, have complained to us that since the time of the lord Saint Louis, our great grandfather, the ancient franchises, liberties, usages, and customs of the said countries, have been infringed upon in various cases and in various ways, and that various grievances and unjust innovations have been introduced and attempted to be introduced there by the people of our predecessors and our own officers, to the great grief, injury, and prejudice of the said districts, and they have transmitted to us articles setting forth a portion of the said alleged grievances, which articles are herein contained, and they have supplicated us to apply a fitting remedy. We who desire peace, and are anxious to promote the welfare of our subjects, having maturely deliberated and taken counsel upon the said alleged grievances and innovations, have ordered, and do order, of our royal and undoubted authority, the following—that is to say:

[1] Boulainvilliers, *Lettres sur les anciens parlemens*, t. ii. p. 29—31.

"The first article given in to us runs thus: 'It is required that persons may not, on a charge of crime, proceed against the said nobles, by mere denunciation, or on mere suspicion, nor judge, nor condemn them by inquiry, unless they themselves consent thereto. In a case where the suspicion is great and notorious, let the suspected person remain in the castle of his seigneur for forty days, or twice forty days, or thrice, at the utmost, and if within that period no one accuses him, let him go forth free. If accused, let him have the trial by battle.' We grant this, except in cases where the guilt of the party is so manifest and undoubted that the seigneur should of his own authority apply a direct remedy. As to the trial by battle, it may be resorted to, as in former times.

"The second article . . . . .

"The third article is this: 'That the same nobles and their men, and their subjects, be not compelled to take part in open war, or other, unless the menace and declaration of war be public and known.' We grant it.

"The fourth article is this: '*Item*, that the king do not encroach upon the baronies, fiefs, and arriere-fiefs, of the said nobles and ecclesiastics, unless by their own consent.' We grant this, saving our right to that which may accrue unto us by forfeiture, or by failure of lineage, in which cases we will institute a tried and competent man who shall govern the fee in like manner to him from whom we have derived it.

"The fifth article is this: '*Item*, that the king and his people levy no penalty higher, in the case of a noble, than sixty livres tournois, and in the case of one of the common sort, of more than sixty sols tournois.' We grant this, and order that it be as an invariable custom; such cases only being excepted, as, from some horrible atrocity, do not fairly come within the ordinary rule; these cases shall be decided upon by those to whom the cognizance appertains.

"The sixth article is this: '*Item*, that the said nobles may resort to arms whenever they please, and make war upon each other." We grant them the use of arms and private warfare in the manner observed in former times. We will inquire into the mode in which it was carried on then, and this mode we will declare and have adhered to.

"The seventh article is this: '*Item*, let not the king sum-

mon from among the said nobles those who are not his men, and if such be summoned, let them not be bound to attend; for the barons cannot serve the king, nor their own men, if the king takes away from them those who should be always ready to attend them!' We will ascertain the custom in this respect, and have it observed.

"The eighth article is this: 'Let the king order his justiciaries not to interfere in the lands and places where the said nobles and ecclesiastics have customary high and low justice. Let the said nobles and ecclesiastics administer justice there in all cases, except in that of appeal duly made to the king or his people, by reason of default of trial, or ill judgment.' We grant this, reserving such cases as appertain to us of right, as judge in the last resort and supreme sovereign.

"The ninth and tenth articles are: '*Item*, that the king put the coinage in the same state, as to weight and alloy, that it was in the time of the lord Saint Louis, and so maintain it perpetually. The silver mark was then worth fifty-two sols tournois. *Item*, that the king do not prevent the free circulation of money in his kingdom, or out of it.' We reply that we coin good money, of the same weight and alloy as under Saint Louis, and we promise that we will continue to do so.

"The eleventh article is this: 'That the nobles, ecclesiastics, and commoners be not summoned nor compelled to attend out of their estates, or provostries or wherever they live, unless in case of appeal by reason of refusal of trial, or ill judgment; and let not the nobles be tried except by their equals.' We grant this in all cases, except such as are reserved to our court, by reason of our royal sovereignty, and which cases it appertains to our bailiffs, provosts, and sergeants to take cognizance of. And if these do other than justice, we will punish them and make them give reparation. And as to the nobles being tried by other nobles, their peers, we will inquire into the custom in this respect, and so ordain for the future.

"The twelfth article is this: '*Item*, several sergeants and officials of the king, who for their misdeeds had upon inquiry been condemned in penalties, and ordered to lose their offices for ever, have been restored to their places; we require that

these be once more removed, and made to pay the penalties adjudged against them, and that those who put them back into their offices be punished; and that for the future no sergeant ordered to be permanently dismissed the king's service be reinstated. We grant this, and order that the thing complained of never occur again; and we will send persons into the provinces to examine into the matter, and put the sergeants upon a proper footing.

"The thirteenth article is this: '*Item*, that the king forthwith send into the said districts persons to inquire into the grievances which the king, his predecessors and their people, have inflicted upon the said nobles, their men, and the said ecclesiastics, and into the encroachments made upon their rights, customs, and usages, and remedy those grievances, and put an end to them. Whatever other grievances there may be not specified, let them not continue to the prejudice of those concerned.' We grant this.

"The fourteenth article is this: '*Item*, let the king command that his bailiffs, sergeants, and other officers, on their coming into office, and at the opening of each of their sittings, swear publicly to avoid all such grievances and oppressions, and not to suffer others to do them; and if they do otherwise, let none be bound to obey them.' We grant this, and promise severely to punish all who shall disobey our commands, and do wrong to our subjects.

"Which ordinances, granted and conferred as above, and the ordinances published by our beloved father, we order and appoint to be carried out and accomplished for the benefit of the said nobles, ecclesiastics, and commoners. And we command all our seneschals, bailiffs, provosts, and other officers, and ministers whatsoever, to carry out our said ordinances without delay or impediment: and we declare that we bear no ill will to the said nobles, or any of them, for the alliances they have hitherto formed among themselves, and that we and our successors will never make any unjust demand upon them or their successors. And for the greater surety of these aforesaid things, we have hereunto set our seals.

"Given in the Wood of Vincennes, the year of grace 1315, in the month of April." [1]

[1] *Recueil des Ordonnances*, i. 558.

We find, under Louis le Hutin, nine other ordinances of the same kind, given for the benefit of the nobility and clergy of the other provinces.

After such a struggle, and one which led to such results, royalty must have found itself, and, in fact, did find itself, very much weakened. It had set aside all collateral rights, invaded all powers; instead of being a principle of order and peace in society, it had become a principle of anarchy and war. It arose from this attempt, far less firm, far more frequently contested and resisted, than it had been under the more prudent and more legal reigns of Philip Augustus and Saint Louis.

At the same time, a new cause of enfeeblement to royalty arose, the uncertainty of the succession to the throne. You know that, at the death of Louis le Hutin, who left the queen, Clemence, pregnant, the question was raised as to whether women had a right to succeed to the crown—the question which it has been pretended to solve by the Salic law. It was decided in 1316 in favour of Philip le Long; it arose again in 1328, at the death of Charles le Bel, and was then disputed between powerful rivals, each capable of maintaining his rights or pretensions. At the end of the feudal period, royalty therefore found itself attacked in two quarters—with regard to the order of succession, and with regard to the nature of its power. Was anything further needed to compromise a power already great, doubtless, but which had extricated itself with great difficulty from the first crises of its formation? Accordingly, this institution, this force, which we have just seen increase and develop itself almost without interruption, from Louis le Gros to Philip le Bel, appears to us, at the commencement of the fourteenth century, tottering, dilapidated, and in a condition much resembling decay. The decay was not real; the principle of life in the heart of French royalty was too energetic, too fertile, to perish in this way. It is very true, however, that the fourteenth century saw the commencement for it of a period of reverses and depression, from which the most laborious efforts were scarcely able to raise it. But this period belongs not to the epoch which at present occupies us; as you are aware, it is at the end of the feudal period, that is, at the commencement of the fourteenth century, that we must stop.

I have brought to this point the history of royalty, and its part in the civilization of our country. In our next lecture, I shall touch upon the history of the third estate, and the boroughs during the same interval. It will complete the view of the progressive development of the three great elements which have concurred to the formation of our society.

SIXTEENTH LECTURE.

Of the third estate in France—Importance of its history—It has been the most active and decisive element of our civilization—Novelty of this fact; nothing resembling it had hitherto been found in the history of the world—Its nationality; it was in France that the third estate took its whole development—Important distinction between the third estate and the boroughs—The formation of boroughs in the 11th and 12th centuries—Extent and power of this movement—Various systems to explain it—They are narrow and incomplete—Variety of the origins of the bourgeoisie at this epoch—1. Towns in which the Roman municipal system survived—2. Cities and towns in progress, although not erected into boroughs—3. Boroughs, properly so called—Combination of these various elements for the formation of the third estate.

I AT first placed before you feudal society, properly so called, its various elements, their relations and their vicissitudes. We have just seen a power arise and increase, both within and without feudal society, a power foreign to feudal powers, of another origin, another nature, destined to contend with and to abolish them: I mean royalty. We shall now see another society likewise arise and increase, both within and without feudal society, of another origin, another nature, likewise destined to contend with, and to abolish it; I speak of the commons, the bourgeoisie, the third estate.

The importance of this part of our history is evident. Every one knows the important part which the third estate has played in France; it has been the most active, the most decisive element of French civilization, that which, after all that can be said, has determined its direction and its character. Considered under a social point of view, and in its relation with the various classes which co-existed in our ter-

ritory, what has been called the third estate has progressively extended and elevated itself, and at first powerfully modified, then overcome, and finally absorbed, or nearly absorbed, all the others. If it is seen in a political point of view, if we follow the third estate in its relations with the general government of the country, we first see it united for six centuries with royalty, incessantly labouring for the ruin of the feudal aristocracy, and to establish in its place an unique, central power, pure monarchy, closely neighbouring, in principle at least, upon absolute monarchy. But when it had carried this victory, and accomplished this revolution, the third estate pursues a new one; it encounters this unique, absolute power, which it had so greatly contributed to establish, undertakes to change pure monarchy into constitutional monarchy, and equally succeeds in it.

Accordingly, under whatever aspect it is viewed, whether we study the progressive formation of society, or that of the government in France, the third estate is an immense fact in our history. It is the most powerful of the forces which have presided at our civilization.

This fact is not only immense, it is new, and without example in the history of the world; until modern Europe, until France, nothing resembling the history of the third estate is visible. I will rapidly place before you the principal nations of Asia and ancient Europe: you will see in their destinies almost all the great facts which have agitated our own; you will see there the mixture of various races, the conquest of a nation by a nation, conquerors established over the conquered, profound inequalities between classes, frequent vicissitudes in the forms of government and the extent of power. Nowhere will you encounter a class of society which, setting forth low, weak, contemned, almost imperceptible at its origin, elevates itself by a continued movement and an incessant labour, strengthens itself from epoch to epoch, successively invades and absorbs all which surrounds it, power, wealth, rights, influence, changes the nature of society, the nature of government, and at last becomes so predominant that we may call it the country itself. More than once, in the history of the world, the external appearances of the social state have been the same as those of the epoch which occupies us; but they are mere appearances. I will place

before you the four or five greatest nations of Asia; you will find that they offer nothing resembling the fact which I now point out to you.

In India, for example, foreign invasions, the passage and establishment of various races on the same soil, are frequently repeated. What is the result? The permanence of castes was not affected; society remained divided into distinct and almost immovable classes. There is no invasion of one caste by another; no general abolition of the system of castes by the triumph of one among them. After India, take China. There also history shows many conquests analogous to that of modern Europe by the Germans; more than once barbarous conquerors were established amidst a nation of conquered people. What was the consequence? The conquered almost absorbed the conquering, and immovability was still the predominant character of the country. Look at the Turks and their history in Western Asia; the separation of the conquerors and the conquered remained invincible. It was not in the power of any class of society, of any event of history, to abolish this first effect of conquest. The state of Asia Minor, of the portion of Europe which the Turks invaded, is at present almost what it was at the outset of the invasion. In Persia, analogous events followed one another; various races collected and mingled; they only ended an immense, insurmountable anarchy, which has lasted for centuries, without the social state of the country changing, without there being any movement and progress, without our being able to distinguish any development of civilization.

I only present to you very general, very cursory views; but the great fact I seek is there shown sufficiently; you will not find, in all the history of Asiatic nations, despite the similitude of certain events and of some external appearances, you will not find, I say, anything which resembles what happened in Europe in the history of the third estate.

Let us approach ancient Europe, Greek and Roman Europe; at the first instant you will think you recognise some analogy; do not deceive yourself: it is only external, and the resemblance is not real; there also there is no example of the third estate, and of its destiny in modern Europe. I need not detain you with the history of the Greek republics; they evidently offer no analogous feature. The only

fact which, to intelligent minds, at all resembles the struggle of the burghers against the feudal aristocracy, is that of the plebeians and the patricians of Rome; they have been more than once compared. It is an entirely false comparison; and before I say why it is so, see the following simple and striking proof. The struggle between the Roman plebeians and patricians commenced from the cradle of the republic. It was not, as it was with us in the middle ages, a result of the slow, difficult, incomplete development of a class long far inferior in power, wealth and credit, which gradually extends, elevates itself, and ends by engaging in an actual combat with the superior class. The plebeians struggled against the patricians at once, from the origin of the state. This fact is clear in itself, and the fine researches of Niebuhr have fully explained it. Niebuhr has proved, in his *History of Rome*, that the struggle of the plebeians against the patricians was not the progressive and laborious enfranchisement of a class for a long time debased and miserable, but a consequence, and, as it were, a prolongation of the war of conquest, the effort of the aristocracy of the cities conquered by Rome to participate in the rights of the conquering aristocracy.

The plebeian families were the principal families of the conquered populations; transplanted to Rome, and placed, by defeat, in an inferior position, they were not the less aristocratic, rich families, surrounded with clients recently powerful in their city, and capable, at once, of disputing for power with their conquerors. Assuredly there is nothing here which resembles that slow, obscure, painful labour, of the modern bourgeoisie, escaping with infinite trouble from the heart of servitude, or from a condition neighbouring upon servitude, and employing centuries, not to dispute the political power, but to conquer its civil existence. Our third estate is, I repeat, a new fact, hitherto without example in the history of the world, and which exclusively belongs to the civilization of modern Europe.

Not only is this a great and a new fact, but for us it has quite a peculiar interest; for, to use an expression which is much abused in the present day, it is an eminently French fact, essentially national. Nowhere has the bourgeoisie, the third estate, received so complete a development, had so vast, so fertile a destiny as in France. There have been boroughs

in all Europe, in Italy, in Spain, in Germany, in England, as well as in France, and not only have there been boroughs everywhere, but the boroughs of France are not those which, as boroughs, under that name, and in the middle ages, have played the greatest part and held the most important place in history. The Italian boroughs gave birth to glorious republics; the German boroughs have become free, sovereign towns, which have had their particular history, and have exercised great influence in the general history of Germany; the boroughs of England were united to a portion of the feudal aristocracy, have formed with them one of the houses of parliament, the preponderating house of the British parliament, and thus early played a powerful part in the history of their country. The French boroughs, in the middle ages and under that name, were far from being elevated to that political importance, that historical rank; and yet it was in France that the population of the boroughs, the bourgeoisie, was the most completely, the most efficaciously developed, and finished by acquiring the most decided preponderance in society. There have been boroughs throughout Europe, there has been a third estate in France only. That third estate which in 1789 brought on the French revolution, is a destiny and power which belongs to our history, and which we should vainly seek elsewhere.

Thus, under every relation, this fact has a right to our most lively interest; it is great, it is new, it is national; no source of importance and attraction is wanting to it. We must therefore give it a particular attention. I cannot in the present course present it to you in its whole extent, nor make you present at the progressive development of the third estate; but I shall endeavour, in the short time which remains, to point out with some precision what were the principal phases of it from the eleventh to the fourteenth century.

For a long time men connected the origin, the first formation of the French boroughs to the twelfth century, and they have attributed that origin to the policy and the intervention of kings. In our time, this system has been disputed, and with advantage; it has been maintained, on the one hand, that the boroughs were much more ancient than has been supposed; that under this name or under analogous names, they ascend far beyond the twelfth century; on the other

hand, that they were not the work of royal policy and concession, but rather the conquest of the burghers themselves, the result of the insurrection of the towns against the lords. It is this last system that my friend, M. Augustin Thierry, has set forth and defended with rare talent, in the last half of his *Lettres sur l'Histoire de France.*

I fear that both of the systems are incomplete, that all the facts cannot there find their place, and that to properly understand the real origin, the real character of the third estate, it is necessary to take into consideration a far greater number of circumstances, and to look at the same time more closely.

Doubtless, in the twelfth century there was accomplished a great movement in the boroughs of France, which forms a crisis in their position, and an epoch in their history. A simple outline will suffice to convince you of this. Open the "Recueil des Ordonnances des Rois," you will there see, in the twelfth and thirteenth centuries, a very considerable number of acts relative to boroughs. They evidently arose on all sides, acquired more importance every day, and became an important affair of government. I have drawn up a statement of acts, both charters and concessions of privileges of all kinds, internal rules and other documents which emanated from the royal power, relative to boroughs, in the twelfth and thirteenth centuries. There results from this that the collection of the ordinances contains in it alone: of king Louis le Gros, 9 acts relative to boroughs; of Louis VII., 23; of Philip Augustus, 78; of Louis VIII., 10; of Saint Louis, 20; of Philip le Hardi, 15; of Philip le Bel, 46; of Louis X., 6; of Philip le Long, 12; of Charles le Bel, 17.

So that, in the course of the single epoch which occupies us, in a single collection, we find 236 acts of government, of which the commons are the subject.

Upon no other matter does there remain of this epoch so large a number of official documents.

And observe that the question here is not merely of acts emanating from royalty. As to each of the principal suzerains who shared the territory of France, there might be made an analogous work. The kings, as you know, were not the only persons who gave charters, and who interfered in the affairs of the boroughs; every lord, when he had any borough or

town in his domains, had the power to regulate its destinies or rights; and if we could collect all the acts of this kind to which the boroughs have given rise from the twelfth to the fifteenth century, we should have an enormous number. But the view which I place before you, although confined to royal acts, fully suffices to give an idea of the prodigious movement which broke forth about this epoch, in the existence of the boroughs, and the development of the third estate.[1]

The moment we look at these acts, and without penetrating deeply into the inquiry, we see that it is impossible to make them all enter into either of the two systems which I have just recalled to mind with regard to the origin and primitive history of the French boroughs. The most cursory inspection shows in these 236 acts three classes of facts entirely distinct. Some speak of towns, of municipal liberties and customs, as of ancient uncontested facts; they do not even recognise these facts expressly, they do not feel the need of giving them a precise form, a new date; they modify them, extend them, adapt them to new needs, to some change in the social state. Other acts contain the concession of certain privileges, of certain peculiar exemptions, for the benefit of such or such a burgh, such or such a town, but without constituting it a corporation, properly so called, without conferring an independent jurisdiction upon it, the right of nominating its magistrates, and, as it were, of governing itself; they freed the inhabitants of certain places from such or such a tax, from such or such a service; they made them such or such a promise; the concessions are excessively various, but they confer no political independence. Lastly, there are acts which constitute corporations, properly so called, that is to say, which recognise or confer upon the inhabitants the right of confederating, of promising each other reciprocal succour, fidelity, assistance against every external enterprise or violence; of nominating their magistrates, of meeting, of deliberating, in a word, of exercising within their walls a kind of sovereignty, a sovereignty analogous to that of the possessors of fiefs in the interior of their domains.

[1] See this view and analysis of the acts here mentioned at the end of the volume.

You see these are three classes of distinct facts; and which show essentially different municipal systems. Well, this difference which is manifested in the official documents of the twelfth century, is likewise found in history, in events; and by observing them, we arrive at the same results as by reading the charters and diplomas.

And first, it will be recollected that I spoke of the continuance of the Roman municipal system in many towns after the invasion of the barbarians. It is a point at present recognised that the Roman municipal system did not perish with the empire; I have shown it to you still living and active during the seventh and eighth centuries, particularly in the cities of southern Gaul, which was far more Roman than northern Gaul. We equally find it in the ninth, tenth, and eleventh centuries. M. Raynouard, in the latter half of the second volume of his *Histoire du Droit Municipal en France*, has placed this fact beyond doubt. He has collected from epoch to epoch, for a large number of towns, among others, for those of Perigueux, Bourges, Marseilles, Arles, Toulouse, Narbonne, Nîmes, Metz, Paris, Reims, &c., the traces of a municipal system in uninterrupted vigour from the eighth to the twelfth century. When, therefore, at this last epoch, that great movement which characterizes it was brought about in the situation of the boroughs, there was nothing to be done for these towns, already in possession of a municipal system, if not similar to that which was about to take birth, at least sufficing for the needs of the population. Accordingly, there are many towns whose names are not met with in the communal charters of the twelfth century, and which did not the less enjoy the chief municipal institutions and liberties, sometimes even under the name of *commune* (*communitas*), as the town of Arles, for instance. These are evidently Roman municipalities which had survived the empire, and had no need of an act of the new powers to recognise or create them.

It is perfectly true that, from the eighth to the end of the eleventh century, the existence of these municipalities appears rarely and very confusedly in history. What is there to be surprised at in this? In this confusion and obscurity there is nothing peculiar to the towns or the municipal sys-

tem. In the ninth and tenth centuries, feudal society itself, that society of conquerors, of masters of power and of the soil, has no history, it is impossible to follow the thread of its destinies. Property was then so much abandoned to the chances of force, institutions were so ill secured, so little regular, all things were a prey to an anarchy so agitated, that no concatenation, no historical perspicuity can be found. History requires some order, some sequence, some light; it exists upon no other conditions. In the ninth and tenth centuries there was neither order, sequence, nor light, for any class of facts, or for any condition of society; chaos reigned everywhere, and it is only at the end of the tenth century that feudal society escapes from it, and really becomes a subject for history. How could it be otherwise for the municipal society, far more weak and obscure? Many of the Roman municipalities subsisted, but without influence upon any general event, without leaving any trace. We therefore need not be surprised at the silence which the rare monuments and miserable chroniclers of this epoch observe with regard to them. This silence arises from the general state of society, and not from the entire absence of institutions, of municipal existence. The Roman municipality perpetuated itself in the same way that the feudal society formed itself, in the midst of universal night and anarchy.

When all things became a little calm and fixed, other municipalities soon appeared. I have already repeatedly made you observe, that one of the principal changes introduced into the social state of Europe by the invasion of the barbarians was the dispersion of the sovereign population, of the possessors of power and the soil, amidst the rural districts. Hitherto, and especially in the Roman world, it was in the hearts of towns that the population was concentred, and that the proprietors, more especially the considerable men, the aristocracy of the time, lived. The conquest overthrew this great fact; the barbaric conquerors established themselves in preference, amidst their estates, in their strong castles. The social preponderance passed from cities to the country districts. A population specially employed upon the cultivation of the estates soon grouped themselves around the castles. The new agglomerations had

not all the same destiny; many remained but little extended, poor and obscure; others were more fortunate. The progress of fixedness, of regularity in existences, led to new wants; new wants provoked a more extended, more varied labour. The population assembled around the castle was the only one which worked. We do not see it everywhere and exclusively attached, in the state of coloni or serfs, to the cultivation of the earth. Industry, commerce, reanimated and extended themselves. They especially prospered in some places, from a multitude of various and accidental causes. Some of those agglomerations of population which formed themselves around castles, in the domains of the possessors of fiefs, became great burghs or towns. After a certain time, the possessors of the domains amidst which they were situated acknowledged that they profited from their prosperity, and had an interest in aiding its development; they then granted them certain favours, certain privileges, which, without removing them from feudal domination, without conferring a true independence upon them, had still the aim and effect of attracting the population thither, and of increasing wealth. And in their turn the more numerous population, the greater riches, demanded and led to more efficacious favours, to more extensive concessions. The collections of documents are full of documents of this kind, accorded by the sole influence of the course of things to the boroughs and towns of new creation, and whose independence did not extend beyond these more or less precarious concessions.

I seek an example which shall make the fact which I have just described thoroughly understood; I find none more applicable than that of the colonies. What did men do when they aimed at founding colonies? They conceded lands, privileges, to men who established themselves there, engaging themselves for a certain number of years, and on payment of a fixed rent. This is precisely what frequently happened in the country districts, around the castles, in the eleventh and twelfth centuries.

We see a large number of possessors of fiefs conceding lands and privileges to all those who established themselves in the towns situated in their domains. They there gained not only an increase of revenue, but also an increase of material strength. The inhabitants of these boroughs and

towns were bound to certain military services towards their lord; we find the citizens at a very early period marching to war, generally grouped around their priests. In 1094, in an expedition of Philip I. against the castle of Breherval—

"The priests lead their parishioners with their banners."

In 1108, at the death of Philip I.—

"A popular community," says Orderic Vital, "was established in France by the bishops; in such a way that the priests accompanied the king to battle and sieges, with banners, and all the parishioners."

According to Suger:

"The corporations of the parishes of the country took part in the siege of Thoury, by Louis le Gros."

In 1119, after the repulse of Brenneville, the following counsel was given to Louis le Gros:

"Let the bishops and counts and all the powerful men of thy kingdom, repair to thee, and let the priests with all their parishioners go with thee where thou shalt order them. . . .

"The king resolved to do all these things. . . . he sent out prompt messengers, and sent his edict to the bishops. They willingly obeyed him, and threatened to anathematize the priests of their diocese, with their parishioners, if they did not hasten to join themselves, at about the time fixed, to the expedition of the king, and if they did not fight the rebel Normans with all their strength.

"The people of Burgundy and of Berry, of Auvergne, and of the country of Sens, of Paris, and of Orleans, of Saint Quentin, and of Beauvais, of Laon and of Etampes, and many others, like wolves, rushed greedily upon their prey. . . .

"The bishop of Noyon and he of Laon, and many others went to this expedition; and by reason of the ill estimation in which they held the Normans, sanctioned all sorts of crimes in their people. They even allowed them, as in virtue of a Divine permission, to pillage the sacred edifices, in order thus to increase their legions by flattering them in every way, and to animate them against their enemies by promising them all things."

This need of *increasing the legions* which followed them to war was indisputably one of the principal motives which induced the proprietors of fiefs to favour these agglomerations of population upon their domains, and consequently to the

ceding of privileges which alone could attract new inhabitants. These very incomplete privileges, dictated solely by personal interest, incessantly violated, often revoked, did not, I repeat, constitute true corporations invested with an independent jurisdiction, nominating their magistrates, and almost governing themselves; but they contributed none the less powerfully to the general formation of that new class which, at a later period, became the third estate.

I now come to the third of these origins, to that which M. Thierry has so well pointed out and developed; that is to say, the violent struggle of the citizens against the lords. This is a source of the boroughs properly so called, and one of the most efficacious causes of the formation of the third estate. The vexations which the lords put upon the inhabitants of the boroughs and towns situated in their domains were of daily occurrence, often of an atrocious character, immensely irritating; security was wanting even more than liberty. With the progress of wealth, the attempts at resistance became more frequent and more energetic. The twelfth century saw the insurrection of the citizens break forth in a thousand directions; they formed into petty local confederations to defend themselves against the violence of their lords, and to obtain guarantees. Thence arose an infinity of petty wars, some terminated by the ruin of the citizens, others by treaties which, under the name of communal charters, conferred upon many boroughs and towns a kind of *intra muros* sovereignty, then the only possible guarantee for security and liberty.

As these concessions were the result of conquest, they were generally more extensive and efficacious than those which I just spoke of. It was, accordingly, to the struggle at the sword's point that must be attributed the formation of the strongest and most glorious boroughs, those which have taken a position in history. You know, however, that they did not long preserve their political independence, and that their condition ended by being very similar to that of other towns which had not carried on the same combats.

Such are the three origins of the French bourgeoisie, of the third estate. 1. The Roman municipal system, which continued to exist in a large number of towns. 2. The ag-

glomeration of population which was naturally formed upon the estates of many of the lords, and which, by the sole influence of increasing wealth, by the need which the lords had of their services, successively obtained concessions, privileges, which, without giving them a political existence, still ensured the development of their prosperity, and consequently of their social importance. 3. Finally, the corporation, properly so called—that is to say, the boroughs and towns which, by force of arms, by a struggle of greater or less duration, wrested from their lords a considerable portion of the sovereignty, and constituted petty republics of them.

Here we have the true character of the municipal movement in the eleventh and twelfth centuries; here it is seen in all its truth, far more various and extensive than it is generally represented. We shall now penetrate into the interior of the different kinds of corporations which I have described to you; we shall apply ourselves to distinguish them one from another, and to determine, with some precision, what was the municipal system, in the municipalities of Roman origin, in the boroughs which possessed simple privileges conceded by the lords, or in the true corporations formed by war and conquest. We shall thus arrive at a very serious question, and one which, in my opinion, is very much neglected; at the question what essential difference exists between the ancient Roman municipality and the corporation of the middle ages. Doubtless, there was Roman municipality in the boroughs at the middle ages, and it is by far too generally overlooked. But it is also true, that in the middle ages there was brought about, even in the towns of Roman origin, a considerable change, a true revolution, which gave another character, another tendency to their municipal system. I will first, and in a few words, point out what has occurred to me as being the essential difference: the predominant characteristic of Roman municipality was aristocracy; the predominant characteristic of the modern corporation was democracy. This is the result to which we shall be led by an attentive examination of this question.

In a word, when we shall have thoroughly studied, on the one hand, the formation of the boroughs and cities of the middle ages, and on the other their interior system, we shall

follow the vicissitudes of their history from the eleventh to the fourteenth century, during the course of the feudal period; we shall endeavour to determine the principal revolutions to which they were subjected during that period, and what they were at the commencement, and what they were at the end. We shall then have a somewhat complete and precise idea of the origin and early destinies of the French third estate.

SEVENTEENTH LECTURE.

Why it is important never to lose sight of the diversity of the origins of the third estate—1. Towns in which the Roman municipal system was perpetuated—Why the documents relating thereto are rare and incomplete—Perigueux—Bourges—2. Towns which, without having been, properly speaking, erected into boroughs, received various privileges from their lords—Orleans—Customs of Lorris in Gatinais—3. Boroughs, properly so called—Charter of Laon—True meaning of this charter and of the communal revolution of the eleventh century—Birth of modern legislation.

I HOPE you will not for a moment lose sight of the true question which occupies us at this moment; it is not only the formation and the first development of the boroughs, but the formation and the first development of the third estate. The distinction is important, and I insist upon it here for many reasons.

First, it is real, and founded upon facts. The word *third estate* is evidently more extensive, more comprehensive than that of the borough. Many social situations, individuals which are not comprehended in the word *borough*, are comprehended in that of the *third estate;* the officers of the king, for example, the lawyers—that cradle whence have issued almost all the magistrates of France—evidently belong to the class of the third estate; they have been for a long time incorporated in it, and have only been separated from it in ages immediately neighbouring upon our own, while we cannot rank them among the boroughs.

Moreover, the distinction has often been overlooked, and the result has been errors in the manner in which the facts have been presented. Some historians, for example, have seen, especially in the third estate, the portion derived from

the officers of the king, lawyers, various magistrates, and they have said that the third estate had always been closely united to the crown, and that it had always sustained its power, shared its fortune; that their progress has always been parallel and simultaneous. Others, on the contrary, have almost exclusively considered the third estate in the boroughs, properly so called; in those boroughs, those towns formed by means of insurrection against the lords, in order to escape from their tyranny. These have affirmed that the third estate claimed all the national liberties; that they had always been in a struggle, not only against the feudal aristocracy but against the royal power. According as men have thus given such or such an extent to the word *third estate*, according as they have particularly considered such or such of its primitive elements, they have deduced from it concerning its true history and the part which it has played in our history, consequences absolutely different, and all equally incomplete, equally erroneous.

In fine, the distinction upon which I insist alone explains an evident fact in our history. By the admission of all, the boroughs, properly so called, these independent, half sovereign towns nominating their officers, having almost the right of peace and war, often even coining money—these towns, I say, have gradually lost their privileges, their grandeur, their communal existence. Dating from the fourteenth century they have been progressively effaced; and at the same time, during this decay of the boroughs, the third estate developed itself, acquired more wealth and importance, daily played a greater part in the state. It was then necessary that it should imbibe life and strength from other sources than those of the boroughs, from sources of a different nature, and which furnished it with means of aggrandisement when the boroughs fell into decay.

The distinction is very important, and characterises the point of view under which I wish to make you consider the subject. It is with the formation and development of the third estate in its whole, in its various constitutive elements, and not with the commons alone that we are occupied.

In our last lecture, I placed before you the first formation of the elements of the third estate, and endeavoured to make you thoroughly understand the variety of its origins.

We shall now study the internal organization of those towns, of those boroughs where that new class was formed which has become the third estate.

It is evident from the fact of these origins having been various, that the organization of these towns, their internal constitution must have been so likewise. I have already pointed out what, in my opinion, were the three sources of the third state: 1. The towns which, in a great measure at least, preserved the Roman municipal system, where it always predominated, though modifying itself; 2. The towns and boroughs which gradually formed themselves in the domains of the great proprietors of fiefs, and which, without having been erected into corporations, properly so called, without ever having obtained that independence, that local government, that semi-sovereignty which characterizes true corporations, still received privileges, successive concessions, and arrived at a high degree of wealth, population, and social importance; 3. Lastly, the boroughs, properly so called, whose existence rested upon distinct complete charters, which formally erected them into boroughs, and gave them all the rights generally inherent to that name. Such are the three origins of the French bourgeoisie, of our third estate.

I am about to take successively these three classes of towns, of municipal associations, and endeavour to describe, with some precision, what was their internal organization at the twelfth century.

Let us first regard the towns of Roman origin, where the Roman municipal system continued to subsist, or nearly so.

For these, it will be easily understood, formal and precise monuments are wanting to us. The sole fact that this organization was essentially Roman is the reason that we do not find it written under such or such a date, in the middle ages. It was an ancient fact which had survived the invasion, the formation of modern states, which no one thought of drawing up and proclaiming. Thus one of the cities which after the invasion preserved, as it appears, the Roman municipal system in its most complete, most pure form is Perigueux. Well, we encounter no document of any extent upon the constitution of the town of Perigueux, no charter which regulates or modifies its internal organization, the rights of its magistrates, its relations with its lords or its

neighbours. I repeat it, this organization was a fact, a wreck of the ancient Roman municipal system; the names of the Roman magistrates, consuls, duumvirs, triumvirs, ediles, are met with in the history of Perigueux, but without their functions being in any way instituted or defined. Many other towns are in the same situation, especially in the south of France. It is an incontestable fact, that the towns of southern France appear the earliest in our history, as rich, populous, important, playing a considerable part in society: we see them such from the tenth, almost from the ninth century, that is to say, far sooner than the boroughs of the north. Still it is concerning the boroughs of the south that we possess the lesser number of legislative details, of formal documents. The communal charters are much more numerous for the France of the north than for the France of the south. Why is this? Because a large portion of the towns of the south having preserved the Roman system, it has not been felt necessary to write their municipal organization. It was not a new fact which it was necessary to institute, proclaim, or date. We therefore should not be surprised at knowing the internal organization of the new towns, of the boroughs, properly so called, with more precision and detail than that of towns where the municipal system was of Roman origin and subsisted by tradition. This proves absolutely nothing against the reality of the institutions and the extent of the municipal liberties, attested besides indirectly by a multitude of facts. M. Raynouard, in his *Histoire du Droit Municipal en France*, has collected for many towns the texts, the facts which prove the continuance of the Roman municipal organization, and make it in some degree known, in the absence of any formal institution, any detailed document. I will give the results of his labours with regard to the city of Bourges.[1] This example will suffice to give a clear and just idea of this third source of the French third estate, the most ancient and perhaps the most abundant.

At the time of the barbaric invasion, Bourges had arenas, an amphitheatre, everything which characterized the Roman city.

At the seventh century, the author of the *Vie de Sainte*

[1] Raynouard, *Histoire du Droit Municipal en France*, t. ii. p. 183—190

Estadiole, born at Bourges, says, "that she belonged to illustrious parents, who, according to worldly dignity, were commendable for senatorial nobility." Now, they gave the title of senatorial nobility to those families upon whom the government of the city had devolved, who occupied the *munera* or great municipal charges. Gregory of Tours, at the same epoch, cites a judgment given by the chiefs (*primores*,) of the city of Bourges. There was therefore at this epoch, in Bourges, a true municipal jurisdiction, analogous to that of the Roman curiæ.

It was the general characteristic of Roman municipalities, of cities properly so called, that the clergy, in concert with the people, elected the bishop. Now we find at Bourges, under the Merovingian and Carlovingian kings, many bishops, Sulpicius, Didier, Austregesilius, Agiulphe, elected absolutely as they would have been under the Roman emperors.

We find also coins of this epoch on which is imprinted either the name of the city of Bourges, or that of its inhabitants. One of these coins of the time of Charles le Chauve, and another of the time of king Lothaire, formally bear the inscription: *Biturices* (the *inhabitants of Bourges.*)

It was in 1107 that Philip I. bought the viscounty of Bourges of the viscount Herpin, who disposed of it in order to set out for the crusades. We find that there then existed at Bourges a municipal body whose members were called *prud'-hommes*, without any further detail being found.

Under archbishop Volgrin, upon his advice, and according to the prayer of the clergy and the people, Louis le Gros published a charter which gives no new right to the city of Bourges, nor institutes any public power in it, but reforms some ill customs which were introduced into it, and which apparently the royal authority alone was capable of repressing.

In 1145, Louis VII. confirmed the charter of Louis VI. In this confirmation, the principal inhabitants of Bourges, those who in the seventh century were still called *senators*, were designated by the name of *bons hommes*. The word has changed with the language, but it is evidently the same persons, the same social condition.

Another name is also given in this charter to the principal

inhabitants of Bourges. The ninth article is expressed in the following terms:—

"It was ordered by our father, that if any one did wrong in the city, committed an offence, he should have to repair the said wrong, according to the estimation of the *barons* of the city." *Barons* is a feudal word which shows the new condition of society, but which corresponds, as well as that of *bons hommes*, with the *senators* of the Roman city.

In 1118, Philip Augustus granted a new charter to Bourges. These various concessions, assured by various titles, relate only to subjects of legislation and local policy. There is no question of mayors, sheriffs, or freemen, for the corporation, the municipal jurisdiction having existed from time immemorial at Bourges, it was by *senatores* (*boni hominis*, *probi homines*, *barones*,) that the city was administered.

I shall pursue no further this history of the city of Bourges, which M. Raynouard has brought down to the end of the fifteenth century. It is a faithful image of what happened in many other towns of similar origin and situation. You continually see here, from the fifth to the fourteenth century, in these facts, inconsiderable it is true and little detailed, but very significant and very clear—you here see, I say, the Roman municipal system perpetuate itself, with modifications in names, or even in things, and corresponding with the general revolutions of society, without anywhere encountering any precise or new details with regard to the internal organization of those cities, their magistrates, or their relations with feudal society. We are only able to trace back to the ancient Roman municipal system, to study what it was at the moment of the fall of the empire, and then collect scattered facts from epoch to epoch, which show at once the permanence of this system, and its progressive alteration. It is thus only that we can give ourselves any correct idea of the state of towns of Roman origin at the twelfth century.

We encounter a difficulty, if not equal, at least analogous, when we desire to study towns which may be called of modern creation—those which are not related to the Roman city, which received their institutions, or even their existence from the middle ages, and which, however, have never been erected into boroughs, properly so called, have never acquired a true charter, which, dating from a fixed day, has assured them a real and complete municipal constitution. I will give

you an example of this kind. It is the city of Orleans. It was ancient, and had prospered under the empire; still, the perpetuity of the Roman municipal system does not appear there clearly, as you have just seen it in the case of the city of Bourges. It was from the middle ages and the kings that Orleans derives its municipal freedom, and its privileges. It was, as you know, next to Paris, the most important town of the domain of the Capetians, even before their accession to the throne. I will give you the series of acts of the kings of France, from Henry I. to Philip le Hardi, in favour of the city of Orleans. This analysis will make you understand its true character better than any other means.

We find in the *Recueil des Ordonnances*, from 1051 to 1300, seven charters relative to Orleans.

In 1051, king Henry I., at the request of the bishop and people of Orleans, (the bishop appears in this charter as the chief of the people, as the man who takes its interests in hand, and speaks in its name, a situation which corresponds to what, in the Roman municipal system, in the fifth century was called *defensor civitatis*,) orders that the gates of the city shall not be closed during the vintage, that all shall enter and go out freely, and that his officers shall no longer take the wine that they unlawfully exacted at the gates. This is an abuse, an exaction which the king causes to cease in the city of Orleans. It is no concession of municipal constitution, nothing which resembles a charter of incorporation properly so called.

In 1137, Louis le Jeune interdicts "the provost and sergeants of Orleans from . . . ." The words alone indicate that the city had no independent municipal constitution, that it was governed in the name of the king by provosts and sergeants—that is to say, by royal officers, and not by its own magistrates. I resume the ordinance: Louis VII. interdicts the provosts and sergeants of Orleans from all vexation over the burghers; he promises not to detain the burghers violently when they shall be summoned to his court, nor to make any alteration in the coin of Orleans, &c., &c. In consideration of this last promise, the king is to have a duty upon each measure of wheat and wine.

These are declarations against abuses, concessions favourable to the security and prosperity of the city of Orleans, but which give no idea of municipal constitution.

In 1147, the same king abolished the right of *main-morte* in the city of Orleans. This, as you know, was a very variable right, which was exercised at the death, whether of serfs or of men of an intermediate condition between complete liberty and servitude. They had not the right of making a will, of leaving their property to whom they wished. When they had no children, no natural and direct heirs, it was the king who inherited from them. In some places they might dispose of a portion of their property, but the person who inherited was obliged to pay a certain sum to the king. I shall not stay to explain all the forms, all the varieties of this right of *main-morte.* It is sufficient to say that it was a source of great revenue to the king, and from which the population, in proportion as it increased and prospered, incessantly sought to free itself. In 1147, then, Louis VII. abolished the right of *main-morte* in Orleans, a new progress for the security and fortune of the citizens, but no change in their municipal system.

In 1168, there was another charter of the same king, which abolished many taxes and abuses unlawfully introduced into Orleans. He published many regulations favourable to the transactions, to the liberty of commerce: he exempted from all taxes the vender of wine, who only offered his merchandise and stated its price. He interdicted duels, or judicial combats, in cases of dispute for the value of five sous or under.

In 1178, Louis VII. abolished yet more taxes and shackles upon liberty of commerce in Orleans. He authorized the payment in kind of the duty which he received upon wine, in virtue of the ordonnance of 1137.

In 1183, Philip Augustus exempted the present and future inhabitants of Orleans, and some neighbouring towns, from all taxation, and granted them various privileges: for example, that of not going further to plead than Etampes, Yevres le Chatel, or Lorris; that of never paying a fine of more than sixty sous, except in certain determinate cases, &c., &c.

These concessions were made in consideration of a duty of two deniers upon each measure of wheat and of wine. Every year the king sent one of the sergeants of his house, who, in concert with the sergeants of the city and ten notable burghers, (legitimi,) elected *communiter* by all the burghers, fixed the amount of this duty for each house.

In 1281, Philip le Hardi renewed and confirmed these concessions of Philip Augustus.

You here see, during about a hundred and fifty years, a series of important concessions, which, more or less completely observed, followed and favoured the progress of the population, the wealth, and the security of the city of Orleans, but which in no way erected it into a true borough, and always left it in a state of complete political dependence.

It was thus with a large number of towns. I say more: there were some which received very positive and very detailed charters, charters which seem to accord them rights as considerable as those of real boroughs; but when we inspect them closely, we see that it is nothing of the kind, for these charters in fact only contain concessions analogous to those to Orleans which I have just placed before you, and by no means constitute of the town a true borough, give it no special and independent existence.

There is a charter which played a great part in the middle ages, because it was formally conceded to a large number of towns, and served as a model for the internal state of others: this is the charter given by Louis le Jeune, and which appears to have been only a repetition of a charter of Louis le Gros, to the town of Lorris in Gatinais. I beg permission to give it entire, although it is somewhat lengthy, and relates to the details of civil life. It is important as enabling us to estimate with some precision the meaning and extent of concessions of this kind. People have almost always spoken of boroughs (I must insist anew upon this point,) and charters of boroughs in too general a manner; they have not examined the facts closely enough, nor properly distinguished those which really differ. This confused and incomplete knowledge carries the imagination beyond the truth; it is not present at the view of things such as they really were; and reason in its turn wanders at random among the consequences which it has deduced from them. This is why I place before you the very text of some of those charters which have been generally looked upon as being similar to one another; you will see how different they are at bottom, how they emanate from different principles, and reveal, in the municipal system of the middle ages, varieties too often overlooked. Here, then, is this charter of the borough of Lorris,

which the collections call *Coutumes de Lorris en Gâtinais* (*Consuetudines Lauriacenses*).

"Louis, &c.—Let it be known to all, &c.

"1. Let whoever shall have a house in the parish of Lorris pay a quit-rent of six deniers only for his house, and each acre of land which he shall have in this parish; and if he make such an acquisition, let that be the quit-rent of his house.

"2. Let no inhabitant of the parish of Lorris pay a duty of entry nor any tax for his food, and let him not pay any duty of measurement for the corn which his labour, or that of the animals which he may have shall procure him, and let him pay no duty for the wine which he shall get from his vines.

"3. Let none of them go to an expedition on foot or horseback, whence he cannot return home the same day if he desire so to do.

"4. Let none of them pay toll to Etampes, to Orleans, or to Milly, which is in Gâtinais, nor to Melun.

"5. Let no one who has property in the parish of Lorris lose any of it for any misdeed whatsoever, unless the said misdeed be committed against us or any of our guests.

"6. Let no one going to the fairs or markets of Lorris, or in returning, be stopped or inconvenienced unless he shall have committed some misdeed that same day; and let no one on a fair or market day at Lorris, seize the bail given by his security; unless the bail be given the same day.

"7. Let forfeitures of sixty sous be reduced to five, that of five to twelve deniers, and the provost's fee in cases of plaint, to four deniers.

"8. Let no man of Lorris be forced to go out of it to plead before the lord king.

"9. Let no one, neither us nor any other, take any tax, offering, or exaction from the men of Lorris.

"10. Let no one sell wine at Lorris with public notice, except the king, who shall sell his wine in his cellar with that notice.

"11. We will have at Lorris, for our service and that of the queen, a credit of a full fortnight, in the articles of provisions; and if any inhabitant have received a gage from the lord king, he shall not be bound to keep it more than eight days, unless he please.

"12. If any have had a quarrel with another, but without breaking a closed house, and if it be accommodated without plaint brought before the provost, no fine shall be due, on this account, to us or to our provost; and if there has been a plaint they can still come to an agreement when they shall have paid the fine. And if any one bear plaint against another, and there has been no fine awarded against either one to the other, they shall not, on that account, owe anything to us or our provost.

"13. If any one owe an oath to another, let the latter have permission to remit it.

"14. If any men of Lorris have rashly given their pledge of battle, and if with the consent of the provost they accommodate it before the pledges have been given, let each pay two sous and a half; and if the pledges have been given, let each pay seven sous and a half; and if the duel has been between men having the right of fighting in the lists, then let the hostages of the conquered pay one hundred and twelve sous.

"15. Let no man of Lorris do forced work for us, unless it be twice a year to take our wine to Orleans, and nowhere else; and those only shall do this who shall have horses and carts, and they shall be informed of it beforehand; and they shall receive no lodging from us. The labourers also shall bring wood for our kitchen.

"16. No one shall be detained in prison if he can furnish bail for his appearance in court.

"17. Whoever desires to sell his property may do so; and having received the price, he may leave the town, free and unmolested, if he please so to do, unless he has committed any misdeed in the town.

"18. Whoever shall have remained a year and a day in the parish of Lorris without any claim having pursued him thither, and without the right having been interdicted him, whether by us or our provost, he shall remain there free and tranquil.

"19. No one shall plead against another unless it be to recover, and ensure the observance of, what is his due.

"20. When the men of Lorris shall go to Orleans with merchandise, they shall pay, upon leaving the town, one denier for their cart, when they go not for sake of the fair;

and when they go for the sake of the fair and the market, they shall pay, upon leaving Orleans, four deniers for each cart; and on entering, two deniers.

"21. At marriages in Lorris, the public cryer shall have no fee, nor he who keeps watch.

"22. No cultivator of the parish of Lorris, cultivating his land with the plough, shall give, in the time of harvest, more than one hemine (*mina*) of rye to all the serjeants of Lorris.[1]

"23. If any knight or serjeant find, in our forests, horses or other animals belonging to the men of Lorris, he must not take them to any other than to the provost of Lorris; and if any animal of the parish of Lorris, put to flight by bulls, or assailed by flies, have entered our forest, or leaped our banks, the owner of the animal shall owe no fine to the provost, if he can swear that the animal has entered in spite of his keeper. But if the animal entered with the knowledge of his keeper, the owner shall pay twelve deniers, and as much for each animal, if there be more than one.

"24. There shall be at Lorris no duty paid for using the oven.

"25. There shall be at Lorris no watch rate.

"26. All men of Lorris who shall take salt or wine to Orleans, shall pay only one denier for each cart.

"27. No men of Lorris shall owe any fine to the provost of Etampes, nor to the provost of Pithiviers, nor to any in Gatinais.

"28. None among them shall pay the entry dues in Ferrières, nor in Château-Landon, nor in Puiseaux, nor in Nibelle.

"29. Let the men of Lorris take the dead wood in the forest for their own use.

"30. Whosoever, in the market of Lorris, shall have bought or sold anything, and shall have forgotten to pay the duty, may pay it within eight days without being troubled, if he can swear that he did not withhold the right wittingly.

"31. No man of Lorris having a house or a vineyard, or a meadow, or a field, or any buildings in the domain of Saint-Benedict, shall be under the jurisdiction of the abbot of Saint-Benedict or his serjeant, unless it be with regard to

[1] According to Du Cange, the *mina* equalled six bushels.

the quit-rent in kind, to which he is bound; and, in that case, he shall not go out of Lorris to be judged.

"32. If any of the men of Lorris be accused of anything, and the accuser cannot prove it by witness, he shall clear himself by a single oath from the assertion of his accuser.

"33. No man of this parish shall pay any duty because of what he shall buy or sell for his use on the territory of the precincts, nor for what he shall buy on Wednesday at the market.

"34. These customs are granted to the men of Lorris, and they are common to the men who inhabit Courpalais, Chanteloup, and the bailiwick of Harpard.

"35. We order that whenever the provost shall be changed in the town, he shall swear to faithfully observe these customs; and the same shall be done by new serjeants when they shall be instituted." [1]

This charter was looked upon by the citizens as so good, so favourable, that in the course of the twelfth century, it was claimed by many towns; they demanded the customs of Lorris; they addressed themselves to the king in order to obtain them:

In the space of fifty years they were granted to seven boroughs or towns:

In 1163, to Villeneuve-le-Roi.
In 1175, to Chaillon-sur-Loire (Sonchalo).
In 1186, to Boiscommun, in Gatinais.
In 1187, to Voisines.
In 1188, to Saint André near Mâcon,
In 1190, to Dimont.
In 1201, to Cléry.

And yet, read this charter attentively, there is not, in the special and historical sense of the word, any corporation, any true municipal institution, for there is no proper jurisdiction, no independent magistracy. The proprietor of the fief, the supreme administrator, the king, makes such or such promises to certain inhabitants of his domains—he engages to govern them according to certain rules—he himself imposes those rules upon his officers, his provosts. But there is nothing, absolutely nothing, resembling real, political guarantees.

[1] *Recueil des Ordonnances*, l. xi. p. 200—203.

Do not, however, suppose that these concessions were without value, and that they remained without fruit. In following, during the course of our history, the principal towns, which, without ever having been erected into boroughs properly so called, have obtained advantages of this kind, we see them gradually developing themselves, increasing in population, in wealth, and adhering more and more to the crown, from which they had received their privileges, and which, while having them very imperfectly observed, while often even violating them, was still accessible to claims, from time to time repressed the ill conduct of its officers, renewed the privileges at need, extended them even, followed, in a word, in its administration, the progress of civilization, the dictates of reason, and thus attached to itself the citizens without politically enfranchising them. Orleans is a striking example of this fact. In the course of the history of France, that town is incontestably one of those which have most strongly, most constantly, adhered to the crown, and have given it proofs of the most faithful devotion. Its conduct during the great wars against the English, and the spirit which has reigned in it even down to our own days, are striking proofs of this; and yet Orleans has never been a veritable borough. An almost independent city, it has always remained under the administration of the royal officers, invested with precarious privileges; and it is solely by favour of these privileges that its population, its wealth, and its importance, have been progressively developed.

I now pass to the third of the sources of the third estate, which I pointed out in commencing, to the boroughs properly so called, to those towns, those burghers which have enjoyed an almost independent existence, protected by true political guarantees.

You know how most of them were formed: by insurrection, by warfare against the lords—a war which led to those treaties of peace called charters, wherein were regulated the rights and the relations of the contracting parties.

It would seem, on the first approach, that these treaties of peace, these charters, would only contain the conditions of the agreement concluded between the insurgents and the possessors of the fief, the commune and its lord. What their relations will be henceforward? at what price the

independence of the borough is to be recognised? what will be its extent? how it will be instituted? where their jurisdiction will stop?—such are the arrangements which it would appear should spring from the struggle, and be written in the charter which terminates it.

Almost always, in fact, and even very recently, in the works of which this part of our history has been the subject, they have seen scarcely anything in the borough charters, or at least they have remarked scarcely anything but this. There is, however, something else—a great deal more.

I am about to place before you, in its whole extent, one of the most ancient borough charters, one of those which best show what was the internal state of a town after a long struggle against its lord, and everything that had to be done there at the time of the definitive pacification, when the war had lasted long enough, and it was necessary at last to come to a treaty. I speak of the charter given by Louis le Gros, in 1128, to the borough of Laon. You will find, in the *Lettres sur l'histoire de France*, by M. Thierry, the account of the facts which preceded this charter, the tyranny of the bishop of Laon, the insurrections of the burghers, first against their bishop, then against the king himself, their internal seditions, their negotiations, and all the vicissitudes of this terrible struggle, recounted with as much truth as vivacity. After nineteen years came at last the charter of which I speak, which is very truly entitled, *Etablissement de la paix*. In order to understand it, it is indispensable to know it all through:

"In the name of the holy and indivisible Trinity, Amen. Louis, by the grace of God, king of the French, we wish to make it understood by all our faithful, present, and to come, the following establishment of peace that, with the advice and consent of our great men and the citizens of Laon, we have instituted at Laon, which extends from the Ardon to the wood, so that the village of Luilly and all the extent of vineyards, and from the mountain, may be comprised within these limits.

"1. No one may, without the intervention of the judge, arrest any one for any misdeed, whether free man or serf. If there be no judge present, they may, without forfeiture, retain (the attainted) until the judge shall come, or conduct

him to the house of the justiciary, and receive satisfaction for the misdeed, according as he shall be judged.

"2. If any one have done, in any way whatsoever, any injury to a priest, knight, or merchant, and if he who has done the injury be of the city, let him be cited within four days, to appear in justice before the mayors and freemen, and justify himself from the wrong which is imputed to him, or repair it according as he shall be judged. If he do not choose to repair it, let him be driven from the city, with all of his own family (except the hired servants, who are not obliged to go with him, unless they wish so to do), and let him not be permitted to return until he shall have repaired the misdeed by an adequate satisfaction.

"If he have possessions, in houses or vineyards, in the territory of the city, let the mayor and freemen demand justice of this malefactor, or of the lords (if there be several) in the district where his possessions are situated, or of the bishop, if he possesses in freehold; and if, summoned by the lords or the bishop, he will not repair his fault within a fortnight, and they cannot procure justice upon him, either from the bishop or from the lord in whose district his possessions are situated, let the freemen be allowed to devastate and destroy all the goods of this malefactor.

"If the malefactor be not of the city, let the cause be brought to the bishop; and if, summoned by the bishop, he has not repaired his misdeed within the fortnight, let the mayor and freemen be allowed to pursue vengeance on him, as they may.

"3. If any one, without knowing it, bring into the territory of the establishment of peace, a malefactor driven from the city, and if he prove his ignorance by oath, let him freely take back the said malefactor, for that time only. If he do not prove his ignorance, let the malefactor be detained until full satisfaction.

"4. If by chance, as it often happens, in the midst of a conflict among men, one strikes the other, with the fist, or the palm of the hand, or says any disgraceful insult to him, after having been convicted by legitimate testimonies, let him repair the wrong towards him who is offended, according to the law under which he lives, and let him make reparation to the mayor and the freemen for having violated the peace.

"If the offended refuse to receive reparation, let him not be permitted to pursue any vengeance against the attainted, either within the territory of the establishment of peace, or beyond it; and if he should wound him, let him pay to the wounded the charge of doctors for healing the wound.

"5. If any one have a mortal hatred against another, let him not be allowed to pursue him when he shall go out of the city, nor keep in ambush for him when he shall return. If upon going out or coming in, he kill him, or wound him in any member, and he be summoned for such pursuit or ambush, let him justify himself by the judgment of God. If he have fought or wounded him beyond the territory of the establishment of peace, in such a way that the pursuit or ambush cannot be proved by the legitimate testimony of the men of the said territory, he shall be allowed to justify himself by oath. If he be found guilty, let him give head for head, and limb for limb, or let him pay for his head, or according to the importance of the limb, an adequate redemption, at the arbitration of the mayor and the freemen.

"6. If any one have entered a capital complaint against another, let him first carry his plaint before the judge, in the district in which the attainted shall be found. If he cannot have justice from the judge, let him carry to the lord of the said accused, if he live in the city, or to the officer (*ministerialis*) of the said lord, if he himself live out of the city, the plaint against his man. If he cannot have justice either from the lord or from his officer, let him seek the freemen of the peace, and explain to them that he cannot have justice on this man, either from the lord or from the officer of the same; let the freemen seek the lord, if he be in the city, and if not, his officer, and let them demand that justice be instantly done to him who complains of his man; and if the lord or his officer cannot do him justice, or neglect so doing, let the former seek some means whereby the plaintiff may not lose his right.

"7. If any robber be arrested, let him be carried to him in whose land he has been taken; and if the lord of the land do not do justice, let the freemen do it.

"8. Ancient misdeeds, which took place before the establishment of the peace, are absolutely pardoned, with the exception of thirteen persons whose names here follow:

Foulques, the son of Bomard; Raoul of Capricion; Haman, the man of Lebert; Payen Seille; Robert; Remy Bunt; Meynard Dray; Raimbauld of Soissons; Payen Hostelloup; Anselle Quatremains; Raoul Gastines; Jean of Molreim; Anselle, son-in-law of Lebert. With the exception of these, if any one of the city, driven out for ancient misdeeds, wish to return, let him resume possession of all which belongs to him, and which he shall prove himself to have possessed, and not sold or put in pledge.

" We also order that men of tributary condition pay the due rent and no more to their lords; and if they do not pay it at the time agreed upon, let them be subject to the fine, according to the law under which they live; and let them not pay, except it be willingly, anything at the demand of their lords, but let it rest with their lords to pursue them for their failure, and to take from them what shall be adjudged.

" 10. Let men of the peace, except servants of the church, and of the great men of the peace, take wives in any condition they can. With regard to servants of the church, or of the great men who are of the peace, who are beyond the limits of this place, it is not permitted them to take wives without the consent of their lords.

" 11. If any vile and dishonest person insult, by gross injuries, an honest man or woman, let it be permitted to any prudhomme of the peace, who shall be near, to reprimand him, and repress his presumption, with impunity, by one, two, or three blows. If he be accused of having struck for an old hatred, let him be allowed to clear himself, by taking oath, that he did not do it out of hatred, but, on the contrary, for the observance of peace and concord.

" 12. We completely abolish main-morte.

" 13. If any one of the place, in marrying his daughter, or granddaughter, or relation, have given her land or money, and if she die without heir, let all which shall remain of the land or money given her, return to those who gave it, or to their heirs. In the same way, if a husband die without heir, let all his property return to his relations, with the exception of the dowry which he had given to his wife; this latter shall keep the dowry during her life, and after her death the dowry shall return to the relations of her husband. If neither the husband nor the wife possess real property,

and if, gaining by trade, they have made a fortune and have no heirs, at the death of one all the fortune shall remain with the other; and if then they have no relations, they shall give two-thirds of their fortune in alms for the good of their souls, and the other third shall be spent for the construction of the walls of the city.

"14. Moreover, let no stranger, among the tributaries of the church or of the knights of the city, be received into the present peace without the consent of his lord. If, by ignorance, any one be received without the consent of his lord, let him be permitted within the space of fifteen days to go whole and safe, without forfeiture, where he shall please, with all his substance.

"15. Whosoever shall be received into this peace must, within the space of one year, build himself a house, or buy vineyards, or bring into the city a sufficient quantity of his moveable property to enable him to satisfy justice, if by chance it have any subject of complaint against him.

"16. If any one deny having heard the proclamation of the city, let him prove it by the testimony of the sheriffs, or clear himself by elevating his hand in oath.

"17. With regard to the rights and customs which the lord of the manor pretends to have in the city, if he can legitimately prove before the court of the bishop that his predecessors have anciently possessed them, let him obtain them with good will; if he can not do so, let him not have them.

"18. We have thus reformed the customs with regard to taxes: Let each man who owes taxes, pay four deniers at the time when he owes them, but let him pay no other tax beside; unless, indeed, he have beyond the limits of this peace some other land owing taxes, to which he holds sufficiently to pay the tax for the said possession.

"19. The men of the peace shall not be forced to go to any court out of the city. If we have any subject of complaint against any one of them, justice shall be administered by the judgment of the freemen; and if we have subject of complaint against all, justice shall be administered by the judgment of the court of the bishop.

"20. If any priest commit a misdeed, within the limits of the peace, if he is a canon, let the plaint be taken before the dean, and let him administer justice. If he be not a canon,

justice must be administered by the bishop, archdeacon, or their officers.

"21. If any great men of the country have done wrong to the men of the peace, and being summoned, will not do them justice, if these men be found within the limits of the peace, let them and their property be seized in reparation of this injury, by the judge in whose territory they shall have been taken, to the end that thus the men of peace may preserve their rights, and that the judge himself may not be deprived of his.

"22. For these benefits, then, and for others also, that, through a royal kindness, we have granted to these citizens, the men of this peace have made this convention with us—namely, that, without counting our royal court, the expeditions, and horse service which they owe us, they shall three times a-year furnish us with lodgings, if we come into the city; and that if we do not come thither, they shall instead, pay us twenty livres.

"23. We have then established all this constitution, with the exception of our right, the episcopal and ecclesiastical right, and that of the great men who have their legitimate and distinct rights in the confines of this peace; and if the men of this peace in any way infringe our right, that of the bishop, of the churches, of the great men of the city, they may retrieve their infringement without forfeiture, by a fine, within the space of fifteen days."[1]

You see that this concerns other things than the relations of the new borough with its lord, and the creating its municipal constitution. Indeed, truly speaking, the charter does not create that constitution, orders nothing concerning the formation of the local magistracies, who are its strength and guarantee.

You meet here with the names of *mayor* and *freemen;* you recognise here the independence of their jurisdiction; you distinguish here the movement of political life, elections, the right of peace and war, but without any article which formally institutes them. These are admitted, indisputable facts, which reveal themselves by their influence, but which men record in passing, so to speak, rather than institute.

[1] *Recueil des Ordonnances*, t. xi. p. 185—187.

Nor is there anything precise, anything carefully regulated as to the relations of the borough of Laon, either with the king, with its bishop, or with the lords with whom it may have to do. Many articles refer to these relations, but they are not the principal object of the charter. It has a far different range; a task far more vast, more difficult, occupied its authors. We see therein a rude, barbarous society, which arises out of an almost entire anarchy, and receives not only a borough charter, but a penal code, a civil code, an entire social legislation, so to speak. It is evident, the question is not merely the relations of a borough with its lord, not merely the instituting municipal magistracies; the matter in hand is the entire social organization; we are in the presence of a disarranged society, to which regular laws, written laws have become necessary, and which, not knowing how to give them to itself, receives them from a power with which it has just been at war, but which none the less exercises over it that authority, that ascendancy, the imperious condition of all efficacious legislation.

Read, and attentively read again, the charter of Laon, you will be convinced more and more that such is its true character. It is that of numerous analogous charters: I repeat, they not only regulate the relations of the boroughs with the lords; they not only institute the boroughs, but they organize the entire society in the interior of the city; they draw it from a state of anarchy, of ignorance, of legislative powerlessness, to give it, in the name of a superior power, a regular form, to write its customs, to regulate its rights, to impose upon it, with its consent, if I may so express myself, penal laws, civil laws, laws of police, all the means of order and duration of which that semi-barbarous society feels the need, and which, left to itself, it would never have been able to discover.

The charter of Laon, one of the most extensive and complete, is also one of those where the fact which I have pointed out to you is the most clearly shown: but we recognise it in many other charters, especially in those of Saint Quentin, Soissons, Roye, &c. The revolution which happened at this epoch in the state of the boroughs is much greater, then, than is supposed; it did much more than enfranchise them, it began the entire social legislation.

I regret being unable to enter more into detail upon this great subject; I could wish to study to the bottom this rising citizen nation, its institutions, its laws, all its life, already so vigorous and yet so confined. But I am pressed for time, and the documents are incomplete. I think I have at all events given you a just idea of the origins of the third estate. To that I at present confine my ambition. I will endeavour, in our next lecture, to point out to you what a profound revolution was brought about in the passage from the ancient municipal system to that which we have just studied, and what essential, radical differences distinguish the Roman municipality from the borough of the middle ages. Whosoever has not taken into mature consideration these differences, and all their bearings, cannot understand modern civilization, the phases of its development, and its true character.

EIGHTEENTH LECTURE.

Subject of the lecture—The difference between the Roman municipal system and that of the middle ages—Danger of the immobility of names—1. Various origin of the Roman city and the modern borough; 2. Diversity of their constitution; 3. Diversity of their history—Thence resulted that the aristocratical principle predominated in the Roman city; the democratical spirit, in the modern borough—New proofs of this fact.

In our next lecture we shall terminate the history of civil society, properly so called, during the feudal period. It is true, we shall still have to examine the codes, the laws, the legislative movements of that society, the principal of which are the *Assises de Jerusalem*, the *Etablissemens* of Saint Louis, the *Coutume de Beauvaisis* of Beaumanoir, and the *Traité de l'ancienne jurisprudence de France*, by Pierre de Fontaine; but we shall be constrained to postpone this study to the next course. We shall at least have completely studied, during the present course, feudalism, royalty, and the commons from the tenth to the fourteenth century, that is to say, the three fundamental elements of civil society during that epoch.

You will recollect what the subject is which must occupy us at present. I first placed before you the formation of the third estate in France, its different origins, and its first developments. I then endeavoured to introduce you into the interior of the various boroughs, and to describe their constitution. At present let us apply ourselves to determine what resemblance and what difference existed between the Roman municipalities and the boroughs of the middle ages. This is the only means of arriving at a thorough comprehension of the latter.

I have already several times had occasion to point out to you the danger of those words which remain immoveable through ages, and are applied to facts which alter. A fact presents itself; people give it a name impressed with such or such a characteristic of the fact, with the most striking, the most general characteristic. After a certain lapse of time, let a fact present itself before men, analogous to the first, analogous at least in that particular characteristic, they do not trouble themselves to find out whether the resemblance is elsewhere complete; they give the same name to the new fact, although perhaps it essentially differs; and here is a fallacy established by a name, which will become the source of infinite errors.

Examples are plentiful. I take the first which occurs to me. For ages the word *republic* has meant a certain form of government where there is no sole and hereditary power. It is thus, that not only among the moderns, but among the ancients, a republic has been defined; and this name has been given to all states which have offered this characteristic. Compare, however, the Roman republic and the republic of the United States. Are there not between these two states which bear the same name infinitely greater differences than between the republic of the United States and any particular constitutional monarchy? It is evident that, although in a certain characteristic the republic of the United States resembles the Roman republic, it differs so essentially in other respects that it amounts almost to an absurdity to give it the same name. Nothing, perhaps, has caused more confusion, more fallacy in history, than this immobility of names amidst variety of facts; and I know not how to warn you too strongly never to lose sight of this quicksand.

We are close upon it now. I have frequently spoken of the influence of the Roman municipal system upon modern cities, the boroughs of the middle ages. I have endeavoured to show you how the Roman city did not perish with the empire, how it perpetuated and transfused itself, so to speak, in the modern boroughs. You may have been led to conclude that the boroughs of the middle ages greatly resembled the Roman cities; you would be deceived. At the same time that it is evident that the Roman municipal system did not perish, and that it exercised a great influence over the forma-

tion of modern towns, still it is necessary to understand that there was a transformation of this system, and that the difference between the cities of the empire and our boroughs is immense. It is this difference which I wish at present properly to explain to you.

And first there was in the origin, in the first formation of the cities of the Roman world, and of the towns of the middle ages, an important and fertile difference. The towns of the middle ages, whether boroughs, properly so called, or towns administered by seigneural officers, were formed, as you have seen, by labour and insurrection. On the one hand, the assiduous industry of the burghers and the progressive wealth consequent on industry; on the other, insurrection against the lords, the revolt of the weak against the strong, of the inferiors against the superiors; these are the two sources whence the boroughs of the feudal period took birth.

The origin of the towns of antiquity, of the cities of the Roman world, was wholly different. Most of them were formed by conquest; military or commercial colonies were formed amidst a country thinly populated, or badly cultivated; they successively invaded at the sword's point the surrounding territory. War, superiority of force, of civilization, such was the cradle of most cities of the ancient world, and particularly of a large number of the cities of Gaul, more especially in the south, as Marseilles, Arles, Agde, &c., which, as you know, are of foreign origin. The burghers of these cities, far different in this respect from the citizens of the middle ages, were in the outset, the strong, the conquerors. At their birth they dominated by conquest, while their successors, with great trouble, gained a little freedom by insurrection.

There is another original and not less important difference. Industry, doubtless, played a great part in the formation of the ancient cities, as of the modern boroughs. But here again the same word designates totally different facts. The industry of the burghers of antiquity was of an entirely different nature from that of the burghers of the middle ages. The inhabitants of a rising town, of a colony like Marseilles at the time of its foundation, were devoted to agriculture, to free and proprietary agriculture; they cultivated the territory as they invaded it, as the Roman patricians

improved the territory of the conquests of Rome. To agriculture, commerce became allied, but an extensive, varied, generally maritime commerce, full of liberty and grandeur. Compare this industry, commercial or agricultural, with that of the rising boroughs of the middle ages: What an enormous difference! in the latter, all is servile, precarious, narrow, miserable! the burghers cultivate, but without true liberty, without true possession; they acquire these, not in a day and by their arms, but slowly and by their sweat. As to the question of industry, of commerce, their industry is for a long time purely manual labour, their commerce is confined within a very limited horizon. Nothing resembles that free, extensive industry, those distant and varied relations of the colonies of antiquity. These formed themselves sword in hand, and with sails spread to the wind; the boroughs of the middle ages arose from furrows and from shops. Truly the difference of origin is great, and the entire life must have shown it.

If you would form a just idea of the origin and the first developments of the ancient cities, look at what has passed, at what is now passing in America. How were Boston, New York, New Haven, Baltimore, all those great maritime towns of the United States, formed? Free, fierce, daring men left their country, transported themselves to a foreign soil, amidst nations far inferior in civilization and force; they conquered the territory of these nations; they worked it as conquerors, as masters. Soon they formed a great and distant commerce with their old country, with the continent which they had quitted; and their wealth was rapidly developed, like their power.

This is the history of Boston, of New York; it is also the history of Marseilles, of Agde, of the great Greek, Phœnician, or even Roman colonies of the south of Gaul. There are, you see, very slight relations between this origin and that of the boroughs of the middle ages; the primitive situation of the burghers in these two cases was singularly different, and there must have resulted from thence profound and lasting differences in the municipal system and its development.

Let us leave the cradle of towns; let us take them already formed; let us study their internal social state, the relations maintained by the inhabitants among themselves or with their

neighbours; the difference between the Roman municipality and the borough of the middle ages will appear to us neither less great, nor less fertile.

Three facts especially strike me in the internal state of the cities of the Roman world and of the feudal towns.

In the cities of Greek or Roman origin, in most of the ancient cities of Gaul, the magistracies, the religious and civil functions were united. The same men, the chiefs of families, alike possessed them. It was, as you know, one of the great characteristics of Roman civilization, that the patricians were, at the same time, priests and magistrates, within their own house. There was not there a body especially devoted, like the Christian clergy, to the religious magistracy. The two powers were in the same hands, and were attached equally to the family, to the domestic life.

Moreover, in the ancient cities the paternal power, the power of the chief within his family, was enormous. It underwent, according to the times, important modifications; it was not the same in the cities of Greek and of Roman origin; but, in estimating these differences, it was not any the less one of the predominant characteristics of that social state.

Lastly, there was slavery, domestic slavery; the considerable families, the chiefs of the cities lived surrounded by slaves, exclusively served by slaves.

None of these three circumstances are met with in the boroughs of the middle ages. The separation of the religious and the civil functions is there complete. A strongly isolated body, the clergy, alone governs, in some measure possesses religion. At the same time, the paternal power, although great, is still very inferior to what it was in the Roman world: it is great as regards possessions, fortune, but very restricted as regards persons. The son, once arrived at his majority, is entirely free and independent of his father. Finally, there is no domestic slavery. It is by labourers, by free men, that the superior population of the town, the richer burghers are surrounded and served.

If you would see, by an example taken from the modern world, what an enormous difference may result in the manners of a people from this last circumstance, look at the confederation of the United States of America. It is a fact

known by all who have visited them, or even studied them, that between the manners of the states of the south, of Carolina, of Georgia, for example, and the manners of the states of the north, as Massachussetts or Connecticut, there is a profound difference which arises from the states of the south having slaves, while those of the north have not. This mere fact of a superior race which possesses an inferior race by way of property, and disposes of it—this fact alone, I say, gives an entirely different character to the ideas, sentiments, and way of living of the population of the towns. The constitutions, the written laws of the states and towns of the south, in the American confederation, are generally more democratic than those of the towns of the northern states, and yet such is the influence of slavery that the ideas, the manners, are at bottom much more aristocratic in the south than in the north.

Let us now quit the interior of towns; let us go beyond their walls, let us examine the situation of the inhabitants in the midst of the country, their relation with the mass of the population. We shall here find between the cities of the Roman world and the boroughs of the middle ages, an immense difference, and one which I have already pointed out. The towns, before the barbaric invasion, were, as you know, the centre of the superior population; the masters of the Roman world, all the considerable men lived in, or near the towns; the country districts were occupied only by an inferior population, slaves or coloni kept in semi-servitude. In the heart of the cities, resided the political power. The contrary spectacle is offered us by the feudal period. It is in the country districts that the lords, the masters of the territory and of power, live. The towns are in a measure abandoned to an inferior population, which laboriously struggles to screen and defend itself, and finally to free itself in some degree behind their walls.

Thus, under whatever point of view we consider the towns and their inhabitants in the Roman world, and in the middle ages, whether we regard their origin, their internal social state, or their relations with the mass of the population which occupies the territory, the differences are numerous, striking, indisputable.

How shall we sum them up? What is their most prominent,

most striking characteristic? You have already felt it, you have yourselves named it. The aristocratic spirit must have predominated in the Roman cities; the democratic spirit in the towns of the middle ages. From their very origin, from their internal social state, from their external relations, the Roman cities must have been eminently aristocratic. Their inhabitants were in permanent possession of the superior situation, of the political power. The consciousness of this elevation, haughtiness, gravity, and all the merits appertaining thereto—such is the favourable side of the aristocratic spirit. The passion for privilege, the desire to interdict all progress in the classes placed beneath them, this is its vice. It is evident that both tendencies, the good and the evil of the aristocratic spirit, were favoured, provoked by all the principal circumstances of the existence of the Roman cities. The democratic spirit, on the contrary, must have predominated in the towns of the middle ages. What is its characteristic feature? Independence, the passion for individuality and ascending movement, is its good side. Its evil side is envy, hatred of its superiors, a blind inclination for change, the disposition to have recourse to brutal force. Who does not see that from the very origin of the towns of the middle ages, from their internal social state, from their foreign relations, this good and this evil side, these merits and these vices of the democratic spirit must have been the predominating characteristic of their manners?

Let us go deeper; let us view the municipal institutions, properly so called, the administrative organization of the city, its magistracies, its elections; let us compare, under this new relation, the Roman city, and the borough of the middle ages; we shall arrive at the same results.

I have spoken, in the last course, of the state of the Roman municipal system at the time of the invasion of the barbarians. You know, therefore, what was the *curia*, the *curiales*, the *decurions*, and how the Roman municipality was organized at the end of the empire. I shall, however, repeat it in a few words:

In each *municipium* a senate, which was called an *ordo* or *curia*. This senate constituted the city, properly so called; the power belonged to it; this it was that administered the town, with the exception of a few extraordinary cases, where

the mass of the population was called upon to take part in the municipal affairs.

This *ordo*, this *curia* was composed of a certain number of families known beforehand, inscribed upon a register which was called, *album*, *album ordinis*, *album curiæ*. Their number was not considerable. There is reason to suppose, from some examples, that it varied between one and two hundred. You see the municipal power was concentred in a very small number of families. Not only was it concentred therein, but it was generally hereditary in those families who were invested with it. When once they formed part of the senate, of the *ordo*, they never left it; they were bound to fill all the municipal charges, and at the same time had a right to all the municipal honours and powers.

This senate became thinner, the families became extinct; and since the charges of the cities always subsisted, and even increased, it was necessary to fill up the vacancies. How did the *curia* become recruited? It recruited itself. The new curiales were not elected by the mass of the population; it was the curia itself which selected them, and introduced them into its body. The magistrates of the city, elected by the curia, named such or such a family, rich and considerable enough to be incorporated in the curia. Then the curia called upon it; and that family, from that time joined to the *ordo*, was inscribed the following year in the *album ordinis*.

Such are the principal features of the organization of the Roman city. This is assuredly a highly aristocratical organization. What can be more aristocratic than the concentration of power in a small number of families, the inheritance of power in the bosom of those families, and the recruiting of this body effected by itself, by its own choice?

At the fall of the empire, this municipal power was a charge, and men flew from it instead of seeking it; for all these aristocracies of towns were a prey, like the empire itself, to an extreme decline, and served only for the instrument of imperial despotism. But the organization always remained the same, and always profoundly aristocratic.

Let us now transport ourselves to the thirteenth century, into the towns of the middle ages; we shall there find ourselves in the presence of other principles, of other institutions, of an entirely different society. It is not that we do not encounter,

in some modern boroughs, facts analogous to the organization of the Roman city, a kind of *ordo*, of hereditary senate, invested with the right of governing the city. But this is not the predominant characteristic of the communal organization of the middle ages: in general, a numerous and changeable population, all classes in easy circumstances, all trades of a certain importance, all the burghers in possession of a certain fortune are called to share, indirectly at least, the exercise of the municipal power. The magistrates are generally elected, not by a senate already itself very much concentred, but by the mass of the inhabitants. There are infinite varieties, and very artificial combinations, in the number and relation of the magistracies, and in the mode of election. But even these varieties prove that the organization was not simple and aristocratic like that of the Roman cities. We recognise, in the different modes of election of the boroughs of the middle ages, on the one hand the concurrence of a large number of inhabitants, on the other a laborious effort to escape the dangers of this multitude, to diminish, to refine its influence, and to introduce into the choice of magistrates, more wisdom and impartiality than was naturally borne by it. The following is a curious example of this kind of combinations. In the borough of Sommiéres in Languedoc, in the department of Gard, in the fourteenth and fifteenth centuries, the election of municipal magistrates was subject to the following tests. The town was divided into four quarters, according to the bodies of trades. It had four superior magistrates and sixteen municipal councillors: their office lasted one year; at the end of a year, these four superior magistrates and their sixteen councillors met, and they themselves chose in the four quarters of the town twelve notables, three in each quarter. Thus there were four superior magistrates, sixteen councillors, twelve notables, in all thirty-two. These twelve notables, chosen by the magistrates of the preceding year, introduced twelve children into the hall: there were twelve balls of wax in an urn; they drew out a ball of wax, for each of the twelve children; then they opened the balls of wax in four of which, was inclosed the letter E, which meant *electus*, elected. The child who had drawn the ball in which the letter was contained, on the other hand, named a notable, who thus found himself elected one of the superior magistrates of the borough.

What can be more artificial than such a system? Its object is to bring into concurrence the most various modes of choice—the nomination by the ancient magistrates themselves, election by the population and lot. It is evidently to weaken the empire of the popular passions, to struggle against the perils of an election accomplished by a numerous and changeable multitude.

We find, in the municipal system of the middle ages, many precautions and artifices of this kind. These precautions, these artifices clearly show what principle predominated therein. They endeavour to refine, to restrain, to correct, election, but it is always to election that they address themselves. The choice of the superior by the inferior, of the magistrates by the population, such is the dominant characteristic of the organization of modern boroughs. The choice among the inferiors by the superiors, the renewing of the aristocracy by the aristocracy itself, such is the fundamental principle of the Roman city.

You see whatever route we take we arrive at the same point, despite the influence of the Roman municipal system over the municipal system of the middle ages; despite the uninterrupted tie which unites them, the difference is radical. The aristocratic spirit predominates in the one, the democratic spirit in the other. There is a union and a revolution at the same time.

There are still some scattered facts which will confirm, clear up, and illustrate this result, at which we arrive from all sides.

Which are the towns in France which, in the thirteenth and fourteenth century, present the most aristocratic aspect? They are the towns of the south, that is to say, the boroughs of Roman origin, where the principles of the Roman municipal system had preserved the greatest influence. The line of demarcation, for example, between the burghers and the possessors of fiefs, was much less profound in the south than in the north. The burghers of Montpelier, of Toulouse, of Beaucaire, and of many other cities, had the right of being created knights as well as the feudal lords, a right not possessed by the burghers of the northern boroughs, where the struggle between the two classes was much more violent, and where, consequently, the democratic spirit was much more ardent.

Let us for a moment leave France: what do we see in

Italy? the constitution of many towns there appears very analogous to that of the ancient Roman city. Why is this? First, because the Roman municipal system was there more alive, and exercised more influence; next, because feudalism having been very weak in Italy, we do not see that long and terrible struggle between the lords and the burghers, which holds so much place in our history.

In the French boroughs, and particularly in those of the north and the centre, it was not within the city itself that the combat was established between the aristocracy and the democracy, there the democratic spirit prevailed. It was against an external aristocracy, against the feudal aristocracy, that the burgher democracy strove. Within the Italian republics, on the contrary, there was a struggle between a municipal aristocracy and a democracy, because there was no external struggle which absorbed all the forces of the cities.

It is needless, I think, to insist farther: these facts are sufficient. The distinction between the Roman municipal system and that of the middle ages is clear and profound. Doubtless, Roman municipality has contributed much to the modern borough; many towns have passed, by an almost insensible transition from the ancient *curia* to our bourgeoisie; but although the Roman municipality has not perished, although we cannot say that at any particular epoch it ceased to exist, in order at a later period to be replaced by other institutions; although, in a word, there has been no solution of continuity, yet there has been veritable revolution; and, while perpetuating themselves, the municipal institutions of the Roman world were transformed in order to give rise to a municipal organization founded upon other principles, animated with another spirit, and which has played an entirely different part in general society, in the state, than that which the curia played under the empire.

This is the great fact hitherto overlooked, or ill comprehended, which I engaged to bring to light. In our next lecture, I shall endeavour rapidly to place before you the revolution which the modern municipal system experienced in the feudal period, from the moment when the boroughs first appear and are constituted, to the moment when the reign of feudalism ends; that is to say, from the end of the tenth to the commencement of the fifteenth century.

NINETEENTH LECTURE.

History of the third estate from the 11th to the 14th century—Vicissitudes of its situation—Rapid decay of boroughs, properly so called—By what causes—1. By the centralization of feudal powers—2. By the patronage of kings and great suzerains—3. By the internal disorders of towns—Decline of the borough of Laon—The third estate did not fall at the same time as the borough; on the contrary, it developed and strengthened itself—History of the towns administered by the officers of the king—Influence of royal judges and administrators over the formation and progress of the third estate—What is to be thought of the communal liberties and their results?—Comparison of France and Holland—Conclusion of the course.

You have been present at the formation and at the first development of the third estate. I have endeavoured to make you understand the situation, whether amidst society in general, or in the interior of towns, during the feudal period. But that period lasted for three centuries, the eleventh, twelfth, and thirteenth. For this long interval, the third estate did not remain immovable, identical. A social condition still so precarious, a class still so weak, and so rudely tossed about among superior forces, must have been subject to great agitations, to frequent vicissitudes. We shall study them in the present lecture.

It is here especially that the distinction of which I have spoken, between the third estate and the commons, becomes important. When in arriving at the end of the feudal period and at the commencement of the fourteenth century, one inquires where was that middle population which was called the bourgeoisie, we see with surprise that the boroughs, properly so called, are on the decline, and that still the third estate, considered as a social class, is in progress; that the bour-

geois is more numerous, more powerful, although the boroughs have lost much of their liberty and power.

A priori, and considering the general state of society at this epoch, this fact is very easily explained. You see what boroughs, properly so called, were: towns, having a jurisdiction of their own, making war, coining money, almost governing themselves; in a word, petty republics, nearly independent. The expression, although extravagant, gives a sufficiently exact idea of the fact. Let us seek for a moment what these boroughs might, what they must have become, amidst society from the twelfth to the fourteenth century; we shall see that they must almost necessarily and rapidly have declined.

The boroughs were petty societies, petty local states, formed by virtue of that movement which burst forth about the middle of the ninth century, and which tended to destroy all social organization in any way extensive, all central power, in order to leave standing only very limited associations, purely local powers. In the same way, as the society of the possessors of fiefs could not be constituted in a general manner, and reduced itself to a multitude of petty sovereigns, each master in his domains, and but just united among themselves by a weak and disordered hierarchy, so it happened in towns. Their existence was entirely local, isolated, confined within their walls, or in a very narrow territory. They had escaped, by insurrection, from the petty local sovereigns upon whom they had formerly depended; they had in this manner acquired a true political life, but without extending their relations, without attaching themselves to any common centre, to any general organization.

If things had always remained in the same state, if the boroughs had never had to do with any but the lords who lived by their side, and from whom they had conquered their independence, it is possible that they might have preserved all that independence, that they might even have made new progress. They had, against a neighbouring master, given proof of force, and taken guarantees of liberty. If they had never had to do with any other but him, they would probably have maintained the struggle with more and more advantage, and seen at once their force and liberty then increase.

This is what happened in Italy. The cities, the Italian

republics, after having once conquered the neighbouring lords, were not long before they absorbed them. These found themselves obliged to come and live within their walls; and the feudal nobility, the greater part at least, was thus metamorphosed into a republican bourgeoisie. But whence came this good fortune of the towns of Italy? From the fact that they never had to do with a central and very superior power; the struggle was almost always between them and the private, local lords, from whom they had conquered their independence. In France, things took an entirely different course. You know (for the fact was recognised when we were occupied with feudal society itself) that most of the possessors of fiefs, of these petty local sovereigns, gradually lost, if not their domains and liberty, at least their sovereignty, and that there was formed, under the name of *duchy*, *viscounty*, *county*, suzerainties, much stronger and more extensive, real petty royalties, which absorbed the principal rights of the possessors of fiefs dispersed over their territory, and, merely by the inequality of forces, reduced them to a very subordinate condition.

Most of the boroughs, then, soon found themselves face to face, no longer with the simple lord who lived by their side, and whom they had once conquered, but with a suzerain far more powerful, far more formidable, who had usurped, and exercised to his own profit, the rights of a multitude of lords. The borough of Amiens, for example, had forced a charter and efficacious guarantees from the count of Amiens. But when the county of Amiens was united to the crown of France, the borough, in order to maintain its privileges, had to struggle against the king of France, and no longer against the count of Amiens. Assuredly, that struggle was more severe and the chance far less favourable. The same fact took place in numerous directions, and the situation of the boroughs was seriously compromised.

There was but one way for them to resume their ground, and to struggle with any hope of success against their new and far more powerful adversaries. All the boroughs dependent upon one suzerain should have confederated, and formed a league for the defence of their liberty, as the Lombard cities did against Frederic Barbarossa and the emperors. But confederation, of all systems of association and government,

is the most complicated, the most difficult, that which demands the greatest development in the intellect of men, the greatest empire of general interests over particular interests, of general ideas over local prejudices, of public reason over individual passions. Accordingly, it is excessively weak and precarious, unless general civilization be very strong and far advanced. The boroughs of France, those which depended either on the king or the great suzerains, did not even attempt a federative organization; they scarcely ever appeared in the struggle against their formidable adversaries, other than isolated, and each on his own account. It is true, we find here and there some attempts at alliance, but they are momentary, limited, and very quickly broken. There is a striking and deplorable example of this in the war of the Albigenses in the south of France. You know that the towns of the south had rapidly acquired a large amount of prosperity and independence. It was more especially within their walls that the religious opinions of the Albigenses, and all the ideas connected with them, had made so much progress; they there possessed, one may say, the greater portion of the population. When the crusaders of the north of France threw themselves upon the Albigenses, it seemed natural that these towns, so flourishing, so strong, should unite, and form between them a great confederation, in order efficaciously to resist these foreigners, these new barbarians, who came to devastate and invade them. All interests called for a confederation of this kind, the interest of safety, the interest of liberty, the interest of religion, the interest of nationality. The struggle which then arose was that of rising civilization against conquering barbarism, of the municipal system which prevailed in the south against the feudal system which predominated in the north. It was the struggle of the bourgeoisie against the feudal aristocracy. Well, it was impossible for these towns of the south, Avignon, Beaucaire, Montpellier, Carcassonne, Beziers, Toulouse, &c.—to understand one another, and confederate together. The bourgeoisie only presented themselves to the fight successively, town after town; and thus, despite its devotion and courage, it was promptly and thoroughly conquered.

Surely, nothing can better prove how difficult it was to obtain a communal confederation, the alliance of these petty

independent republics; for never was it more necessary, more natural, and yet it was scarcely attempted. With still greater reason must it have happened so in the centre and the north of France, where the towns were not only less powerful, less numerous, but also less enlightened, less capable of being led by general views, less capable of making personal interests subordinate to general and permanent interests. Engaged, therefore, in the struggle against adversaries who had centralized the powers of the feudal system, while they remained with their forces all local, scattered, and individual; alone in the presence, no longer, of the neighbouring lord from whom they had conquered their privileges, but of the distant and far more powerful suzerain, who disposed of all the force of the lords of his territory, the boroughs necessarily found themselves far inferior, and could not fail to succumb.

This, unless I deceive myself, was the first cause of their decline. The following is a second:—

In their formation, in the course of their struggle against the lords, whose tyranny they wished to shake off, many of the boroughs had often had need of a protector, of a patron, to take their cause in hand, and protect them with his guarantee. They generally addressed themselves to the suzerain of their lord. It was, as you know, the feudal principle, a principle ill regulated and ill obeyed, but still possessing a powerful influence over minds, that men might always demand justice of the suzerain upon his vassal. When, therefore, a borough had to complain of the lord from whom it had conquered its privileges, it was at the hands of the suzerain that it went to seek redress and protection. This principle led most of the boroughs to claim the intervention, either of the king or of the other great suzerains, who thus naturally took their affairs in hand, and acquired over them a kind of right of patronage, from which, sooner or later, the independence of the borough could not fail to suffer. It has frequently been said, especially in later times, that the intervention of royalty in the formation and first developments of boroughs, was not nearly so active, not nearly so efficacious, as has often been supposed. This is correct, taking the words in the sense that royalty did not create boroughs with a view of general utility, or in order systematically to struggle against the feudal system. It is

very true that most of the boroughs formed themselves, by means of armed insurrection, often against the will of the king as well as of their direct lord. But it is also true, that after having acquired their privileges, and in the long struggle which they had to maintain in order to preserve them, the boroughs felt the want of a powerful ally, of a superior patron; and that they then addressed themselves, at least a large number of them, to royalty, which, at a very early period, thus exercised a notable influence over their destiny. The examples of its intervention are so numerous that they are scarcely worth the trouble of citing. I will, however, give the following, because it shows how all, burghers and lords, were inclined to claim, to accept this intervention, without much apparent necessity, merely from the need of order, and to find an umpire to put an end to their differences. It is a charter of the abbey of Saint Riquier, in Picardy, which is expressed in the following words:—

"I, Anser, abbot of Saint Riquier, and the convent, make known to all, that Louis, the venerable king of the French, came to St. Riquier, and for our interests established there a corporation among our men, and determined its statutes; then the burghers, confiding in their number, obliged us to give up our rights—namely, the tax for the army of the king, the support of that army, the right of measurement and relief. Moreover, they have unjustly subjected the men of their court to all their customs, who before the said borough were free from the repair of moats, from keeping guard, and from poll-tax. But we, seriously angered, have solicited by our prayers our lord the king of the French to return to us, to re-establish our affairs in their ancient liberty, and to deliver the church from their unjust exactions and customs. The king, therefore, sympathizing with our oppression, came to us, and calmed, as he ought to do, the troubles raised up among us; so that the tax, great or small, for the army of the king, is to be liquidated when it occurs, and the support, great or small, furnished in common by the burghers and the peasants; and the burghers themselves have willingly allowed us to have the ownership of the fees on measurement and relief as we had before the said boroughs, as well as the other rights. Moreover, with the consent of the burghers, we have excepted from the said

poll-tax, the support of moats and keeping guards, fifty-five of our vavassors, who serve their fief in arms; and we have taken from the borough all our servants living on the bread of Saint Riquier, and all servants dwelling out of the town.

"If any free peasant wishes to enter the borough, let him return to his lord what is his right and quit his estate, and then he shall enter the borough.

"The tributary men of Saint Riquier shall never enter the borough without the consent of the abbot.

"*Item*, it was agreed, in presence of the lord king, that William, count of Ponthieu, shall for ever be out of the borough, and that no prince having a castle shall enter the borough without the consent of the king and us, nor shall be established mayor over the burghers, without the consent of the king and us; and that if he be established, he shall remain so only as long as we please.

"Further, Robert of Millebourg, and his brothers, are for ever deprived of the provostship, of the charge of Viscount, and of all power.

"It was ordered that no burgher shall enter our church in order to offend us, but only for purpose of prayer, and shall, for the future, no longer arrogate the right of ringing our bells without our consent.

"All these things being determined, the burghers promised by faith and oath to execute them, and have given us hostages to that effect.

"I then, Louis, by the grace of God king of the French, have ordered and confirmed this. Given at Saint Riquier, the year of our Lord 1126."[1]

You thus see the intervention of the king in the affairs of the borough, brought about by the most indifferent circumstances, called for sometimes by the burghers, sometimes by the lord, and consequently far more frequent, far more efficacious, than many persons in the present day suppose. And what I say of kings applies equally to all the great suzerains, who were led by the same causes to exercise the same right of intervention and patronage over the boroughs situated in the domains of their vassals. Now you will easily understand that the more powerful is the protector, the more

[1] Recueil des Ordonnances, tom. xi. p. 184.

formidable will the protection become. And as the power both of the kings and the great suzerains was always increasing, this right of intervention and patronage over the boroughs was, from day to day, disposed in higher and stronger hands; and thus, in the mere course of things, apart from all insurrections, from all struggle by arms, the boroughs found that they had to do, on the one hand, with adversaries, on the other, with far more powerful and more formidable protectors. In both cases, their independence could not fail to decline.

A third circumstance must likewise have caused serious shocks to it.

You are utterly mistaken if you represent to yourselves the internal system of a borough, once conquered and constituted, as a system of peace and liberty: nothing can be farther from the truth. The borough, when need was, defended its rights against its lord with devotion and energy; but within its walls dissensions were carried to an extremity, life was continually stormy, full of violence, iniquity, and danger. The burghers were rude, passionate, barbarous, at least as barbarous as the lords from whom they had forced their rights. Amongst those sheriffs, those mayors, those aldermen, those magistrates of various degrees and titles, instituted within the boroughs, many soon began to desire to predominate there arbitrarily, violently, and rejected no means of arriving at their wishes. The inferior population was in an habitual tendency to jealousy of and brutal sedition against the rich, the chiefs of trade, the masters of fortune and industry. Those who have, even in a slight degree, studied the history of the Italian republics, know what disorders, what acts of violence, continually broke forth in them, and how foreign true security and true liberty always were to them. They acquired great glory; they energetically struggled against their external adversaries; the human mind was there developed with a marvellous wealth and splendour; but the social state, properly so called, was deplorable; human life was there strangely in want of happiness, repose, and liberty. It was a system infinitely more turbulent, more precarious, more iniquitous, than that of the republics of ancient Greece, which however, assuredly, were not models either of good political organization, or of social well-being.

Well! if it was thus in the republics of Italy, where the development of mind and the understanding of affairs were much further advanced than elsewhere, judge what must have been the internal state of the boroughs of France. I would advise those who desire to become more closely acquainted with it to study the history of the borough of Laon, either in the original documents, or merely in the *Lettres* of M. Thierry: they will there see to what interminable vicissitudes, to what horrible scenes of anarchy, of tyranny, of licentiousness, of cruelty, of pillage, a free borough was the prey. The liberty of these times has everywhere a mournful and deplorable history.

These acts of violence, this anarchy, these continually reviving evils and dangers, this bad government, this unhappy internal state of the boroughs, incessantly called for foreign intervention by the force of things.

Men conquered a communal charter to deliver themselves from the exactions and violence of the lords, but not to deliver themselves up to those of the mayors and sheriffs. When, after having escaped from the exactions from above, the burghers of the borough fell a prey to pillage and massacres from below, they sought a new protector, a new intervention, to save them from this new evil. Hence the frequency with which the boroughs had recourse to the king, to some great suzerain, to him whose authority might repress the mayors, the sheriffs, the bad magistrates, or introduce order into the populace; and thence, on the other hand, the progressive loss, or at least the extreme enfeeblement, of the communal liberties. France was at that stage of civilization when safety can scarcely be purchased except at the expense of liberty. It is a phenomenon of modern times, and of very modern times, to have succeeded in reconciling safety and liberty, the ready development of individual wills, with the regular maintenance of public order. This happy solution of the social problem, still so imperfect and so wavering among us, was absolutely unknown in the middle ages. Liberty there was so violent, so formidable, that men soon held it, if not in disgust, at least in terror, and at any price sought a political order which might give them some security, the essential and absolute condition of the social state. What

was the principal cause of the rapid decline of the Italian republics? I often refer to their history, because it is the best means of throwing a light upon that of the French boroughs. From circumstances which it would take too long to explain in this place, it is in Italy alone that the communal principle has been elevated to the height and distinct position of a political system: it is there then that we may recognise its true nature, and appreciate all its consequences.

What happened then in Italy? Liberty there gave way to its own excesses, for want of power to procure social security. Those turbulent republics rapidly fell under the yoke of a highly concentrated aristocracy and its chiefs. This is the history of Venice, Florence, Genoa, of almost all the Italian cities.

The same cause cost the French boroughs their stormy liberty, and made them fall under the exclusive dominion either of royalty, or of the great suzerains whom they had for protectors.

Such must have been, such indeed was, the course of the communal destinies in France, consulting merely general facts. Particular facts fully confirm these results. At the end of the thirteenth and the beginning of the fourteenth century, we find numerous boroughs disappearing; that is to say, that communal liberties perish; the boroughs cease to belong to themselves, to govern themselves. Open the *Recueil des Ordonnances des Rois*, you will see numberless charters vanish at this period, which had founded the communal independence; and always by one of the causes which I have just placed before you, from the strength of a too unequal adversary, from the ascendancy of a too formidable protector, or from a long series of those internal disorders which disgust the bourgeoisie with its own liberty, and make it purchase a little order and repose at any price.

I might infinitely multiply these examples; I will give only two or three, but these are striking and varied.

I have shown you how, and after what rude trials, the borough of Laon conquered its liberties. I have commented in detail upon the charter which it received at the commencement of the twelfth century, and to which its lord, the bishop, consented. Towards the end of the same century, in

1190, Roger de Rosoy, bishop of Laon, granted to Philip Augustus the seigneury of La Fère sur Oise, and at this price obtained the abolition of the borough of Laon. The borough was able to struggle against its bishop; but how struggle against Philip Augustus? The charter was abolished. The following year, in 1191, the burghers also thought of treating with Philip Augustus; they doubtless offered him more than the bishop had done. Philip Augustus re-established the borough, and kept the seigneury of La Fère sur Oise, which the bishop had given him. A hundred years pass away in almost the same state; the town of Laon enjoys its liberties. In 1294, under the reign of Philip le Bel, the bishop of Laon again began to solicit of the king the abolition of the borough, and apparently by arguments analogous to those which Roger de Rosoy had employed a hundred years before. Philip caused an inspection to be made of the place. There had been many disorders, murders, profanations in the borough; the population of Laon, it seems, was one of the most barbarous among the burgher populations of that epoch. Philip le Bel, in 1294, abolished the borough of Laon. A very short time afterwards, the precise date is not known, apparently upon the solicitation of the burghers, he re-established it, with this restriction—*Quamdiu nobis placeat*, "under our good pleasure." The bishop of Laon was engaged in the quarrel of Boniface VIII. with Philip le Bel, and had taken part with the pope, which explains the sudden favour of the king to the burghers. At the moment when they thought themselves in peaceable possession of their borough, Boniface VIII., from the Vatican, to avenge the bishop, abolished it by a formal bull. But Philip caused the bull to be burnt, and the borough continued to subsist. After the death of Philip le Bel, the struggle continued. The bishop and the burghers of Laon disputed, and by turns gained, the royal favour. Philip le Long maintained the borough, always under his good pleasure. In 1322, the bishop gained the day, and Charles le Bel abolished the borough; but, in the course of the same year, the burghers obtained the suspension of the decree. It was finally executed. But, in 1328, Philip de Valois declares that he has a right to re-establish the borough of Laon, and that he will do so if he likes. The bishop, Albert de Roye, gives Philip a good

round sum; and the king, in 1331, abolishes the borough, which at last looks upon itself as conquered.

Such are the vicissitudes through which the borough of Laon passed, from the twelfth to the fourteenth century, and the force under which it succumbed. It is evident that royalty alone caused its ruin. It had struggled, it probably always would have struggled, with success against its bishop: it was not in a condition to resist the king.

There is another kind of death of which boroughs died. That of Laon perished defending itself, and after having done all in its power to continue to live. But more than one borough, discontented with its condition, itself demanded to be suppressed. The following is a charter of the count of Evreux, Philip le Bon, given in 1320, at the request of the inhabitants of Meulan:—

"We, Philip, count of Evreux, make known to all present and to come, that since the good people inhabiting and living in the town of Meulan and the Muriaux have required and show us, that as they have, and for a long time past have had, borough and community in our town of Meulan, and in order to keep up the said borough, and its rights and privileges, have been, and are, grievously afflicted and endamaged by various taxes, levies, and contributions, which the mayor and aldermen of the said borough have exacted from time to time, and continue to exact for the said purpose, they have, therefore, requested us to take into our own hands the said borough and community, with all the rents and revenues which are, or may be, due to it, we in consideration thereof to pay all debts and obligations due by and in respect of the said borough, and guarantee and hold harmless the said inhabitants from any loss or damage in respect thereof. We, having great desire to relieve our subjects from loss and damage, have deliberated upon the said request of the said inhabitants, and have, ourself on the one part, and the said citizens on the other, agreed and determined as follows:—

"*First.* The said inhabitants of the town of Meulan renounce and wholly resign their said borough and community, and give it perpetually and for ever into our hands, and into the hands of our successors, by birth or otherwise, with all the rents and revenues which are, or may be, due to the said town of Meulan, in its borough capacity."[1]

[1] *Recueil des Ordonnances*, t. vi. p. 137.

Here is an instance of a borough which, to escape from the disorders of its own internal system, the tyranny of its own magistrates, abandons its liberties, and again places itself at the disposal of the king.

There is another charter of the same kind given to the borough of Soissons, the 4th of November, 1325, by king Charles le Bel.

" Charles, &c., to all present and to come. We let you to wit that having received from the borough of Soissons supplications of its citizens and inhabitants, that, for certain reasons set forth by them, we would accept them to be henceforth, and in perpetuity, governed as a provostry in our name, the mayor and aldermen of the said borough being discontinued, and the said provost being bound to govern them according to their ancient customs and usages, and infringing none of their liberties and privileges which they had as a borough. We, on the supplication of the said inhabitants, by the tenor of these presents, accept and take into our hands the said borough, with its jurisdiction, rights, and emoluments, and we will henceforward, we and our successors, govern it by a provost deputed by us. And we agree, fully and freely, that the said provost, so deputed by us and our successors, shall govern the said inhabitants and their successors according to their laws and customs, with the liberties and franchises which they enjoyed while a borough, save and except that neither mayor nor alderman shall henceforth be appointed therein."[1]

I might cite many other examples of this kind.

Thus, towards the end of the thirteenth century, not only do we see a large number of boroughs abolished, some by force, others of their own free will, but there commence the general regulations of the royal authority over boroughs. It is under Saint Louis and Philip le Bel that you will see in the public collections those great ordonnances appear, which regulate the administration of all the boroughs in the royal domains. Up to that time the kings had treated with each town separately. As most of them were independent, or at least invested with various and respected privileges, neither the king, nor any great suzerain, thought of prescribing general rules for the municipal system, of ad-

[1] *Recueil des Ordonnances*, t. xi., p. 500.

ministering all the boroughs of their domains in an uniform and simple manner. Under Saint Louis and Philip le Bel commenced general rules, administrative ordinances as to this matter; a proof of the decay of special privileges and of communal independence.

It is evidently then at this epoch, towards the end of the thirteenth and commencement of the fourteenth century, that the decline of the boroughs properly so called manifests itself, of those petty republics, which administered their own affairs under the patronage of a lord. If the third estate had resided entirely in the boroughs, if the fate of the French bourgeoisie had depended upon communal liberties, we should see it at this epoch weak and in decay. But it was far otherwise. The third estate, I repeat, took birth and nourished itself from entirely different sources. While the one became exhausted, the other remained abundant and fertile.

Independently of the boroughs properly so called, it will be recollected there were many towns which, without enjoying a true communal existence, without governing themselves, still had privileges, freedoms, and, under the administration of the officers of the king, increased in population and wealth.

These towns did not participate in the decay of the boroughs, towards the end of the thirteenth century. Political liberty was wanting there; the necessity and habit of themselves doing all their own business, the spirit of independence and resistance, not only did not prevail there, but was more and more kept under. We there see that spirit arise which has played so great a part in our history; that spirit but little ambitious, little enterprising, even timid, scarcely approaching in thought a definite and violent resistance, but honest, the friend of order and rule, persevering, attached to its rights, and sufficiently skilled to make them sooner or later recognised and respected. It is more especially in towns administered in the name of the king and by his provosts that was developed that spirit which was so long the predominant characteristic of the French bourgeoisie. It must not be supposed that, in default of true communal independence, all internal security was wanting to these towns. Two causes powerfully contributed to prevent their being so ill-administered as one might be led to suppose. Royalty always feared that its local officers would make themselves

independent; it remembered what the offices of the crown, the duchies and counties, became in the ninth century, and the trouble it had had to regain possession of the scattered wrecks of ancient imperial sovereignty. It accordingly kept careful watch over its provosts, its sergeants, and officers of all kinds, in order that their power might not increase to such a point as to become formidable to it. The administrators for the king in towns were therefore well overlooked and restrained.

At this epoch, moreover, the parliament and all our judicial system began to be formed. Questions relative to the administration of towns, disputes between provosts and burghers, were carried before the parliament of Paris, and there judged with more independence and impartiality than they would have been by any other power. A certain impartiality is inherent in the judicial power; the habit of pronouncing according to written texts, of applying laws to facts, gives a natural, almost instinctive respect for acquired, ancient rights. Accordingly, in parliament the towns often obtained justice against the officers of the king, and the maintenance of their franchises. See, for example, a judgment rendered by the parliament under Charles le Bel, in consequence of a dispute between the provost of the town of Niort, and the town itself, its mayor, and its sheriffs, who, without political independence, administered the borough affairs under the provost:

"Charles, son of the king of France, count of La Marche and Bigorre, &c.

"Know all that we have heard a dispute between the mayor and commonalty of the town of Niort on the one part, and the provost of the said town and the seigneural proctor of monseigneur the count of La Marche on the other.

"*Imprimis.* The said mayor alleges that he has full cognizance of all cases, criminal and civil, which arise within the jurisdiction of the borough, whether privileged cases or otherwise, and that he and his predecessors have enjoyed this jurisdiction for time immemorial.

"*Item.* He says that he is exempt from the jurisdiction of the said provost in all matters whatever, and that he is in no way amenable to the said provost.

"*Item.* The said mayor, in stating his jurisdiction and cognizance of all matters throughout the town, sets forth that

the provost, when summoned to appear before him, is bound to obey the summons like any other person, which both the provost and the seigneural proctor deny.

"*Item.* The said mayor claims cognizance over and subjection from the families and servants of the burghers, though they be not themselves sworn of the town, because, he says, they are fed on his bread and wine. The said provost and proctor, in like manner, repel this claim altogether.

"We, having inquired into these disputed matters, determine and decree—

"That the said provost has not and shall not have any jurisdiction or power of correction over the said mayor, and the said mayor shall himself administer justice by the seneschal of the said place.

"*Item.* That the provost shall not give up to the said mayor cognizance of the servants of the said mayor and inhabitants, not being sworn of the town, though nourished on its bread and wine.

"With this proviso: that the mayor not having brought with him the privileges of the borough, the seneschal shall examine them; and if it be found that it be one of the privileges of the town that servants and others in it, not sworn of it, but eating its bread and drinking its wine, are cognizable by the mayor, then the seneschal shall so report to our next parliament, and justice shall be done. If no such privilege be produced, then our present decree shall stand."[1]

The judgment is given, you see, against the provost, and moreover indicates a sincere inclination for impartiality. Numerous acts of this kind prove that, before the parliament, the towns dependent on the king, and administered by his officers, found justice and respect for their privileges.

You know, moreover, that independently of those towns governed in the name of the king by his officers, independently of boroughs, properly so called, the third estate drew also from another source which powerfully contributed to its formation. These judges, bailiffs, provosts, seneschals, all these officers of the king or of great suzerains, all these agents of the central power in the civil order soon became a numerous and powerful class. Now most of them were citizens; and

[1] *Recueil des Ordonnances*, t. xi., p. 499.

their number, their power turned to the benefit of the bourgeoisie, and gave it daily more importance and extension. This, perhaps, of all the origins of the third estate, has contributed most to make it acquire the social preponderance. At the moment when the French bourgeoisie lost in the boroughs a portion of their liberties, at that moment, by the hand of the parliament, of the provosts, judges, and administrators of all kinds, it usurped a large portion of power. It was the bourgeoisie more especially which destroyed the boroughs in France; it was by burghers, entered into the service of the king, and administering or judging for him, that the communal independence and charters were most frequently attacked and abolished. But at the same time they increased, they elevated the bourgeoisie; they daily made it acquire more wealth, credit, importance, and power in the state.

Let us not hesitate to affirm it. Despite the decay of the boroughs, despite the loss of their independence about the end of the thirteenth and at the commencement of the fourteenth century, the third estate, in its true and most extensive acceptation, was at this epoch in great and continual progress. Was the loss of the ancient communal liberties a very great loss? I think it was; I think that if they had been able to subsist and adapt themselves to the course of things, the institutions, the political mind of France would have gained by it. Yet there is a country where, despite the numerous and important modifications brought about by time, the ancient boroughs have been perpetuated, and have continued to form the fundamental elements of society: this is Holland and Belgium. In Holland, more especially, the municipal system, continuing the municipal system of the middle ages, forms the foundation of the political institutions. Well, see how a highly enlightened man, a Dutchman who thoroughly knows his country and its history, see how M. Meyer speaks of the boroughs of the middle ages, and of their influence over modern society.

"Each borough," says he, "became a petty, separate state, governed by a small number of burghers, who sought to extend their authority over the others, who, in their turn, indemnified themselves by domineering over the unhappy inhabitants who had not the right of bourgeoisie, or who were subject to the borough; and we see the opposite spec-

tacle to that which one would expect to see in a well constituted society: the vassals and the burghers of the borough did not together form the city, which they defended in common, and to which they owed their existence; on the contrary, they appeared to suffer the yoke of that city with impatience; feudalism in countries not enfranchised, and oligarchy in the boroughs made equal ravages, and stifled all love of order, all national spirit. Accordingly, these associations were insufficient to secure internal tranquillity, and the mutual confidence of those who took part therein: the petty passions, aroused by the most unlimited egoïsm, the want of some aim common to all, the jealousy so natural among those who are not animated with the love of the public welfare, the absence of moral tie between the burghers of the same boroughs and the members of the same body, occasioned new difficulties; under-associations were the consequence, and the trade companies in the boroughs, the colleges in the universities, became new societies, which had their separate aim, and which, as much as possible, evaded the communal charges, to leave them to be borne by their neighbours. That underhand and lingering war which the vassals carried on against the corporations, the corporations among themselves, the under corporations in each borough, the brotherhood of each trade, produced the spirit of coterie, petty aristocracies, so much the more vexatious the less they had objects upon which to exercise their activity, the general uneasiness which makes the residence in small towns so disagreeable to him who has some liberal ideas, and which we everywhere meet with in the middle ages. It is this division, this opposition of petty interests, these continual, though unimportant vexations, that the oligarchy permits itself, and, so to speak, nourishes itself by, which enervates the national character, which weakens souls, and renders men far less fit for liberty, far more incapable of feeling its benefits, far more unworthy of enjoying them, than the most absolute Asiatic despotism. . . . [1]

"Certainly every community, great or small, has a right to watch over its own interests, the employment of its funds, its internal administration, especially when a higher power can

[1] Meyer, *Esprit des instit. judic.*, t. iii. p. 62—65.

prevent partial and local interests from being injurious to the public welfare: it is certain that the general centralization of all the objects of administration has serious inconveniences, and leads to absolute despotism; but the communal administrations, such as they were formed in the middle ages, vassals of the suzerain, and the sole tie which existed between the nation and its king, not integrant parts of the same whole, but dissimilar and opposed among themselves, independent in everything which did not concern general duties, exercising within its breast all the rights of sovereignty, such communal administrations as these are scarcely less inconvenient, and foment a tyranny a thousand times more odious than the despotism of aristocracy."[1]

These last words, I allow, are little more than the petulance of a man who, struck with all the vices of the communal system, and its unhappy effects upon his country, will recognise in it no merit, no good. But despite the exaggeration, there is in it a great foundation of truth.

It is very true that all the vices described by M. Meyer were inherent in the communal system of the middle ages, and that most of the towns found themselves thus infeoffed to a petty oligarchy which kept them under a tyrannical yoke, and which compressed in them the true, the great development, the general development of human thought and activity, that true, varied, indefinite development, to which we owe modern civilization.

Accordingly, I am convinced that, upon the whole, the centralization which characterizes our history has been the cause of much more prosperity and grandeur to France, of much happier and more glorious destinies, than if the local institutions, the local independencies, had remained sovereign, or even preponderant. Doubtless we have lost something by the decline of the boroughs of the middle ages, but not so much, in my opinion, as some would wish to persuade us.

I now come to a close. I have placed before you, according to the plan which I marked out for myself, the complete picture of civil society during the feudal period; you have seen how feudal society, properly so called, the association of the possessors of fiefs, was formed, what was its external

[1] Meyer, *Esprit des instit. judic.*, t. iii. p. 69, 70.

condition, and in what state it was, first at the commencement of the eleventh century, then at the commencement of the fourteenth century. You have seen what was the development of royalty during the same period; how it gradually increased, was separated from all other powers, and ended by arriving, in the person of Philip le Bel, at the threshold of absolute power. You have just seen the vicissitudes of the boroughs, or, more correctly speaking, of the third estate, during the same period. The feudal association, royalty, the third estate, these are the three great elements of French civilization. It would remain for me, to make you fully acquainted with the history of civil society from the eleventh to the fourteenth century, to study with you the great legislative monuments which this epoch has transmitted to us, that is to say, the *Assises de Jerusalem*, the *Etablissemens de Saint Louis*, the *Coutume de Beauvaisis* of Beaumanoir, and the *Traité de l'ancienne jurisprudence des Français*, of Pierre de Fontaine, monuments of the feudal society, and of its relations, on the one hand, with royalty, on the other, with the burghers. I had hoped to finish this study with you; but events oblige me to bring this course to a close sooner than I had expected. We shall meet again, and will again together seek thoroughly to know and to understand the past of our beloved country.

HISTORICAL ILLUSTRATIONS.

ADVERTISEMENT.

I COULD have wished to annex to this essay upon the origins and early developments of the third estate in France, the complete text of the documents, and the special history of the various cities or boroughs of which I have made mention. This collection of acts and precise facts would have served to throw light upon, and to prove the general results which I have laid down. But such a work would have been too extensive. I therefore confine myself, in this place, to publishing, 1. A general view of the ordinances, letters, and other acts of the kings of France concerning the cities and boroughs, from Henry I. to Philip de Valois; 2. Some charters, to which I have made allusion in my lectures; 3. Some account of what passed in several towns of different origin and constitution. This small specimen, if I may so call it, of the various communal destinies, during the feudal period, will perhaps not be without utility, or without interest.

HISTORICAL ILLUSTRATIONS.

I.

Table of the Ordinances, Letters, and other Acts of the Kings concerning Cities and Boroughs, from Henry I. to Philip de Valois.

HENRY I. 1031—1060.

(1 Act.)

1057.	Orleans	Liberty of entry during vintage—The officers of the king shall no longer levy duty upon the entry of wine.

LOUIS VI. 1108—1137.

(9.)

1115.	Beauvais	Abolition of abuses introduced into the administration of the city, in matters of jurisdiction and taxes, by the castellan Eudes.
1119.	*Angere Regis* (in Orleannais)	Exemption from taxation—Restriction to military service.
1122.	Beauvais	Authorization to reconstruct houses, bridges, &c., without asking special permission or paying any duty.
1123.	Etampes	Liberty of commerce in markets—Various exemptions.
1126.	Saint-Riquier . . .	Intervention of the king in the quarrel between the abbey and the borough.
1128.	Laon	Concession of a charter to the borough.
1134.	Paris	Liberty granted to the burghers of Paris against their debtors, within the jurisdiction of the king.
	Ib. Fontenay	Exemption from taxation, statute labour, army circuit, &c.

1137. Frenay-l'Evêque . . Exemption from all duties and charges towards the king—The inhabitants can no longer owe anything except to the bishop of Chartres.

Louis VII. 1137—1180.

(25.)

1137. Etampes . . . . . Promises concerning money and the sale of wines.
Id. Orleans . . . . . Guarantees granted to burghers against the provost and his serjeants.
1144. Beauvais . . . . . Confirmation of a charter of Louis VI.
1145. Bourges . . . . . Redressing of grievances—Exemption from charges.
1147. Orleans . . . . . The king abandoned to the burghers the right of morte-main.
1150. Mantes . . . . . Confirmation of a charter of Louis VI.
1151. Beauvais . . . . . Declaration that the jurisdiction belongs to the bishop, not to the burghers.
1153. Seans, in Gatinais . . Confirmation of the customs of the town.
1155. Etampes . . . . . The king takes from his officers in the city the privilege of purchasing provisions at two-thirds of the price.
Id. Lorris, in Gatinais . . Detailed confirmation of the customs of the town.
1158. Les Mureaux, near Paris Re-establishment of ancient privileges.
1163. Villeneuve-le-Roi . . Concession of the customs of Lorris.
1165. Paris . . . . . Interdiction to carry away mattrasses, cushions, &c., in houses where the king lodges in passing.
1168. Orleans . . . . . Abolition of numerous abuses.
1169. Villeneuve, near Etampes Privilege granted to those who shall come to settle there.
1171. Tournus . . . . . The king regulates the relations of the abbey and the inhabitants.
1174. Les Allnets, near Paris Exemption from taxes, statute labour, &c.
1175. Dun le-Roi . . . . Concession of various privileges and exemptions.
Id. Sonchalo (Chaillon-sur-Loire) . . . . . } Concession of the customs of Lorris.
1177. Bruères . . . . . Concession of various privileges and exemptions.
Id. Villeneuve, near Compiègne . . . . . } Idem.
1178. Orleans . . . . . Abolition of abuses and evil customs.
Id. Id. . . . . Abolition of other abuses.
1179. Etampes . . . . . Concession of various privileges—Redress of abuses.
1180 Orleans . . . . . Enfranchisement of the serfs of the king at Orleans and its environs.

Philip Augustus. 1180—1223.

(78.)

1180.	Corbie	Confirmation of the borough founded by Louis VI.
Id.	Tonnerre	Confirmation of the charter granted by the count of Nevers.
1181.	Soissons	Confirmation of the charter granted by Louis VI.
Id.	Chateauneuf	Confirmation and extension of a charter of Louis VII.
Id.	Bourges, and Dun-le-Roi	Confirmation of ancient and concession of new privileges.
Id.	Noyon	Confirmation of the borough and its customs.
1182.	Beauvais	Constitution of the borough.
Id.	Chaumont	Idem.
1183.	Orleans and the neighbouring towns	Concession of various privileges to those who shall settle there.
Id.	Roye	Concession of a borough charter.
Id.	Dijon	Confirmation of the charter granted by the duke of Burgundy.
1184.	Cerny, Chamouille, Baune, Chevy, Cortone, Verneuil, Bourg, Comin	Concession of borough rights.
Id.	Crespy	Concession of the customs of the borough of Bruères.
1185.	Vaisly, Condé, Chavones, Celles, Parny, Filain	Confirmation and extension of privileges.
Id.	Laon	Confirmation of a treaty between the bishop and the inhabitants concerning taxes which they owed him by reason of their vineyard.
1186.	La Chapelle-la-Reine, in Gatinais	Confirmation of the customs recognised by Louis VII.
Id.	Compiègne	Confirmation of a charter of Louis VII.
Id.	Id.	Confirmation of ancient, and concession of new privileges.
Id.	Sens	Interdicting the burghers to admit men of the domains of the archbishop into their borough.
Id.	Bruières and neighbouring towns	Confirmation of ancient privileges.

1186.	Belle-Fontaine . . .	Exemption from taxation and exactions on payment of certain quit-rents towards the direct lord and the king.
Id.	Bois Commun, in Gatinais	Confirmation of the charter of Louis VII., which concedes the borough of Lorris.
Id.	Angy	Concession of privileges with regard to military service.
1187.	Lorris	Confirmation of customs recognised by Louis VI. and Louis VII.
Id.	Tournay	Confirmation of customs.
Id.	Voisines	Concessions of the customs of Lorris.
Id.	Dijon	New confirmation of the charter of Dijon.
1188.	Saint Andrè, near Macon	The king takes the inhabitants under his protection, and grants them the customs of Lorris.
Id.	Montreuil	Foundation of the borough.
Id.	Pontoise	Idem.
1189.	Laon	Reformation and confirmation of the borough of Laon.
Id.	Escurolles	The king takes the town under his protection.
Id.	Sens	Constitution of the borough.
Id.	Saint Riquier . . .	Confirmation of the borough.
Id.	*Area Bachis*	Concession of various privileges.
1190.	Amiens	Constitution of the borough.
Id.	Dimont	Concession of the customs of Lorris.
1192.	Anet	Concession of various exemptions.
1195.	Saint Quentin . . .	Confirmation of ancient customs.
1196.	Bapaume	Concession of the jurisdiction, and the choice of municipal magistrates.
1196.	Baune	Reduction of the duties which these towns were obliged to pay for the confirmation of their privileges in 1184.
	Chevy	
	Cortone	
	Verneuil	
	Bourg	
	Comin	
Id.	Towns dependent on the church of Saint Jean de Laon	Concession of borough rights.
Id.	Villeneuve Saint Melon	Concession of exemptions and privileges.
Id.	Dizy	Idem.
1197.	Les Alluets	Idem.
1199.	Etampes	Abolition of the borough.
1200.	Villeneuve en Beauvaisis	Concession of the charter of Senlis.
Id.	Auxerre	Confirmation of the exemptions granted by the count of Auxerre.
Id.	Id.	Idem.
Id.	Tournay	Concession of the customs of Senlis with regard to the relations between the burghers and the ecclesiastics.
1201.	Cléry	Concession of the customs of Lorris.

1202.	Saint Germain des Bois	Confirmation of ancient customs.
1204.	Niort	Concessions of the charter of Rouen.
Id.	Pont Audemer . . .	Confirmation of the borough.
Id.	Verneuil	Confirmation of ancient privileges.
Id.	Poictiers	Idem.
Id.	Nonancourt	Concession of the privileges of Verneuil.
Id.	Saint Jean d'Angely .	Concession of the charter of Rouen and other privileges.
Id.	Id. . . .	Idem.
Id.	Falaise	The king exempts the burghers from all toll duty in his domains, with the exception of Mantes.
1205.	Ferrières	Concession of a borough charter.
1207.	Rouen	Concession of various privileges.
Id.	Peronne	Confirmation of ancient customs.
1209.	Paris	Idem.
1210.	Id.	Mandate to the mayors, sheriffs, and freemen, concerning the conduct to be observed towards ecclesiastics who are liable to be arrested and imprisoned.
Id.	Bourges	Intervention of the king to establish a tax to pave the city and the surrounding roads.
Id.	Bray	Concession of a borough charter.
1211.	Tournay	Confirmation of customs.
1212.	Athyes	Concession of a borough charter.
1213.	Douai	Confirmation of customs.
Id.	Chaulny	Concession of the charter of Saint Quentin.
1215.	Baron	Concession of various privileges.
Id.	Crespy in Valois . .	Concession of a borough charter.
1215.	Town dependent on the abbey of Aurigny, in the diocese of Laon	Concession of borough rights.
1217.	Yllies	Confirmation of customs.
1221.	La Ferté Milon . .	Concession of various exemptions.
Id.	Doullens	Confirmation of the privileges granted by the count of Ponthieu.

Without date.

Poissy	Concession of borough rights.
Triel	
Saint Lieger	

Louis VIII. 1223—1226.

(10.)

1223.	Douai	Confirmation of ancient customs.
Id.	Crespy in Valois . . .	Confirmation of the charter granted by Philip Augustus.
Id.	Rouen	Confirmation of privileges granted by Philip Augustus.
Id.	Breteuil	Concession of various exemptions.
Id.	Verneuil	Idem.

1224.	La Rochelle	Confirmation of ancient privileges.
Id.	Bourges	Idem.
Id.	Id.	Idem.
Id.	Bourges and Dun-le-Roi	Idem.
Id.	Dun-le-Roi	Confirmation of the concession of Philip Augustus.

Louis IX. 1226—1270.

(20.)

1226.	Rouen	Confirmation of the concessions of Philip Augustus and Louis VIII.
Id.	Saint Antonin in Rouergue	The king takes the town under his protection, and confirms its customs.
1227.	La Rochelle	Confirmation of the charter of Louis VIII.
Id.	Id.	Concession of various exemptions.
1229.	Bourges and Dun-le-Roi	Confirmation of the concession of Philip Augustus and Louis VIII.
1230.	Niort	Confirmation of the borough.
1233.	Bourges	Confirmation of various concessions.
1246.	Aigues Mortes . . .	Constitution of the borough.
1254.	Beaucaire	Redress of various abuses.
Id.	Nimes	Concession of various privileges.
Id.	*Area Bachis* . . .	Renewal of the charter of 1189, taken away and destroyed by robbers.
1256.	. . . . .	An ordinance concerning the election of mayors, and the financial administration of the good towns of the kingdom.
Id.	. . . . .	An almost similar ordinance for the good towns of Normandy.
1260.	. . . . .	An ordinance which gives to the mayors of towns the cognizance of crimes committed by the baptised Jews domiciled in their jurisdiction.
Id.	Compiègne	Abolition of various abuses.
1263.	Verneuil	Abolition of evil customs.
Id.	Pont Audemer . . .	Idem.
1265.	Chateauneuf-sur-Cher .	Confirmation of ancient customs.
1269.	Verneuil	Renewal of various exemptions.
Without date	. . . . .	An ordinance to regulate the election of persons charged with levying taxes in the towns of the king.

Philip le Hardi. 1270—1285.

(15.)

1271.	Laon	The king takes the inhabitants under his protection.
Id.	Niort	Confirmation of the borough charter.
1272.	Rouen	Idem.
1273.	A town of Languedoc called de Aspreriis	Confirmation of a charter of Raymond VI., count of Toulouse

1274. Bourges . . . . . Confirmation of customs and privileges.
1277. Limoges. . . . . The king orders that the copy of the treaty between the burghers and the viscount of Limoges inserted in the *letter*, shall have the same value as of the lost original.
1278. Rouen . . . . . Letters explanatory of the jurisdiction granted to the mayor and the borough of Rouen by the charter of Philip Augustus.
1279. Aigues Mortes . . . Confirmation of liberties and privileges.
1281. Les Alluets . . . . Confirmation of privileges.
Id. Orleans . . . . . Confirmation of the concessions of Philip Augustus.
Id. Yssoire . . . . . Idem.
1282. Saint Omer . . . . Confirmation of an ancient charter of the counts of Artois.
1283. Toulouse . . . . . An ordinance concerning the election of the first magistrates of Toulouse, and their jurisdiction.
1284. Douai . . . . . Confirmation of customs.
Id. Lille . . . . . Authority to fortify the town.

PHILIP LE BEL. 1285—1314.

(46.)

1285. Saint Iunien . . . Confirmation of an agreement made between the inhabitants and bishop, in the time of Saint Louis, and approved of by him.
Id. Niort . . . . . Confirmation of ancient charters.
1286. Breteuil . . . . . Concession of the election of local magistrates.
1287. . . . . General ordinance concerning the manner of acquiring the bourgeoisie, and the charges which it imposes.
1290. Yssoire . . . . . Confirmation of ancient privileges.
Id. Tournay . . . . . Confirmation of the agreement made between the count of Flanders and the freemen, as to the jurisdiction of their town.
Id. Charost . . . . . Confirmation of the privileges granted by the lord.
1291. Grenade in Armagnac . Concession of liberties.
1292. Saint André in Languedoc Idem.
1293. Breteuil . . . . . Confirmation of privileges.
Id. Lille . . . . . Forbidding the seneschals and bailiffs to arrest the burghers, or to seize their goods, for disobedience to the count of Flanders.
Id. Bourges . . . . . Confirmation of privileges.
1294. Lille . . . . . Order to the royal judges to prevent the burghers from being tried before ecclesiastical judges for temporal affairs.

1296.	Lille	Exemption from taxes.
Id.	Douai	Idem.
Id.	Gand	Re-establishment of the authority of the thirty-nine magistrates of Ghent.
Id.	Lille	The king engages to protect the inhabitants against their count.
Id.	Id.	The king takes the town in his safeguard.
Id.	Douai	Idem.
Id.	Id.	Confirmation of privileges.
Id.	Bourges, Gand, Ypres, Douai, Lille.	Forbidding the inhabitants to carry arms out of the kingdom without the command of the king.
Id.	Douai	Confirmation of privileges.
Id.	Laon	Re-establishment of the borough of Laon.
Id.	Douai	Confirmation of privileges.
Id.	Tournay	Confirmation of several ancient customs.
1297.	Orches	Confirmation of charters conceded by the counts of Flanders.
1297.	Toulouse	Confirmation of the privileges of burghers with regard to the acquisition of the property of the nobles.
1300.	Toul	The king takes the town in his safeguard.
1302.	Saint Omer	Confirmation of charters granted by the counts of Artois.
1303.	Toulouse	Letters concerning the jurisdiction of consuls.
Id.	Id.	Concession of various privileges.
Id.	Id.	Letters concerning the jurisdiction of the officers of the town.
Id.	Beziers	Exemption from certain duties.
Id.	Toulouse	Regulation concerning the seneschalship.
Id.	Beziers, Carcassonne .	The king orders the seneschals and magistrates to swear to the Etablissements of Saint Louis.
1304.	Orches	Confirmation of privileges.
1308.	Charroux	Concession of liberties to those who shall settle there.
1309.	Bucy, Treny, Margival, Croy, and other places.	Confirmation of privileges granted by the counts and bishops of Soissons.
Id.	L'Isle in Perigord . .	The king fixes the customs and privileges concerning which the inhabitants and their lord were disputing.
Id.	Rouen	The king repeals several duties which had been reserved in rendering their privileges to the burghers.
Id.	Id.	Confirmation of the charter of Philip le Hardi concerning the jurisdiction of the mayor and burghers.
Id.	Id.	Confirmation of privileges.
Id.	Gonesse	Exemption from certain charges.

1311.	Clermont-Montferrand .	The king annuls the concession made by him of this town to the duke of Burgundy, seeing that the consuls, burghers, and inhabitants cannot and ought not to be severed from the crown.
Id.	Douai	Confirmation of privileges and agreements.
1313.	Montolieu	Confirmation of privileges.
1314.	Douai	Declaration that the acts of jurisdiction exercised at Douai, by the royal officers, during the war in Flanders, shall not interfere with its privileges.

Louis X., called le Hutin. 1314—1316.

(6.)

1315.	*De Aspreriis*	Confirmation of a charter of Raymond VI.
Id.	Orchies	Confirmation of privileges.
Id.	Montreuil-sur-Mer . .	The king takes it under his protection.
Id.	Verdun	Idem.
Id.	Douai	Confirmation of privileges.
Id.	Id.	The king declares that, although he has not taken the oath in person which the counts of Flanders took, with regard to the town, on their accession, its liberties and privileges shall not suffer.

Philip V., called le Long. 1316—1322.

(11.)

1316.	Laon	Confirmation of the borough of Laon.
Id.	Gonesse	Exemption from certain charges.
Id.	Clermont-Montferrand .	Confirmation of the ordinance of Philip le Bel (1311).
1317.	Orchies	Confirmation of privileges.
1318.	Figeac	Establishment of the borough.
Id.	Saint-Omer	Numerous confirmations of privileges.
Id.	Tournay	Classification of the borough in the baili wick of Vermandois.
1319.	Saint-Paul of Cadajoux	Establishment of the borough.
1320.	Saint-Omer	Confirmation of privileges.
Id.	Montargis and neighbouring boroughs . .	Idem.
Id.	Tournay	Idem.

Charles IV., called le Bel. 1322—1328.

(17.)

1321.	Clermont-Montferrand .	Confirmation of the ordinance of Philip le Bel (1311).
1322.	Saint Rome en Rouergue	Establishment of the borough.
Id.	Gonesse	Exemption from certain charges.
1323.	Orchies	Confirmation of privileges.
Id.	Saint-Omer	Idem.

1324.	Toulouse	Permission for the inhabitants to acquire the property of nobles under certain conditions.
Id.	Fleuranges	Concession of privileges made by Charles de Valois, lieutenant of the king in Languedoc.
1325.	Riom	Confirmation of privileges.
Id.	Niort	Charles confirms, as king, the letters which he had given as the count of Marche, concerning the privileges of Niort.
Id.	Soissons	He consents that the town may be governed by a provost of the king, preserving its communal liberties and freedoms, with the exception of the jurisdiction.
Id.	Towns of Normandy called Bateices[1]	The king exempts them from poll tax to their lords.
1326.	Servian	On the demand of the inhabitants, the king declares that the town shall no longer be separated from the crown.
Id.	Vendres	Idem.
Id.	Soissons	Classification of the town in the bailiwick of Vermandois.
1327.	Galargues	Confirmation of privileges.
Id.	Lautrec	Idem.
Id.	Compiegne	Authorizing the ringing of the great bell in case of murder and fire, although the town was no longer governed as a borough.

II.

Orleans.

Although I have already pointed out[2] the nature and effects of the charters granted to the city of Orleans, from 1057 to 1281, I think I ought to give the complete text of them. We shall then see what important privileges a town might possess, which had not been erected into a borough, and possessed no independent jurisdiction. These charters also completely show the confusion of the social state at this epoch, and how the influence of a superior power was necessary in order to introduce any general and permanent rules into it.

[1] These were cities which had no communal right, and where there was neither mayor nor sheriffs.

[2] Lecture XVII.

I.

Henry I.—1057.

"In the name of Christ, I, Henry, by the grace of God king of the French, will it to be known to all the faithful of the holy church of God, both present and future, that Isembard, bishop of Orleans, with the clergy and the people committed to his care, has approached our Serenity, bearing plaint by reason of an unjust custom which seems to exist in that town with respect to guard of the gates, which were guarded and closed to the people in the time of vintage, and also by reason of an iniquitous exaction of wine made there by our officers; urgently and humbly imploring us that, for the love of God and for the good of our soul and the soul of our fathers, it would please us to repeal in perpetuity, for the holy church of God, for him, the clergy and the people, this unjust and impious custom. Favourably acceding to the said demand, I have remitted in perpetuity to God, to the said bishop, to the clergy and the people, the said custom and exaction; so that in future let there be no guards there, and let not the gates be closed, as was the custom, during that period, and let no men exact or take from any one his wine, but let all have free entry and exit, and let to each be preserved what belongs to him, according to civil right and equity. And to the end that this concession may always remain firm and stable, we will that the present testimony of our authority be made, and we have confirmed it with our seal and ring. The following have placed their seals to it: Isembard, bishop of Orleans; Henry, king; Gervais, archbishop of Reims; Hugues Bardoulf; Hugh the butler; Henry of Ferrières; Mallbert, provost; Hervé, surveyor; Herbert, under surveyor; Gislebert, cup-bearer; Jordan, under-butler; Baudouin, chancellor.

"Publicly given at Orleans, the sixth day before the nones of October, in the year of our Lord, 1057, and the twenty-seventh of king Henry."[1]

II.

Louis VII.—1137.

"In the name of God, I, Louis, by the grace of God king of the French and duke of Aquitaine, to all present and to

[1] *Recueil des Ordonnances*, &c., t. i., p. 1.

come, give to know that we for the benefit of our burgesses of Orleans grant to them the following customs:

"1. The money of Orleans which was current at the death of our father, shall not be changed or altered during our life.

"2. Every third year, in consideration of that coinage, we will take for every hogshead of wine and of corn, two deniers, and for every five quarters of spring corn, one denier, as our father did before us.

"3. We establish and ordain that our provost or sergeant do not summon any of the burghers before us unless by our command, or by that of our seneschal.

"4. Whoever of our burghers shall come before us for any offence or other cause, if he do not our will, or cannot do it, we will not detain him unless he has been taken in the fact, but he shall be at liberty to return and remain for one day in his own house, after which he and his goods shall be at our disposal.

"5. Further, we command that our provost, by any sergeant of his house, beadle or accuser, do no wrong to any of the burghers.

"6. If any burgher shall strike or beat one of his hired servants, he shall pay a fine therefore to our provost.

"7. Whereas our father, at the Easter before his death, promised that neither he nor his serjeants would levy any morte-main dues in the said town for seven years, we confirm that which our father did for the good of his soul.

"8. And whereas, our sergeant aggrieved and put to ransom the burghers for money which he alleged to be due from them at the death of our father, and the burghers swear that they owe none such, we order our sergeants to make no further claim in that respect.

"And that these presents may not be annulled, or set aside by those who shall come after us, we confirm them with the authority of our name. Done at Paris in the presence of all, in the year of the incarnation of our Lord, 1137, the 5th of our reign.

"And there were with us in our palace, Raoul, our chamberlain, William, the butler, and Hugh, the constable. Written by the hand of Augrin the chancellor."

III.

Louis VII.—1147.

"Louis, king of the French, and duke of Aquitaine: We, considering that the royal spiritual power is greater than the secular, deem that we should be gentle towards our subjects: we, therefore, in memory of him who took pity on his people, take commiseration on our men of Orleans, over whom we had morte-main; for the benefit of the soul of our father, our predecessor, and of ourself, we resign and abandon all such right over the city of Orleans, and throughout its bishopric, and we grant that for the future no such demand be made by ourself or our successors. For the further confirmation whereof, and that it may never be disputed, we have hereunto placed our hand and seal. Done at Orleans, in the year of our Lord 1147, the twelfth of our reign; when there were with us in our palace, Raoul, our chamberlain; William, the butler; Macie, our gentleman of the chamber, and Macie, the constable; there were also present at the signature, bishop Menesser of Orleans; Pierre, of the court of Saint-Yverte. Written by the hand of Cadurc the chancellor."

IV.

Louis VIII.—1178.[1]

"In the name of the Holy Trinity, Louis, by the grace of God king of the French. Remarking at Orleans certain customs to abolish, and desiring to provide for the interests of our burgesses and the health of soul, we remedy the said customs. As altered, they are the following:

"1. Any stranger prosecuting the payment of a debt at Orleans shall not pay any tax in respect thereof.

"2. They shall exact no tax from any foreigner bringing his merchandize to sell at Orleans, either for the exposure of, or for the price fixed upon his goods.

"3. If a debt of five sous be denied, let it not be settled by combat between two men.

"4. If any one by the first day have not the guarantee

[1] It is questionable whether this charter belongs to the year 1168 or 1178; it is found under both of these dates in the *Recueil des Ordonnances*. But the original of the charter bears the date 1178, and this appears the most probable.

named by him, he shall not on that account lose his process, but shall be permitted to bring it forward at a convenient day.

"5. No man, in partnership with another man for the payment of the dues of audience, shall pay the whole tax, but only that part which falls to his share.

"6. Let not the vintners and wine-cryers buy wine in Orleans, in order to sell it again at a tavern.

"7. No man having partnership with a clerk or knight, in anything touching the partnership, shall pay the whole tax, but only the part due from him, provided that the clerk or knight have proved that the said man was in partnership with him.

"8. Let the conductors of those who buy wines be sent away.

"9. Hucksters shall not purchase provisions within the precincts of the town in order to sell them at Orleans.

"10. The provosts and foresters shall not seize carts within the precincts.

"11. Carts standing at the Dunoice gate to take provisions, shall not be filled a second time; but when the provisions are sold, they shall retire and make way for others.

"12. No one shall buy bread at Orleans and re-sell it there.

"13. The keeper of the salt mine shall only take two deniers for the use of the mine.

"14. The men of Meun and Saint-Martin-sur-Loiret shall not pay rent for the ransom of their bailiffs.

"15. What has been added to the *droit de brenage* during our time shall be repealed, and it shall be as it was in our fathers' time.

"16. The series of customs which we have abolished being thus enumerated, we have decreed, and we confirm that decree by the present order, and by the authority of our seal, and by our royal name thereunto placed; and we forbid any one ever daring to re-establish for the people of Orleans any of the customs herein mentioned. Given at Paris, the year MCLXVIII. of our Lord. There were present in our palace, the count Thibaut, our seneschal; Guy, the butler; Renaud, chamberlain; Raoul, constable. Given by the hand of Hugh, chancellor."[1]

[1] *Recueil des Ordonnances*, t. i., p. 15; t. xi., p. 200.

V.

Louis VII.—1178.

"In the name of the holy and indivisible Trinity, Louis, by the grace of God king of the French. Informed of certain customs to be abolished at Orleans, and desiring to provide for the good of our burghers, and the health of our soul, we have mercifully abolished them. The following are the amended customs:—

"1. Let no one exact toll at Rebrechien,[1] nor at Loury,[2] except the same which is exacted at Orleans.

"2. Let no one be obliged to rent our stalls at the market.

"3. Let the dues to us of barley and other grain, received at Mareau-au-Bois and at Gommiers[3] be abolished.

"4. Let no cart be taken for bringing wine from Chanteau.[4]

"5. Let no one selling his wine at Orleans be constrained to give money by the bottle for the right of the king; but let him give wine in bottles, if he like better.

"6. The keeper of the chatelet at the head of the bridge cannot take the toll for hay-carts, unless the hay belong to those who have mown it.

"7. No merchant having disposed of his goods at Orleans without permission from the provost, can on that account be brought to justice while he shall remain at Orleans.

"8. Foreign merchants who come to Orleans for the fair of March, shall not be obliged to keep the fair.

"9. Let no one at Germigny,[5] or at Chanteau, pay the tax upon the sale of sheep and the breeding of pigs, except those who cultivate our land.

"10. Let each cart in the bailiwick of Saint-Martin-sur-Loiret pay four heminæ of rye.

"And, lastly, let not these things be retracted in future. We have confirmed the present charter by the authority of

[1] A village on the Loire, three leagues from Orleans.
[2] A village five leagues from Orleans.
[3] Villages in the environs of Orleans.
[4] A village two leagues from Orleans.
[5] A village on the borders of the forest of Orleans.

our seal, and the inscribing of our royal name. Done at Etampes, the year of the Incarnation of our Lord 1178. There were present in our palace those whose names and seals follow:—Count Thibault, our seneschal; Guy, the butler; Renaud, the chamberlain; Raoul, the constable."[1]

VI.

Louis VII.—1180.

"In the name of the holy and indivisible Trinity, Amen. Louis, by the grace of God king of the French: knowing what the mercy of God has always been to us and our kingdom, and how innumerable have been his favours, we acknowledge and humbly adore him, if not as much as we ought, at least with all the devotion in our power. Incited to this, therefore, by royal piety and clemency, for the health of our soul, and for that of our predecessors, and for that of our son, king Philip, we infranchise and discharge in perpetuity, from every tie of servitude, all our serfs and servants, called body-men, who live in Orleans or the suburbs, boroughs or hamlets; namely, Meûn, Germigny, Cham, and other dependents of the provostry of Orleans; as well as those of Chesy, Saint-Jean-de-Bray, Saint-Martin-sur-Loiret; and beyond the Loire, Saint-Mesmin and other hamlets, and those of Neuville, Rebrechien, and Coudray,[2] as well as their sons and daughters; and we will that they remain as free as if they were born free; that is to say, that those who shall be found in the above-named places before next Christmas, and after the coronation of our son Philip, shall enjoy that liberty: but if others of our serfs flock from elsewhere to the said places, because of the enfranchisement, they shall be declared excepted. And to the end that the said things remain in perpetuity, we have caused the confirmation of the present charter, by the authority of our seal, and the affixing of our royal name. Done in public, at Paris, the year of the Incarnation of the Lord 1180. There were present in our palace those whose names follow:—Count Thibault, our seneschal; Guy, the butler; Renaud,

[1] *Recueil des Ordonnances*, t. xi., p. 209—211.

[2] All these towns are in the environs of Orleans.

chamberlain; Raoul, constable. Given by the hand of Hugh, the chancellor."

VII.

PHILIP-AUGUSTUS.—1183.

"In the name of the holy and indivisible Trinity, Amen. Philip, by the grace of God king of the French. It belongs to the clemency of the king to spare his subjects with a merciful heart, and generously to aid those who bend under a heavy load. We make known to all present and to come, that in the belief of God, and for the safety of our soul and the soul of our father Louis, of blessed memory, and of our predecessors, we will and order that all men who live and shall live at Orleans, and in the bailiwick of Saint-Martin, and in the bailiwick of Saint-Jean, at Coudray, at Rebrechien, and at Germigny, be henceforth free and exempt from all tax and duty; granting them, besides, that we will not make them go to plead in any place more distant than Etampes, Yèvre-le-Chatel, or Lorris; and we will seize neither them nor their goods, their wives, sons, nor daughters, and will do them no violence, so long as they desire to and do receive the judgment of our court; none of them for a misdeed shall pay us a fine of more than sixty sous, except for robbery, rape, homicide, murder, or treason; or else in cases where they shall have deprived any one of his foot, his hand, his nose, eye, ear, or any other member. And if any of them be summoned, he shall not be bound to answer to a citation before eight days. Now, we make them all these concessions, on condition that all those to whom we give this grace, and whom we may or might tax, henceforth each year, upon each four gallons of wine or corn which they shall have, as well spring grain as the corn of winter, whichsoever they be, shall pay us two deniers. But we make known that the tax of two years upon corn and wine thus collected, the which tax is commonly called the tax upon bread and wine, shall be an acquitment of all tax and duty, and all the above-mentioned customs which we have repealed; and the tax of every third year shall be for the maintenance of the coinage; and in that third year, men not among those to whom we have granted the above enumerated franchises—namely, those who owe us no tax, except the tax

of bread and wine for the coinage, shall pay us that tax of bread and wine for the maintenance of the coinage, in the same way that they have always done; upon each measure of spring corn one denier. Now, every year we will send to Orleans one of the people who serve us in our house, and who, with our other sergeants in the town, and ten good burghers, whom the burghers of the town shall elect in common, shall annually collect this tax of bread and wine; and these shall swear each year that they will raise this tax with good faith, and that they will not except any one out of affection, or surcharge them through hatred. And in order that all these concessions perpetually remain, and be for ever inviolably maintained as much by us as by the kings of France our successors, we confirm the present agreement with the authority of our seal and the affixing of our royal name. Done at Fontainebleau, the year of the Incarnation of our Lord 1183, and the fourth of our reign. There were present in our palace those whose names and seals are hereunto placed:—Count Thibault, our seneschal; Guy, the butler; Matthew, the chamberlain; Raoul, the constable.[1]"

III.

Etampes.

Orleans has just shown us what may be the privileges and progressive developments of a town which was not erected into a borough properly so called: Etampes will show us how small a place a borough charter sometimes held in the existence of a town, and how it might lose it without losing, far from it, all its advantages and all its liberties.

I shall not come to a conclusion beforehand; I shall not sum up the facts before having given them. I wish to lay before you an account of the various acts of which, in various ways, Etampes has been the object on the part of the French kings, from the eleventh to the thirteenth century. We shall there see what at that time a town truly was; in what consisted and how were formed the privileges of its inhabitants, and how false is the historical image which is almost always given us by those who speak upon the subject.

[1] *Recueil des Ordonnances*, t. xi., p. 226. This charter was confirmed in 1281, by a similar charter of Philip le Hardi, (*Ibid.*, p. 357.)

In 1082, king Philip I. wished to show some favour to the canons of Notre Dame of Etampes, as his ancestors the kings Robert and Henry I. had done, and he granted them this charter:

"In the name of the holy and indivisible Trinity, Philip, by the grace of God, king of the French. It is just and very worthy of the royal serenity to govern the secular affairs with moderation, and still more, constantly to regard ecclesiastical affairs with feelings of religion and piety, to the end that nothing may remain ill ordered in our republic; as also firmly to observe, and in observing to strengthen, what has been conceded by our predecessors, or by ourself. We therefore make known to the faithful of the holy church, present and to come, that the canons of Saint Marie d'Etampes have approached our majesty, supplicating us to grant them, and to confirm in perpetuity, the rights and customs granted and confirmed to them by our predecessors, king Robert our grandfather, and king Henry our father . . . . The said rights possessed by the said church are as follow:

"Let the said canons give to those among them whom they shall elect, the offices of the said church, such as the offices of provost, dean, chanter; and let them have and possess all that belongs to the said church, except at the festival of Saint Marie, in the middle of the month of August, when their abbot, from none to none, shall have the rights thus regulated: the canons shall have the loaves and napkins: with regard to the other smaller offerings, the wax, the deniers, the gold and silver, if there be any offered, the abbot shall receive and have them. Further, he who on the part of the abbot shall guard the altar during the festival, shall live upon the bread of the altar; and the dean instituted by the canons shall receive from the common offering the wine and other provisions necessary for his support on the said day . . . . *Over the lands of the canons which belong to the church, our officers shall exercise no jurisdiction or exaction whatever, and shall not violently take the right of lodging in their houses* . . . . Having received at their request and prayer, and in token of charity, twenty livres from the said canons, we have caused this memorial of our concession to be written, and have confirmed it with the authority of our seal and the

placing of our royal name. Witnesses of the present institution, &c., &c.—(*Then follow the names of fourteen officers of the king, or lay witnesses, and twenty-nine ecclesiastics or canons.*) Publicly given at our palace, at Etampes-la-Neuve, the year of the Incarnation of the Word, 1082, the twenty-third of the reign of Philip, king of the French.—Read and signed by Griffied, bishop of Paris."[1]

Independently of what concerns the canons themselves, we here see the inhabitants of the lands which belong to them, in Etampes, or even in its territory, freed from all jurisdiction, from all exaction of royal officers, and among others, from that obligation of lodging which was the source of so much abuse.

Shortly afterwards, the same king Philip made a vow, it is not known exactly for what reason, to go, casque on head, his visor lowered, his sword at his side, his coat of arms on his back, to visit the holy sepulchre at Jerusalem, to leave his arms in the temple, and to enrich it with his gifts: but the bishops and great vassals, it is said, when consulted, opposed this absence of the king as dangerous to his kingdom. Probably Philip himself was not eager to accomplish his vow. One of his faithful of Etampes, a man of his house, Eudes, mayor of the hamlet of Challou-Saint-Medard, offered to make the journey for him, armed cap-à-pie, as Philip had promised to be. He employed two years in this tedious pilgrimage, and returned, after having deposited his arms in the holy sepulchre, where they might for a long time be seen, with a brass tablet on which the vow and the journey were recounted. Before the departure of Eudes, the king took his six children under his care: one son, named Ansold, and five daughters; and at his return, in March, 1085, he gave them in recompence, all the rights and privileges contained in the following charter:

"Let all know that Eudes, mayor of Challou, by the divine inspiration and by consent of Philip, king of France, whose servant he was, has set out for the Sepulchre of the Lord, and has left his son Ansold and his five daughters in the hands and under the care of the said king, and the said king has received and preserved these children in his hands and under his

[1] *Recueil des Ordonnances*, t. xi. p. 174.

care, and it is granted to Ansold, and to his said five sisters, daughters of Eudes, for the love of God, and out of charity alone, and through respect for the Holy Sepulchre, that any male line of him or them, who shall marry a woman subject to the king under the yoke of servitude, he shall, by the said marriage, free and redeem her from the tie of servitude, and if serfs of the king marry women descended from Eudes, they as well as their descendants shall be of the house and domesticity of the king. The king gives, to be kept in fief, to the heirs of Eudes and their heirs, his estate of Challou, with its men; so that on account of it they be not bound to appear in justice before any of the servants of the king, but only before the king himself, and let them pay no tax in any of the land of the king. Moreover, the king orders his servants of Etampes to guard the chamber of Challou,[1] seeing that the people of Challou are bound to keep guard at Etampes, and that their chamber being established there, they shall guard it the better. And to the end that the said franchise and conventions always remain firm and stable, the king has caused the present memorial to be made of them, which he has had sealed with his seal and his name, and confirmed, with his own hand, by the holy cross. There were present in the palace, those whose names and seals follow: Hugh, seneschal of the house; Gaston de Poissy, constable; Pains, the chamberlain; Guy, brother of de Galeran, groom of the chamber. Done at Etampes, in the month of March, in the palace, the year of the Incarnation, 1085, the 25th of the reign of the king. There were present at the making of the enfranchisements, for testimony of its truth, Anselin, son of Arembert; Albert of Bruncoin; Guesner, priest of Challou; Gérard, dean; Pièrre, son of Erard . . . . and Haymon, his son."[2]

Here we find a family of Etampes and its descendants invested with the most important franchises, in possession of the right of giving freedom by marriage, of not being judged except by the king himself, or his nearest officers, of not paying any subsidy, tax, toll, &c. And less than two hundred years afterwards, Saint Louis, in declaring the descendants of Eudes of

[1] They called the place where were kept the titles and acts concerning the rights of the king and the crown, *camera*. (Fleureau, *Antiquités d'Etampes*, p. 83.)

[2] Les Antiquités de la ville et du duché d'Etampes, by Fleureau, p. 78.

Challou-Saint-Medard exempt from the watch of the town of Paris, says that they are three thousand in number; and they still reckoned two hundred and fifty-three of them in 1598, when the president Brisson caused their privileges to be attacked, in a fit of anger against the inhabitants of Etampes, who, going to visit him in his house of Gravelle, did not do him the honours which he claimed. This privilege lasted five hundred and seventeen years, for it was not abolished until 1602, by decree of the parliament of Paris.[1]

Near Etampes, at Morigny, there was a large and rich abbey of the order of Saint Benedict, formed by a dismemberment of the abbey of Flex, or Saint-Germer, near Beauvais. In 1120, Louis VI. granted various privileges to the monks of Morigny, among which are the following:—

"The manorial tenants who in the town of Etampes have been or may be given to the monks of the holy abbey of Morigny, shall pay us the same dues which they were accustomed to pay when in lay hands, unless remission thereof be made unto them by us or our successors.

"We grant to all the monks' tenantry, wherever they reside, that no provost nor any other officer of ours shall exercise any jurisdiction over them, unless the monks fail to do them justice, and unless they be taken *in flagrante delicto*, or unless they have broken the ban."[2]

Louis VI. often resided at Etampes. The inhabitants of the *Marché Neuf*, called later *Marche Saint-Gilles* were bound, when the king came into the town, to furnish him and his court with linen, and vessels and utensils for the kitchen. This charge seemed so onerous, that few people established themselves in that quarter, and it remained almost deserted. In 1123, Louis wished to attract inhabitants thither, and with this view published the following charter:

"In the name of the holy and indivisible Trinity, Louis, by the grace of God, king of the French. I make known to all my faithful, present and to come, that to those who inhabit or shall inhabit our Marché Neuf at Etampes we grant this privilege for ten years, dating from the feast of Saint-Remy, in the 16th year of our reign.[3]

[1] Fleureau, *ut supra*. [2] *Recueil des Ordonnances*, xi. 179.

[3] About two years after the date of this ordinance, Louis le Gros mounted the throne in 1108.

"1. We grant them, within the limits of the said market, to remain free and exempt from all levy, tax, or service of foot or horse.

"2. We allow them also not to pay fine for an ill-founded summons or accusation.

"3. In their case, moreover, we reduce for ever, fines of sixty sous, to five sous and four deniers; and the duty and fine of seven sous and a half to sixteen deniers.

"4. No one henceforward shall pay the mine due except on Thursday.

"5. Any man called upon to take oath in any business, if he refuse to swear, shall not have to pay a fine.

"6. All those who bring wine or provisions or any other article into our said market, or into the houses of the manorial tenants established in the said market, shall be free and undisturbed with all their provisions, both when they come, while they stay, and on their return; so that for their misdeed or that of their masters, no one can seize or trouble them, unless they be taken in the crime.

"We grant them these privileges for ever, with the exception of the levies, horse and foot service, and taxes, which they shall enjoy only within the above fixed limits; and in order that the said concession may not fall into disuse, we have caused it to be written; and to the end that it be not annulled by our descendants, we have confirmed it with the authority of our seal and the placing of our name. Publicly done at Etampes, the year of the Incarnation of the Word, 1123, the 16th of our reign. There being present in our palace those whose names and seals are hereunto affixed: Stephen, the seneschal; Gilbert, the butler; Hugh, the constable; Albert, the chamberlain; and Stephen, the chancellor."[1]

The inhabitants of the Marché Saint-Gilles formed thenceforward a distinct corporation, which had its own charter and functions.

In 1138, Louis VII. granted "to all the men of Etampes, both knights and burghers," a charter as follows:

"In the name of the holy and indivisible Trinity, Amen. I, Louis, king of the French and duke of Aquitaine, make

[1] *Recueil des Ordonnances*, t. xi. p. 183.

known to all our faithful, present and to come, that we have granted to all the men of Etampes, both knights and burghers, upon their humble petition and the counsel of our faithful, the following things:

"1. During our whole life, we will not change or alter the alloy or weight, and will not let any one alter the present money of Etampes, which has circulated there since the decease of our father, so long as the knights and burghers of Etampes, every three years, dating from All-Saints, shall pay us, for the redemption of the said money, one hundred livres of that money; and if they themselves discover that this money is falsified or altered in any way, we, upon their information, will see that it be proved and tried; and if it has been falsified or altered, we will have justice done upon the falsifier or alterer, according to the counsel of the knights and burghers of Etampes. Now, Luc de Malus, knight of Etampes, by our order and in our place and court, swears that we will keep and observe those conditions in the manner herein laid down.

"2. We also grant to the knights and burghers of Etampes that none of the people of Etampes shall at any time be interdicted the sale of wine; and that the wine of no one, except our own, shall be sold by proclamation.

"3. Further, for the good of our soul and the souls of our predecessors, we grant for ever to the knights and burghers of Etampes, that the measure of wine which the provosts of Etampes, and that which the servants and the vicar of the provost, after them, took from the burghers in each tavern, shall not henceforward be taken in any way by any provost or his servants; and we forbid the burghers themselves to give it in any way.

"4. We also forbid the criers of wine to refuse, under any pretext, to the knights, clerks, or burghers of Etampes, the measure to measure wine when they shall demand it, or to exact from them anything more than they formerly exacted with justice.

"And to the end that this may always remain firm and stable, we have ordered that it be confirmed by the authority of our seal, and the affixing of our name. Done publicly at Paris, in our palace, the year of the Incarnation of the Word, 1137, and the fourth of our reign. There being present in our palace those whose seals and names are hereunto affixed:

Raoul, count de Vermandois, seneschal; Hugh, the constable; William, the butler. Given by the hand of Augrin, chancellor." [1]

Here it is not merely the question of a parish, a family, a quarter. The privileges granted are granted to the whole town; all its inhabitants, knights or burghers, whether resident in the market-place of St. Gilles, or on the domains of the canons of Notre Dame, are equally admitted to participate in them.

But this is a very exceptional case. Privileges granted to particular establishments are of much more frequent occurrence. In 1141 and 1147, Louis VII. accords in favour respectively of the churches of Notre Dame and St. Martin d'Etampes, and of the Lazar-house of that town, the two following charters:

"In the name of the holy and indivisible Trinity, I, Louis, by the grace of God king of the French and duke of Aquitaine, to all present and to come, make known, that, upon the certification of the canons of Etampes la Vieille, we admit and acknowledge as true and certain, that Solomon, physician, having heretofore received from the very noble and most illustrious Philip an estate at Etampes, and having for some time enjoyed it in full property, has now, by a pious donation, and on condition of prayers for his soul, given and granted the same, with all the rights and customs appertaining to it, unto the two churches of the said Etampes, namely—the church of Saint Mary, and the church of Saint Martin, with our full concurrence and approbation, in accordance with which, we, whose duty it is at once to favour the churches, and to protect, confirm, the concessions made by our predecessors, at the request of the said late possessor of the said estate, and on the humble petition of the said canons, do, by our authority, confirm this donation, or rather this alms, and further, have caused to be set forth in this present charter the customs of the said estate, that no exaction may hereafter be made upon it. These customs are as follows:

"1. The ordinary penalty of sixty sous is here five sous; of seven sous and a half, twelve deniers. The fine for flesh

[1] *Recueil des Ordonnances*, t. xi. p. 188.

wounds is a live goose; for drawing the sword upon a man, a fowl of two deniers.

"2. The men of this estate must send four sergeants-at-arms to the king's army, on the proclamation of Arriere-ban.

"3. As to the *droit de place* over the said estate, the ministers of the said churches must claim it on the Thursday in each week, or if they omit any Thursday, then in the Thursday in the next week, or other day, but without proceeding for any penalty.

"4. At the festival of St. Remy, the sergeants of the said canons shall collect the quit-rent at each house on the said estate.

"5. It is a custom of the said estate that if any one bring an action against one of the tenants on the said estate, within its limits, he must submit therein to the jurisdiction of the said canons.

"6. The said estate is exempt from the payment of any and all taxes imposed upon the canons.

"Godfrey Silvestre in our presence at Etampes, has confirmed the above on oath. And in order that it may not be lost in oblivion, we have authenticated the whole by the apposition of our seal. Done publicly at Paris, the year of the Incarnation of the Word, 1141, and of our reign the fifth. Present in our palace, these, whose hands and seals are hereunto affixed. Raoul, count de Vermandois, our seneschal; Guillaume, the butler; Matthew, the chamberlain; Matthew, the constable. Written by the hand of Cadurc, chancellor."[1]

"I, Louis, by the grace of God king of the French and duke of Aquitaine, to all present and to come, make known, that we give and present to the brothers of St. Lazarus, at Etampes, a fair of eight days, to be held every year at Michaelmas, adjacent to the church of St. Lazarus, with this franchise, that we retain therein no right, and that our officers shall take nothing there, nor arrest any one there except thieves, whom we retain the power to apprehend, for the purposes of justice. We take under our safeguard those who shall attend this fair; and to confirm and establish this for ever, we, &c."[2]

In 1155, the same monarch abolished an abuse which the

[1] *Recueil des Ordonnances*, xi., 195. [2] *Idem.*

officers who acted for him at Etampes had introduced for their own benefit.

"In the name of the holy and indivisible Trinity, amen. I, by the grace of God, king of the French. Whereas it appears that our sergeants, our provost, vicar, and other of our officers at Etampes, have been subjecting the butchers of that town to a custom that whatever they purchased of them, the price thereof shall be reduced one third, so that they have been exacting from the butchers, under pretext of their office, meat, the value of which was twelve deniers, for eight. We, therefore, to all present and to come, make known that, for the health of our soul, and the benefit of the said town, we abolish for ever this custom, and order that our sergeants, and all our other officers, deal with the butchers exactly according to the general usage, common to all; and that neither our provost, vicar, nor other officer, have, in any purchases whatever, any advantage over the other citizens. And that this may remain firm and unchanged, we have hereunto affixed our seal and our signature. Done in public, at Paris, the year of the Incarnation of the Lord, 1155. Present in the palace, those whose names and seals follow:—Count Thibaut, our seneschal; Guy, butler; Mathieu, groom of the chamber; Mathieu, constable. Written by the hand of Hugh, chancellor."[1]

In 1179, he issued a general regulation for the government of Etampes, conceived in these terms:—

"In the name of the holy and indivisible Trinity, Amen. I, Louis, king of the French, for the good of our soul, have deemed it fitting to abolish the ill customs which, in the course of our reign, have been introduced into Etampes without our knowledge, by the negligence of our sergeants. To all present and to come, therefore, we make known and order that,

"1. Whosoever desires it, may freely purchase our land called octaves,[2] saving our accustomed rights; and the purchaser shall none the more for his purchase become our serf.

"2. No one shall buy in Etampes or its liberties, for the

[1] Recueil des Ordonnances, xi. 200.

[2] The occupants of these royal lands had been serfs of the king. The term *octave* was perhaps applied to them because the king was entitled to every eighth sheaf produced on them.

purpose of retailing it in Etampes, any fish, except salted herrings and mackarel.

" 3. No one shall buy wine at Etampes, for the purpose of selling it again there, except at the time of vintage.

" 4. No one shall buy bread there for the purpose of retailing it in the town.

" 5. No one, though he reside beyond the limits of the market-place, shall be arrested when he is within the said limits, for that were to infringe the *droit de place.*

" 6. Any man who holds from us the *droit de voirie*, may make a door or a shop window in his house, without seeking the permission of the provost.

" 7. No one shall be charged anything for the use of the market corn measure, saving always our toll.

" 8. The provost of Etampes may not, on any ground, require a citizen to return the gage of a duel which has not been decided.

" 9. The people of Etampes may have their vineyards guarded as they think fit, on payment merely of the guards themselves, and without being liable to any payment to the seigneur to whom the quit rent of the vineyard belongs.

" 10. No ordinary huckster, keeping a shop, shall be called upon to fee the provost.

" 11. No one shall be liable to give a fee to the provost, except the dealers who have stalls in the market place.

" 12. None shall be called upon to give a skin to the provost, except furriers by trade.

" 13. None of our officers, except the provost, shall require a fee from any trader, whether in the market place, or out of it.

" 14. For the stamping of measures and weights, the provost shall receive no more than two gallons of red wine of Etampes, and each of the sergeants assisting, one denier.

" 15. The purchasers of wines, on exporting them from Etampes, shall give no fee to our officers, but merely pay the toll accustomably due to us.

" 16. The provost shall not exact fish from the dealers in fresh or salt water fish, but shall buy what he requires, the same as other people.

" 17. On a duel taking place, we shall require from the conquered party no more than six livres, and our provost no

more than sixty sous; and the conqueror shall receive no more than thirty-two sous, unless the cause of battle has been infraction of the liberties of the town, or murder, or theft, or rape, or enslaving.

"18. No dues for pressurage shall be taken for quantities under one gallon.

"19. No fellmonger shall give more than twelve deniers per annum for his fee.

"20. Wax chandlers, as their fee, shall give no more than the value of one denier in wax, per annum, the Thursday before the Feast of the Purification.

"21. Every dealer in bows shall give a bow yearly.

"22. No one shall pay for a place in the market, who has only sold fruit under the value of four deniers.

"23. It is forbidden to seize the goods of a man refusing to pay a debt, until the amount of the debt has been calculated.

"24. For every wine booth erected, the provost shall have two gallons of red wine of Etampes.

"25. On market day, neither the provost of the Jews, nor any other person, shall arrest for debt any man in the market, or going there, or returning thence, nor seize his goods.

"26. The dealer in flax or hemp shall pay no money for his stand in the market place, but only a reasonable handful of his goods.

"27. For a debt recognised and available, the provost shall not seize until after the number of days prescribed by the law.

"28. A widow for licence to open a shop, shall only pay twenty-five sous.

"29. No hired champion shall be admitted to take part in a trial by battle.

"In order that all this may be firm and unchanged, we have authenticated the present charter with our royal hand and seal. Done at Paris, the year of the Incarnation 1179. Present in our palace those whose names and seals are below: Count Thibaut, our seneschal; Guy, butler; Renault, chamberlain; Raoul, constable. The chancellorship vacant."[1]

[1] Recueil des Ordonnances, xi., 211.

So far we have heard nothing of the corporation of Etampes; not only have we met with no charter constituting it, but none of the documents we have cited make any allusion to it. Yet a corporation did exist at Etampes, and probably a very turbulent, a very encroaching corporation, for in 1199 Philip Augustus abolished it in these terms:

"In the name of the holy and indivisible Trinity, Amen. Philip, by the grace of God, king of the French, to all men, present and to come: know that in consequence of the outrages, oppression, and vexations inflicted by the corporation of Etampes upon the churches of that town and their possessions, upon the knights and their possessions, we have abolished the said corporation, and have granted unto the said churches and knights, that there shall henceforth be no corporation in Etampes. The churches and knights shall be reinstated in all the franchises and rights they possessed before the establishment of the corporation, saving always, that their men and tenants shall attend us in our expeditions and wars, just as all other men do. And for the men and tenants, whether of the churches, or of the knights, who inhabit the castle or suburbs of Etampes, and were members of the corporation, we shall tax them when and to what extent we think fit. And should any of the said men and tenants, when we have taxed them, neglect to pay us the tax, we shall be at full liberty to seize them and their goods, no matter of whom they are tenants and men, whether of the church or of knights. And that these presents may be firm and enduring, we have given them the authority of our name and seal. Done at Paris, the year of our Lord 1199, of our reign the twenty-first. Present in our palace those whose names and seals follow: no seneschal; Guy, butler; Mathieu, chamberlain; Dreux, constable. The chancellorship vacant."[1]

If we had only this document before us, if all those I have previously cited did not exist, should we not be disposed to imagine that in losing their corporation the inhabitants of Etampes lost all their rights, all their franchises. Yet such was by no means the case. The charter of the corporation was alone abolished; all the special charters remained in full

[1] Recueil des Ordonnances, xi., 277.

force as before. The inhabitants of the lands of the church Notre Dame, and of the market-place St. Gilles, the descendants of Eudes de Challou-Saint-Mard, the tenants of the abbey of Morigny, retained all their old privileges. And not only did these privileges remain to them, but others were constantly being added, in like manner without any reference to a corporation, in like manner limited to particular quarters of the town and to particular classes of its inhabitants. For instance, in 1204, Philip Augustus granted to the weavers of Etampes a charter in the following terms:

"In the name of the holy and indivisible Trinity, Amen. I, Philip, by the grace of God, king of the French, to all present and to come, make known:

"That, for the love of God, we have released all the weavers resident now and for the future in Etampes, and who weave with their own hands linen or woollen goods, from all the dues heretofore payable to us from them, namely, annual taxes and fees on apprenticeship; saving the fee for holding a stand in the market-place which all shall continue to pay; and saving also the penalty due to us upon the spilling of blood, and our right to their services in our armies and expeditions as before.

"In consideration of this franchise that we grant unto them, the said weavers shall pay us twenty livres a-year; ten livres on the day next but one after the festival of St. Remy, and ten the next day but one after the termination of Lent.

"All weavers shall commence and conclude their labours at the fixed hour.

"They shall, of their own choice, and as often as they think fit, elect four notable men from among their own body to act as their representatives in any judicial case, and to carry out what reform in their corporation they shall deem necessary.

"These four men shall take an oath of fidelity to the provost, and shall see to the maintenance of their rights, and shall pay the twenty livres above set forth.

"They shall superintend the manufacture of the cloth woven, and see that it is of good fabric and honest measure; if they fail herein, they shall pay a fine to us.

"We grant to them that we will never revoke these presents.

"And that this grant may be firm and unchanged for ever, we have authenticated it by our hand and seal. Done at Paris, the year of the Incarnation of the Word 1204, the twenty-fourth of our reign. Present in the palace those whose names and seals follow: No seneschal; Guy, butler; Mathieu, groom of the chamber; Dreux, constable. Written, the chancellorship being vacant, by the hand of brother Garin."[1]

In 1224 again, Louis VIII. confirmed, in the following terms, the charter and enfranchisement granted by the dean and chapter of the church of Saint-Croix, at Orleans, to the men whom that church had in Etampes and its liberties.

"In the name of the holy and indivisible Trinity, Amen. Louis, by the grace of God king of the French, to all present and to come make known, that we have had submitted to us the charter of our dearly beloved the dean and chapter of Sainte-Croix, at Orleans, thus conceived:—

"'Libert, dean, and all the chapter of Orleans, to all, and for all time.

"'We make known unto all present and to come, that our men and women dwelling on our lands at Etampes, and all those who possess any portion of the said lands, wheresoever they actually inhabit, have bound themselves to us by oath, individually, and each of them respectively, promising that if we relieve them from the disgrace of servitude, and grant to them and to their children, born and to be born, the blessing of freedom, they will accept with gratitude, faithfully pay, and never dispute the rents we shall require from them and their descendants for our said lands. We, therefore, considering the many advantages which the said concession of freedom may confer upon our said men and their descendants, and upon ourselves and our church, have judged it well to make them the said concession; and enfranchising the said men, their wives and children, born and to be born, from all servitude, have declared and do declare them free in perpetuity, saving the charges and rents set forth below:[2]

[1] Recueil des Ordonnances, xi. 286.

[2] This clause leads to the supposition that the corporation of Etampes, abolished in 1199 by Philip Augustus, had been re-established; the fact is quite possible in itself, and the clear and positive fact before us renders it very probable. It is also very possible that the ordinance abolishing the corporation was never acted upon.

" ' And first, in order completely to extirpate from our said lands in Etampes the opprobrium of servitude, we decree that no man or woman of servile condition shall be capable of holding any house, vineyard, or field therein; so that the said lands, hitherto humble and overwhelmed with the opprobrium of servitude, may for the future shine forth in all the splendour of freedom.

" ' None of the said enfranchised persons, or any of their descendants, shall enter, without our special consent, into the corporation of Etampes.

" ' Every person dwelling upon our said lands shall be bound to grind his corn at our mill and nowhere else.

" ' We require—and this is a condition which we especially impose in consideration of the said concession—that of every twelve sheaves grown upon our said lands, and even of every eleven, if the grounds only produce eleven, one shall be given to us, to be selected by and delivered by our agent; which sheaf shall be called the sheaf of freedom.

" ' As to the tithes payable in respect of the said lands, these shall remain unchanged.

" ' We retain also our claim to the tithe of wheat not sheaved. In a word, nothing herein contained respecting emancipation shall prejudice our accustomed rights as to rents and payments.

" ' And so with respect to all other rights possessed by us, all customs, claims to free labour on roads, and so forth, we make no change in any of these things, which shall remain altogether as heretofore, except the servitude—and, moreover, the poll-tax, which we hereby surrender to our said men and their families and descendants.

" ' We have judged best to insert in our present writing the names of our men whom we have enfranchised as above set forth; and, first, Eudes of Marolles, &c. &c.[1]

" ' In surety, faith, and testimony of the said freedom, we have caused the present to be written, and sealed with our seal. Done in the year of the Lord 1224, in the month of February.'

" Granting the present freedom as above set forth, we in

[1] Here follow the names of four or five hundred persons, with the names of the places of habitation.

like manner enfranchise and release the said men from all servitude; and, finally, that this may be a firm and perpetual liberty, we have confirmed the present charter by the authority of our seal and name. Done at Melun, in the year of the Incarnate Word 1224, the second of our reign. There were present in our palace those whose names and seals follow: No seneschal; Robert, the butler; Bartholomew, the groom of the chamber; Matthew, constable. Sealed, with our own hand, with green wax."[1]

We may dispense with commentaries. The facts speak, the acts explain themselves. It is evident that these words, *a town*, *a borough*, *a borough charter*, deceive us when they make us attribute to the institutions and municipal destinies of this epoch an unity, a totality, which they did not possess. Both within and without the walls of a town, in the city as in the state, all was special, local, partial. The various establishments, the various quarters, the various classes of the inhabitants possessed, by titles of various nature and date, freedoms, privileges, sometimes differing, sometimes alike, but always independent of one another, one of which might perish without the others being affected. The destiny of the borough did not always decide that of the town. The borough charter might not even be the most fertile source of the municipal liberties and prosperities. Let us view the middle ages in their fantastical and vivid variety; let us never demand from them our general ideas, our simple and systematic organizations. The political order there was progressively formed in the bosom, and under the influence of the civil order. Power there arose from property, and clothed itself in the infinitely varied and pliant forms of private contracts. Whosoever places himself beyond this point of view will not comprehend the middle age; he will comprehend neither its feudalism, its royalty, nor its boroughs, and will not be able to account either for its vices and merits, or for the strength and weakness of its institutions.

IV.

Beauvais.

Few boroughs have had such lengthened, such agitated, such varied destinies in France, as that of Beauvais. There

[1] Recueil des Ordonnances, t. xi. p. 322.

are few concerning which documents have remained so numerous and precise. I therefore do not hesitate in tracing somewhat complacently its internal history, repressing no detail, endeavouring to explain obscure or ill-connected facts, and everywhere producing the original pieces. These, in my opinion, are the best proofs which can be brought to the support of general views; and monographies carefully studied seem to me the surest means of making true progress in history.

In 1099, the burghers of Beauvais had a dispute with the chapter of that town concerning a mill formerly given to the canons by the bishop of Beauvais, and made useless by forges or other industrial establishments constructed on the water-course upon which it depended. Each party claimed in its favour the judgment of the bishop, seigneur of the town, and natural protector of the rights of all its inhabitants. The episcopal see was then occupied by Ansel, a pious man, with gentle, and even liberal manners, were not in the present day the word taken in a sense which renders it but little suited to characterize the sentiments of benevolence, humanity, and justice, which a bishop of the eleventh century might feel towards that oppressed and wretched class which now began to be named the bourgeoisie.

Ansel, therefore, took no part with the chapter, and, on the contrary, protected the claims of the burghers. Perhaps he was impelled by another motive more worldly, more politic: the bishops of Beauvais had not yet learned to fear the use which might be made of some franchise by the humble citizens of their seigneurial town, but they had already had much to suffer from the usurping spirit of the canons of their church. Ansel himself, doubtless against his will, had granted them the important right of excommunicating *proprio motu*, and when they judged fit, of putting interdict upon the diocese. We shall see what use, or rather what abuse the canons made of the privilege which they had forced from Ansel, against his successors. Probably, the prelate already foresaw something of this, and willingly seized a favourable opportunity of attaching to himself new friends, in the very heart of the city, by lowering the power of his rivals.

However this may be, the chapter took this conduct of the bishop very ill, and complained bitterly to Yves, bishop of

Chartres, whose ascendancy in ecclesiastical matters was generally acknowledged, and who appeared to have had particular motives for mixing himself in the interests of the church of Beauvais, which he calls his mother, her who brought him forth and nourished him: *Ecclesia Belvacensis, mater mea, quæ me genuit et lactuit.* We do not possess the letter of the canons, but the following is the answer of Yves:

"Yves, by the grace of God, an humble servant of the church of Chartres, to Hugh, dean of the church of Beauvais, and to other brothers of the same church, health in the Lord.

"In the affair of the mill given to your church by the bishop who constructed it, which you have enjoyed in tranquillity for the space of thirty years, and which, moreover, has been assured you by the authority of your privileges, but which, however, cannot perform its office of grinding because of the obstacle of the bridges, and filth of the dyers, you appear to us to have a just cause, and one supported by good reasons; especially against your bishop, who ought not only to oppose himself to the illicit things of the present time, but ought also to reform illicit things of times past .... and it is not sufficient for the bishop to say that no obstacle has been put to the mill by his orders, if he has not opposed himself, with all the power of his office, against those who do put these obstacles. Thus wrote pope John VIII. to the emperor Louis: *He, who, being able to prevent an evil, neglects to prevent it, is guilty of having committed it* ....

"With regard to the denial founded on the annual possession according to the custom of the city, or upon the promise by which the bishop is engaged to observe the customs of that city, or upon the turbulent association of the borough which is formed there, all this goes for nothing against ecclesiastical laws; for compacts, constitutions, or even oaths contrary to the canons, are, as you well know, null, *ipso facto.* Accordingly, pope Zozimus said to the people of Narbonne: *To grant or change anything contrary to the statutes of the holy fathers, is beyond the authority of this see itself.* If, therefore, anything seems to you judged against the canons, appeal to the authority of judges whom you regard as of superior authority, either your metropolitan or the Roman legate. After this appeal, you shall, in the space of five

days, demand of him from whom you have appealed, letters to him to whom you shall appeal, to the end that the latter may assign to each party a day when your cause may be terminated by a judicial sentence. Adieu."[1]

The affair, it seems, did not terminate with this letter, and whether for arbitration, or any other reason, they referred it to a foreign decision. The following is the text of the judgment given by a certain Adam, whose condition is absolutely unknown:

"These are the words of the judgment given by Adam in the presence of Ansel, bishop of Beauvais, those present giving their consent. The canons complained that the mill was obstructed by three things, namely, by stakes, planks, and earth. The burghers answered that they had enjoyed this custom under four bishops before the said bishop, (Ansel,) and that he himself had granted it them. We have then judged that the bishop, to whom belongs the use of the water, (and no one disputes it,) ought to free the course of the water from the said obstacles, in such a manner that nothing may impede the mill; and further, let the men have all that is necessary for them that will not interrupt the course of the water, and let the bishop watch that they behave well."[2]

Many important facts may be viewed in this insignificant affair. First, the antiquity at Beauvais of certain rights and customs: "Under four bishops, before bishop Ansel, we have enjoyed these customs," say the burghers, "and he himself has granted them to us." "Let the bishop," writes Yves of Chartres, "not set up to us as an objection the right which, according to the custom of Beauvais, results from the annual possession, and the oath taken to observe the customs of that city." Here then, before 1099, are ancient customs, customs which have passed into rights, confirmed by the oath of the bishops, lords suzerain of the town, and so well established in fact, that even those whom they incommode dare not deny them, and content themselves with accusing them of being against the canons; a trite reproach, of daily application, in those times, to things the most

[1] In 1099, Recueil des Historiens de France, t. xv., p. 105.
[2] Memoire de Beauvais, &c., by Loysel, p. 266.

equitable and most regular, when they offended the pride of some ecclesiastical dignitary.

Without wishing, then, with Loysel, to carry back the municipal liberties of Beauvais to that senate of the Bellovaci of which Cæsar speaks, without even affirming that they had received under the Romans the complete organization which so many Gaulish cities possessed, it may be allowed that this town was never entirely deprived of them, and we may recognise in the passages which we have just cited, rather the recollection of old rights legitimately possessed, than the feeling of a new acquisition or a recent enfranchisement.

Still this acquisition, this enfranchisement, took place, and this is a second fact shown by the letter of Yves of Chartres. A borough had just been formed at Beauvais: *turbulenta conjuratio factæ communionis*, says he, in enumerating the pretexts which will doubtless suggest to the bishop his good will for the burghers; and he clearly distinguishes the recent association, the corporation, from those ancient customs of which he had just been complaining. A new tie, an additional interest to defend, had then been added to the pretensions of the burghers, to the confidence which they had in their strength, to the idea which their adversaries formed of them; this fact could not have been accomplished without violence, and still the bishop recognised it, sanctioned it, protected it, despite the blame of the members of his body. It was not against him, then, although lord of the town, that this insurrectional movement, to speak the language of our day, had taken place. The canons do not appear ever to have raised pretensions to the lordship of Beauvais, and their aristocratic malignity exercised itself, it seems, rather against their chief than their inferiors. It is necessary, therefore, to seek elsewhere for the cause of this event; and perhaps, in default of information, for we possess none except the letter of Yves, it will be possible to support ourselves by conjecture, and assign a probable origin to the movement which created the borough of Beauvais.

The chapter of that town was not the only rival against whose pretensions the bishops had to combat. Another authority existed in Beauvais, whose presence they impatiently supported, and which on its side laboured to extend and strengthen itself.

Beauvais, formerly an important city of the Belgæ, situated at no great distance from the Germanic tribes of the north of Gaul, at a later period the frontier of France on the side of Normandy, and the inhabitants of which, during the long wars with the Normans, had constantly sided with the French; Beauvais, I say, had always been considered as a place of importance, and for this reason, carefully fortified; walls, eight feet thick, constructed of small square stones intermixed with great bricks, and joined by an impenetrable cement, formed its inclosure, which was completed with high round towers, made of the same materials, and placed at equal distances from one another. Numerous gates gave entrance into the town; the principal one was called Chastel, and there is reason to suppose that a kind of strong castle existed in this place. It is, at all events, certain that a castellan resided there, entrusted with the guard, and captain of the city. There is no means of asserting by what title this right was exercised, whether it came from the king or from the bishop, whether it owed its origin only to force, and how it was transmitted; the chronicles of Beauvais give minute details of the quarrels between the castellans and the bishops, but furnish no information as to the rights of the parties, and the justice of their pretensions. These quarrels broke out more especially during the 11th century, and, from 1063 to 1094, under the bishops Guy and Foulques, carried to the last degree of violence; the latter even, going further than his predecessor, attacked the castellan Eudes in 1093, with an armed force, kept him besieged in his castle, forcibly took away the keys of the town, seized his wine, and having enticed many of his vassals, treated with them and his chaplain to betray him.

Foulques was severely blamed, and condemned to restitution and reparation, by pope Urban II., who reproached him, among other things, with his pretensions to the keys of the town, the recognised right of the castellan: *Portarum claves, quas ipse ex more tenuerat, ademisti.*

The bishop Foulques, then, having been condemned by Urban II., in his quarrel with Eudes, as his predecessor, Guy, had been formerly, by Alexander II. and Gregory VII., the castellans felt themselves more firm in their power, and perhaps also in their pretensions. It seemed, indeed, that at this epoch they laboured to make the rights hereditary, which

were held I know not from whom, and they began to afflict the citizens cruelly, whom, however, they had generally reckoned in their party against the later bishops, people of violent and tyrannical manners, and whose despotism spared no one; if we have just seen Foulques severely blamed by Urban II. for his conduct towards Eudes, Guy had been so too by Alexander II., who reproached him "with vexing the people of God in an intolerable manner."

I am led, then, to believe that the castellans, disencumbered of the bishops, and thinking themselves more sure of their power, made the citizens of Beauvais feel it more harshly, and that the latter saw they had gained nothing by the humiliation of the bishops for which they had laboured. The episcopal see being then occupied by men of pacific manners, such as Roger, and especially Ansel, the burghers forgot a distant evil for a present evil, resolved no longer to support the vexations of the castellans, and to seek, in a new association, and under the support of their suzerain lord, the guarantee of their just pretensions. Then probably was formed the borough, and the *turbulence* of which Yves complains must have broken out rather against the castellan than against the bishop; a reasonable conjecture, if attention be given to the mobility of popular dispositions, to the protection with which Ansel, the natural enemy of the castellan, shielded the new borough, and to the letter of Louis le Gros, which we are about to read: is it not worthy of remark, that the object of the first ordinance of the king of France was to preserve it from the exactions of the castellan? and does not this fact confirm my opinion regarding the probable origin of that borough?

"In the name of Christ, I, Louis, by the grace of God, king of the French, desire to make known to all present and to come, that, for the health of the souls of my father and my mother, and our predecessors, we have abolished certain unjust exactions which Eudes, castellan of Beauvais, exacted and collected, to the end that in future neither he nor his successors receive or exact them; and having thus abolished them, we have forbidden, by our royal authority, that they should henceforward be granted.

"Now, the following are the customs required by the castellan:—

"He desired that his provost should exercise his justice throughout the town, which we have absolutely forbidden; he caused to be purchased, by his measurers and people in whom he could trust, what remained in the bottom of the sacks, the practice of which we have likewise forbidden in future; and if any plaint be brought before him or his wife, we have granted him to exercise his justice, but only in the house of pleas, or in his own house. And in order that nothing may be otherwise than is here written, we have ordered that the present charter shall be sealed and confirmed by the authority of our name, to the end that it may clearly show what ought to be done, and eternally exist, to defend and maintain our will. Done at Beauvais, the year of the Incarnation of our Lord, 1115, the seventh of our reign, and the first of that of queen Adelaide. There were present in our palace those whose names and seals are hereunto affixed:—Anselm, the seneschal; Gislebert, the butler; Hugh, the constable; Guy, the chamberlain. Written and signed by the hand of Stephen, chancellor."[1]

This charter of Louis le Gros, as is seen, was given in 1115, at Beauvais, and this date serves to fix the epoch of the journey which he made there, after long and bloody dissensions, wherein his authority was obliged to interfere.

After the death of the virtuous and popular Ansel, in 1101, Etienne de Garlande, a man powerful from his domains, and in high credit with the king, was elected to succeed him; but his manners were not sufficiently ecclesiastical, and some irregularities in his election caused him to be disapproved by numerous members of the clergy, and annulled by pope Pascal II., who ordered that a fresh choice should be proceeded with. Gualon, a disciple and friend of Yves of Chartres, was then nominated; and it does not appear that any reproach was raised against the new bishop; but the king, offended that they should thus reject his favourite, and distrusting the ascendency which the restless Yves would have over Gualon, absolutely opposed his taking possession of his bishopric. It was necessary to give way to the royal will, and to make another new choice in 1103. Godfrey accordingly became bishop of Beauvais; Gualon was transferred to Paris.

[1] *Recueil des Ordonnances*, &c., t. xi., p. 177.

All these dissensions could not take place without throwing much agitation into the town of Beauvais, weakening the various authorities, and allowing more liberty to disorderly passions. The church and the city were divided into parties furious one against the other; disorders took place, which were a powerful source of hatred and revenge. One power only had been able to gain by this, as it were, recognised suspension of legal order in Beauvais, and this was not the most regular or the best intentioned of them all. The chapter had inherited as a right, during the two years' interim, the episcopal powers, and from that exercise of a borrowed power, derived more audacity to extend that which it daily usurped. It soon found in an event unfortunate for the town, and disgraceful to the canons, an occasion of displaying its pretensions.

In 1113 or 1114, one Sunday, towards the middle of the summer, was "traitorously put to death, after his dinner, by his fellow-citizens of Beauvais, a certain Renaud, knight, who was of no small consideration among his people."[1] These are the words of Guibert de Nogent; but, speaking only incidentally of the murder, he forgets to mention what made it of singularity and importance. It was not committed only by the inhabitants of Beauvais: a canon was the instigator of, and the principal actor in it. The king, on hearing of the crime, immediately announced his intention of taking cognizance of it; the chapter obstinately opposed him, pretending that to it belonged the jurisdiction over a brother; but Louis le Gros, careful not to lose an occasion of establishing his authority, and of taking upon himself that character of sovereign equity which has so greatly served royalty in France, did not allow himself to be influenced by such remonstrances, but pursued the affair by his officers, and had the goods and even the persons of the guilty and refractory seized. The chapter, then using its new right for the first time, put the town under interdict; the king was still more irritated at this, and the burghers of Beauvais with him. Things came to such a point that many of the canons were obliged to quit the town; and their sufferings became the subject of great commiseration in many churches of France.

[1] *Vie de Guibert de Nogent*, B. I., chap. 17, p. 436; in my *Collection des Mémoires relatifs à l'Histoire de France.*

"From the time that the letter," writes Yves of Chartres to them, "containing the detail of your calamities, was publicly read amidst our assembled brothers, it has been the cause of abundant tears to us. Who, indeed, can read with a dry eye, the account of your exile, of the annoyances inflicted upon you by the burghers, of the pillage of your houses, and the devastation of your lands, in all which things violence alone has acted, and the pride and envy of the laity against the priests have prevailed. With regard to the justice or injustice of the interdict, what is that to the king?

"Watch well, therefore, that you let not yourselves be cast down at the loss of your goods; the love of wealth, in fact, engenders weakness, and from weakness arises infamy, from which you can in no way escape, if you basely put your neck under the foot of the laity. . . . With regard to us, most dear brothers, we are, without the least doubt, on your side in all things with you according to our means, and as much as you could wish. We offer you our persons and our properties; put us to the proof."[1]

Yves of Chartres still did not confide so much in the firmness of his canons, but that he laboured to render it more easy to them; he interceded for them with the king in a more humble tone than that of his counsels to them:

"It suits," he writes to him about the same epoch, "the royal sublimity to balance mercy and justice, and thus to soften one by the other: let not an indiscreet clemency foment the insolence of the subjects, and let not too great a rigour stifle mercy. . . . For this reason I implore your excellence, having bowed before you with the knees of my heart, to show that I have obtained some favour in the eyes of your royal majesty, by being willing, for the love of God and us, so to treat the clergy and people of Beauvais for the homicide committed, that innocence may not be trampled upon, and that the rash action committed through diabolical suggestions be not chastised with the punishment due to the stiff-necked and haughty, but corrected with the rod of the repentant: for it becomes not royal equity to treat all its subjects alike, for fear that a cruel rage creep under the appearance of correction, and that an immoderate terror scatter abroad a population formerly beloved, and

[1] *Recueil des Historiens*, &c., t. xv., p. 169.

from which the royal majesty may draw, above all the towns of the kingdom, an useful service. . . . With regard to the interdict put upon the church of Beauvais, I disapprove of that measure."[1]

I know not whether these reasonings influenced Louis le Gros, or if he had any other motive for terminating an affair the importance of which had reached beyond the walls of Beauvais; what is certain is, that he repaired thither in 1115 with the most pacific intentions, became reconciled with the canons, confirmed or even extended their privileges, and, to make himself welcomed by all, by the charter which I have cited above, delivered the inhabitants from the exactions of Eudes. It has not transpired what became of the murderers of the knight Renaud, and if they expiated the crime, but it is probable that the guilty canon was acquitted very leniently, and that if any punishment was inflicted, it fell upon his accomplices, unimportant people, who were protected by no privilege; for it does not appear that at this epoch the borough claimed the right of justice, the most sovereign of liberties.

Not many years elapsed without Louis le Gros giving to the citizens of Beauvais a new proof of his solicitude, by granting them a small charter relative to interests which appear to us of but little importance, but which were surely seen with a different eye by those whom they more nearly concerned: burghers of the twelfth century would have spilled their heart's blood to have enjoyed with security some of those individual liberties of which we do not even think, so much are we accustomed to them.

"In the name of the Holy Trinity, Amen. I, Louis, by the grace of God, king of France, to all present and to come, make known that we grant to the men of Beauvais, that if the house of any of them fall down, or is burnt, they may rebuild the same without asking permission of any one, in the same manner as before, and as they can prove it to have been by three sufficient neighbours. We grant, further, that the bridges or planks over the river, which they have built or purchased, if they fall or are burnt, may be rebuilt or repaired without licence obtained of any one. Also, the bridges and planks which they have purchased of the bishop shall remain for ever in possession of them and their heirs. And

[1] *Recueil*, &c., &c., xv., 169.

as to these bridges, we order that, before rebuilding them, they shall produce the evidence of three competent neighbours as to the state in which they previously were. And that this thing may not be forgotten or contravened, we have had it engrossed, and have affixed to it our seal and hand. Given at Pontoise, the year of the Incarnation, 1022."[1]

Louis le Gros had done still more for the borough of Beauvais; he had confirmed it, established it, founded it. An actual charter, regulating the authorities, the rights, the obligations of the borough, and guaranteeing its existence and its privileges, was given by him, and, it seems, was accepted by the bishop and the burghers: it is cited in that which Louis le Jeune granted at a late period, and is often mentioned in the various acts of the borough of Beauvais; unhappily this charter has long since ceased to exist, and for its contents, we are forced to trust to the assertion of Louis le Jeune, who professes to repeat it in his own. We shall presently see how incorrect such assertions sometimes are. Nor have we anything to indicate the date of the charter of Louis le Gros; the expression of Louis le Jeune, in 1144, that it was granted by his father, *multa ante tempora*, seems to support the opinion of the editors of the *Ordonnances des rois de France*, which attributes to it that of 1103 or 1104; but how can it be believed, that if this charter had existed anterior to those of 1115 and of 1122, there would have been no allusion to it in these works? How can it be supposed that not a single mention would have been made of it in the quarrel which we have just recounted, and that no pretensions of the new authorities of Beauvais would have betrayed their existence? Without pretending, therefore, to fix a date which there is nothing to point out, I cannot admit that of 1103 or 1104, and I look upon the great charter of Beauvais as belonging to the end of the reign of Louis le Gros.

Perhaps even one might be right in supposing that the words *multa ante tempora* did not exist in the primitive charter of Louis le Jeune, but were inserted at a later period; borrowed from the charter of Philip Augustus, where they much more naturally figured.

Louis le Gros died the 1st of August, 1137. Louis, sur-

[1] *Recueil des Ordonnances*, xi., 182.

named le Jeune, hastened, on the news of the decease of his father, to quit the fêtes he was celebrating at Poitiers on the occasion of his marriage with Eleonore of Guienne, and his coronation as duke of Aquitaine. The goal of his journey was Paris, the real capital of the Capetian kings; and his route led him through Orleans, where some orders given in passing awakened the suspicion of the burghers; there was a disturbance on the subject. It does not appear, however, that this ungracious opening of his reign deterred Louis le Jeune from following the steps of his father in showing himself the protector of the liberties of boroughs. In 1144, we find him confirming and guaranteeing those of the borough of Beauvais by the following charter:

"In the name of the holy and indivisible Trinity, I, Louis, by the grace of God, king of the French, and duke of Aquitaine, make known to all present and to come, that we grant and confirm, with the exception of the faith which is our due, according as it has been instituted and sworn, and with the same customs, the borough charter given long since by our father, Louis, to the men of Beauvais. These customs are as follow:

"All men dwelling within the inclosure of the walls of the town and in the suburbs, of whatever seigneur the land which they inhabited be held, shall swear to the borough, unless some of them abstain by the advice of the peers, and of those who have sworn the borough.

"Throughout the town each shall give help to the others, loyally, and according to his ability.

"Whoever shall commit a crime against a man who shall have sworn to the borough, the peers of the borough, if complaint be made to them, in accordance with their judgment, shall do justice upon the body and goods of the guilty, unless he amend his fault according to their judgment.

"If he who has committed the crime take refuge in any strong castle, the peers of the borough shall confer with the seigneur of the castle, or him who shall be in his place. And if satisfaction be done upon the enemy of the borough according to their sentence, let that suffice; but if the seigneur refuse satisfaction, they shall themselves do justice, according to their judgment, upon his property or his men.

"If any foreign merchant come to Beauvais for the market,

and if any one do him wrong within the jurisdiction, and if complaint be brought before the peers, and if the merchant can find his malefactor in the town, the peers shall give him aid in accordance with their judgment, unless, indeed, this merchant be one of the enemies of the borough.

"And if the malefactor retire to any strong castle, and the merchant or the peers send to him, if he satisfy the merchant, or prove that he has done no wrong, the borough will be content. If he do neither one nor the other, justice shall be done upon him according to the judgment of the peers, if he can be taken in the town.

"No one, except we or our seneschal, can take into the city a man who has done wrong to any one of the borough, and has not made reparation in accordance with the judgment of the peers. And if the bishop of Beauvais himself bring into the town by mistake a man who has done wrong to the borough, he can no longer take him thither after it shall have been made known to him, except with the consent of the peers; but for this time he may take him back safe and sound.

"In each mill there shall only be two mill keepers; if men wish to impose more mill keepers, or any other evil customs into the mills, and complaint be brought before the peers, they shall, according to their judgment, assist those who shall complain.

"Further, if the bishop of Beauvais desire to go to our three courts, or to the army, he shall each time take only three horses, and shall exact none from men strangers to the borough; and if he or any of his servants have received from a man the redemption of a horse, he shall not take any other horse instead of that one; if he do otherwise, or seek to take advantage, and complaint be brought before the peers, they shall, in accordance with their decision, aid him who complains. So, if the bishop desire, from time to time, to send us fish, he shall not, on that account, take more than one horse.

"No man of the borough must give or lend his money to the enemies of the borough, so long as they shall be at war with them; for if he do so, he will be perjured; and if any one be convicted of having given or lent them anything whatsoever, justice shall be done according to the judgment of the peers.

"If it happen that the corporation march out of the town against its enemies, no one shall parley with them, unless with the licence of the peers.

"If any one of the borough have confided his money to any one of the town, and he to whom he has confided the money shall take refuge in any strong castle, the lord of the castle, having received plaint, shall either return the money, or drive the debtor from his castle; and if he does neither one nor the other of these things, justice shall be taken upon the men of that castle, according to the opinion of the peers.

"Let the men of the borough be careful to confide their victualling to a faithful keeper within the precincts; for if any take it beyond the precincts, the borough will not be answerable for it, unless the malefactor be found in the city.

"With regard to the hanging out of clothes, the stakes to suspend it shall be fixed into the earth, of equal height; and if any one complain upon this subject, justice shall be done according to the judgment of the peers.

"Let every man of the borough see that he is thoroughly certain of what he does when he lends money to a foreigner; for that no one can be arrested, unless the debtor have bail in the borough.

"The peers of the borough shall swear to favour no one out of friendship, and to give up no one out of enmity, and do all things in justice according to their conviction. All others shall swear that they will observe the decisions of the peers, and to aid them.

"As regards ourselves, we grant and confirm the justice and decisions which shall be made by the peers. And in order that these things may remain stable for the future, we have ordered them to be put down in writing, to be furnished with the authority of our seal, and to be corroborated by inscribing thereon our name. Done publicly at Paris, in the year 1044 of the Incarnation of the Word, the eighth of our reign, there being present in our palace those whose names and seals are hereunto inscribed: Raoul, count of Vermandois, our seneschal; Mathew, the chamberlain; Mathew, the constable; ——, butler. Done by the hand of Cahors, the chancellor."[1]

Shortly after the publication of this charter, Louis le

[1] Loysel, p. 291.

Jeune departed for the crusades, leaving the administration of his kingdom to his prudent and faithful minister, the abbot Suger. It was therefore towards Suger that those turned who expected the redress of their grievances from the royal power; and the burghers of Beauvais, aggrieved by a certain seigneur of Levemont, sought no other protector than the powerful abbot of Saint Denis. I have been unable to find details upon this subject, and I am ignorant of the judgment given by Suger.

"To the lord Suger, by the grace of God reverend abbot of Saint Denis, the peers of the borough of Beauvais, health and respect, as to their lord. (1148.)

"We call upon you and complain to you as to our lord, since we have been placed in your hands and your guardianship by the lord king. A certain man, free man[1] of our borough, having heard that two horses which had been taken from him during Lent were at Levemont, repaired thither on Easter Monday, to regain them. But Galeran, lord of the said town, having no respect for the resurrection of the Lord, caused this man, who had committed no crime, to be arrested, and obliged him to purchase his liberty at the price of ten sols Parisis, and the horses at the price of fifty. As this man is poor, and owes this sum and many others at usury, we supplicate your holiness, in the name of the Lord, for the grace of God and yourself, to do justice upon Galeran, that he shall return to our free man his money, and henceforward not dare to molest any one in your keeping. Health."[2]

But scarcely had the king returned into France, than he found better and more personal reasons for mixing, as well as Suger, with the affairs of Beauvais. Louis had a brother named Henry, who, after having simultaneously possessed numerous ecclesiastical benefices, had suddenly renounced them all in 1145, to shut himself up, in the flower of his age, in the abbey of Clairvaux, then governed by Saint Bernard. This action, although less extraordinary then than

[1] Free man does not here mean him who formed part of the borough, from having taken the oath. We sometimes find it employed in a narrower sense, and then it signifies one of the magistrates of the borough, bound by a particular oath.

[2] Recueil des Historiens de France, xv., 506.

it would have been some centuries later, had drawn the admiration of pious souls upon the young and royal monk; and the see of Beauvais falling vacant in 1148, Henry, who had formerly possessed the dignities of canon and treasurer in that church, was nominated bishop, to the general satisfaction. He, however, excused himself from accepting it, protesting his unworthiness for so high a charge. This humility, it seems, was neither feigned nor exaggerated; and if we believe the reproaches which were addressed to him at a later period, and the avowal of Saint Bernard, "that he had not found him so well provided either in counsel or company as was befitting a young bishop, and that he behaved and did things which were inconsistent with his position," we shall think that Henry was sincere in his refusal, and knew himself better than those who pressed him to accept the weight of episcopacy. Saint Bernard did not wish to take upon himself the responsibility of this decision, and the respected authority of Pierre le Vénérable, abbot of Cluny, alone succeeded in overcoming his scruples and those of his monk.

I know not whether Louis had looked with an evil eye upon the election of his brother, but scarcely was Henry installed in the see of Beauvais, than we find the bishop completely at variance with the king, the pope obliged to interfere in the dispute, the clergy and the citizens so far engaged and compromised that they forgot the danger which a revolt against the king began to involve, and Suger judged the affair sufficiently grave to address to them all, in 1150, a letter at once menacing and supplicating. With regard to the origin of the quarrel, historians do not give us the slenderest information.

"*Suger to Henry, bishop of Beauvais, to the clergy and people of Beauvais.*

"To the venerable bishop Henry, and to the chapter of the noble church of Saint Pierre of Beauvais, as well as to the clergy and to the people, Suger, by the grace of God abbot of Saint Denis, peace in heaven and upon earth, through the King of kings and the king of the French. In the name of that constancy with which, under the reign of our present lord the king and his father, I have always, as you know,

faithfully laboured for your repose, when complaints arose, keeping my hands pure from any present; now, also, although confined by a serious infirmity, I ask you, I advise you, I implore you, by all possible means of persuasion, not to raise a guilty hand against the lord king, and the crown, who is the support of all archbishops, bishops, and barons, and to whom, by just title, we owe respect and fidelity. This is an act which in no way becomes you. A rashness so insensate is new and unheard of in this age, and you cannot long preserve the city and the church from destruction. For you yourselves will easily see all the pernicious consequences, and all the danger of an armed insurrection made by the bishop, or the people confided to his care, against their common lord, especially if it be without consulting the sovereign pontiff, and the bishops, and the great men of the kingdom. There is a consideration which alone should correct you in this presumption: it is that you have never heard that your predecessors went the length of such an attempt, and that never, in the annals and histories of the actions of antiquity will you find an example of such a criminal enterprise. Why have you raised your head against our lord the king, him the pious protector of churches, so earnest in doing all good, when he has not the least intention of unjustly despoiling you or any other of aught? If, drawn aside by evil counsels, he had by chance not acted so well towards you, it was proper to have informed him of it by the bishops and great men of the kingdom, or rather by our holy father the pope, who is the head of all the churches, and who might easily have reconciled all differences. Let, then, the remembrance of his nobility enter into the heart of the new bishop . . . . ; let him anew conciliate the good will of the king, to himself as well as to his church and to his citizens, by his submission and his docility, and leave all to the will of the king, to the end that, by a perfidious inspiration of the demon, there may not follow, either a treason dishonouring the crown, or an infamous fratricide, or any other crime of that kind.

"And what should I say of you, our well beloved friends, dean and archdeacons, and you, noble clergy of the chapter, if I were to learn that the splendour of your church were destroyed, and that on the occasion numberless divine churches

were abandoned to the flames? He who knows all well knows that, ill as I am of a serious infirmity, and of the quartan fever which consumes me, I feel at this moment still more profoundly affected by this matter, and that I would willingly sacrifice myself to calm this sedition. And what shall I say to you, unhappy citizens, whom I have always disinterestedly borne in my heart (for I do not remember ever having received a single denier from you), if I hear of the overthrow of your city, the condemnation of your sons and wives to exile, pillage, and of the execution of numerous citizens? Since such must be the punishment which awaits you, let it be prompt; for if it be delayed from any cause, it will only be exercised with more violence and rigour, and in a manner more worthy of pity: for hatred increases so long as vengeance is delayed. Have pity on yourselves; let the noble bishop have pity on himself; let the clergy have pity on itself: for as true as that an ant cannot draw a car, they will not be able to defend the town of Beauvais from total ruin against the power of the crown and sceptre. If I know anything, if I have any experience, I, grown old in business, I tell you, you will see your goods, acquired by long labour, pass into the hands of ravishers and brigands. You will accumulate upon your head the rage of our lord king and all his successors; you will transmit to all your descendants an eternal execration: by the memory of this crime, you will take from all the churches of the kingdoms the help of the devotion and ever admirable liberality of the king, which has enriched your church and many others. Have a care, have a care, prudent men, that we have not a second time to write those words already once inscribed upon a column in your town: 'We order *Villa Pontium* to be rebuilt.'"[1]

A good understanding was at last established between the two brothers, and the bishop turned the activity of his spirit and the turbulence of his character against other adversaries less considerable, but more troublesome than the king.

The borough, strengthened by its duration, and the solemn guarantees which it had received on many occasions, acquired

[1] *Villa Pontium*, a name sometimes given in ancient authors to the town of Beauvais, because of the large number of bridges which covered its rivers, or rather its brooks. (*Recueil des Historiens de France*, t. xv., p. 528.

confidence in its rights, and its peers desired to put them to the proof. About the year 1151, one of the men of the borough, aggrieved in some right, having desired to carry his plaint before the tribunal of the bishop, the peers opposed themselves to the measure, made him withdraw his prosecution, required the affair to be brought before them, and gave judgment. Henry of France, doubly proud of his dignity and his birth, took this attempt very ill, and having been unable to obtain satisfaction of the corporation, quitted his episcopal town in great wrath, and repaired to the king, from whom he claimed justice as his suzerain; Louis, doubtless, at that moment well disposed toward his brother, and certainly not caring to break with the clergy for the sake of a poor borough, repaired to Beauvais, and after having had the borough charter re-read and debated in his presence, gave the following judgment, the conformity of which with the promises of that charter appears to me very doubtful: but it often happens so with laws and treaties which men interpret; they abrogate while they appear to confirm them.

"In the name of the holy and indivisible Trinity, Father, Son, and Holy Ghost, Louis, by the grace of God, king of the French, and duke of Aquitaine, to our faithful for all time. It is befitting our royal excellence to protect, by our sceptre, the rights of all those who are under our dominion, and especially churches, which would soon be overwhelmed with the violence of the wicked, if the temporal sword of the king came not to their help. Let it then be known to all present and to come, that our brother Henry, bishop of Beauvais, has complained to us against the citizens of Beauvais, his men, who, under cover of their communal right, acquiring new and illicit audacity, have usurped the privileges of the bishop and church of Beauvais, and the right of justice which the bishop possesses over all and each of the borough: moreover, one of their freemen having demanded justice of the bishop, he has been forced by their audacious rashness to seek justice and satisfaction of them. This affair then having brought us to Beauvais, the cause having been heard before us, and the borough charter having been publicly recited, the burghers at last acknowledged that the justice of the whole town belonged to the bishop alone,

and that if any abuse or crime be committed, the plaint ought to be carried before the bishop or his officer. We therefore sanction, by the excellence of the royal majesty, that plaints always be carried before the bishop, and that no one at Beauvais be so presumptuous as to interfere in the rights of the bishop and the church, especially in the right of doing justice, so long at least as the bishop do not fail to administer it. But if (which God forbid) he should fail therein, then the burghers shall have licence to do justice among themselves, for it is better that it should be done by them than not at all. And to the end that all this be lasting, remain assured and inviolate, we have ordered that it be engrossed, and strengthened with the authority of our seal. Publicly done at Paris, the year 1151, of the Incarnation of the Word. Present in our palace those whose names and seals follow: Raoul de Vermandois, our seneschal, Guy the butler, Matthew the constable, Matthew the chamberlain, Reinaud de Saint Valery, Helie de Gerberay, Adam de Bruslard, Louis de Caufray. Given by the hand of Hugh the chancellor."[1]

For the moment, the affair was terminated by this judgment, for the borough had not the strength to struggle at once against its bishop and its king. But the burghers of that age were tenacious of their pretensions, and we shall soon find those of Beauvais renewing this dispute.

In 1180, Henry of France was nominated archbishop of Reims; we may suppose that the borough joyfully saw itself freed from this powerful and haughty suzerain; his bishopric passed to his nephew, Philip de Dreux, grandson of Louis le Gros; and, whether to make himself welcome to his new flock, or that this concession was purchased of him by some gifts which became necessary to him on the approach of the crusades, whither he repaired some years afterwards, Philip, in 1182, granted to the burghers of Beauvais the right of having a mayor, and this new institution, doubtless, materially augmented the privileges of the borough, for we find, thirty years later, bitter complaints on the subject in the register of Beauvais, always less liberal than the bishops, who themselves were often not liberal.

[1] Louvet, t. ii., p. 289.

Plaint of the Chapter of Beauvais against the lord Philip, bishop, done the vigil of the calends of June, the year of the Lord, 1212.

"The lord bishop is count of Beauvais, and the right of coinage belongs to him, &c.

"In the borough of Beauvais, it was customary for there to be twelve peers to advise upon the affairs of the republic: now, the justice of the city belongs to the bishop; and as among these twelve peers, there was no mayor, amidst such confusion, those who suffered any injury had recourse to the justice of the bishop. But the present bishop has permitted the peers to have two mayors, and now men take their plaint before them, as to their true chiefs, to the prejudice of the episcopal see; and since the right of justice of the episcopal see has suffered diminution in the time of so powerful a man, there is reason to fear, that if a less powerful one were to be elected after his death, this right would entirely perish. We therefore request the lord bishop to re-establish things as they were at first, and that there may be no mayor in the said borough."[1]

The canons could not obtain what they asked; no one, it would seem, took part with them, and the borough remained in possession of its mayor, the institution of whom, moreover, was confirmed in 1182, by the new king of France, Philip Augustus, in the charter which he granted to the borough of Beauvais two or three years after his accession.

I shall not here insert the whole of this charter, similar, in many articles, to that of Louis le Jeune. I shall content myself with pointing out the differences between them, but I am surprised that the learned editors of the *Ordonnances des rois de France*, and M. Augustin Thierry, have thought these differences so trifling and insignificant, as to content themselves with giving the text of the charter of 1182, supposing the anterior charters to be almost identical. The omission is serious, for it renders many of the facts of the history of Beauvais absolutely inexplicable: how, for example, can we understand the institution of a mayor at Beauvais by Philip de Dreux, and the complaints of the chapter on the subject, if we regard as primitive, and consequently as anterior to this dispute the text of the charter of Philip Augustus, where the mayor and his

[1] Louvet, t. ii. p. 341.

functions are incessantly spoken of, and where the form of his election is regulated.

I think then, that I should exactly point out the differences between the charter of Philip Augustus and that of his predecessors.

Charter of Philip Augustus.

1st Article.—The word *ancestor* is substituted in place of that of father; and the innovations introduced by the present charter into that of Louis le Jeune are indicated by this expression: "We grant, &c., &c.," as well as "the customs contained in the present charter."

2nd Article.—The name of mayor is added wherever, in the preceding charter, the peers are mentioned. We shall see below the article referring to his election.

13th Article.—This article does not exist in the charter of Louis le Jeune: it comes after the article, "If any of the borough have confided his money to any one of the town, &c.," and runs thus: "If any one seize money from a man of the borough, and take refuge in any strong castle, and the dispute be carried before the mayor and the peers, justice shall be done upon him in accordance with the judgment of the mayor and the peers, if they can meet with him, or upon the men and goods of the lord of the castle, unless the money be returned."

In the place of this thirteenth article, we find in the charter of 1144 an article expressed in the following terms: "Let the men of the borough be careful to confide their victualling, &c." It is not in the new charter.

14th Article.—After the phrase, "The posts for suspending cloth shall be fixed in the earth at equal heights," the following is found in the charter of Philip Augustus: "and whosoever shall commit an offence in anything concerning the posts to receive the cloth, the cloth itself, or anything having relation to it, if complaint be raised, &c."

16th Article (a new article).—"If it happen that any one of the borough has purchased any heritage, and has held it for a year and a day, and has built upon it, and any one then claim it, there shall be no answer given him, and the purchaser shall remain in peace."

17th Article (a new article).—"Thirteen peers shall be elected in the borough, among whom, if it be the wish of those

who have sworn the borough, one or two shall be made mayors."

18th Article.—After the words, "We confirm and grant the judgments and decisions, &c.," we find in the charter of 1182 the following words: "We also grant that upon no occasion shall the present charter be carried out of the city; and whoever speaks against it, after we have granted and confirmed it, shall receive no answer; and, in order that it may remain inviolate, we have caused the present sheet to be provided with the authority of our seal. Done in the year 1182 of the Incarnation, and the third of our reign. (There were present in our palace those whose names and seals are hereunto annexed: Guyon, the butler; Matthew, the chamberlain; Drieu, the constable.)"[1] This last sentence does not exist in the Latin text,—it exists only in a text in old French, which also appears very ancient.

This good understanding did not last between Philip de Dreux and the burghers of Beauvais. In one of the numerous wars which the martial bishop had with the English, or with his neighbours, he desired, about 1213 or 1214, to have in his possession the keys of the city gates; they were refused him by the mayor and the peers, who, I know not how, had appropriated them to themselves. Philip complained to the king, who caused them to be given up to him, deciding that the keys belonged to the bishop. Men were astonished even at finding the right doubted, and the discussion alone proves the increase of the forces and pretensions of the borough. But, on his part, Philip, cousin of the king of France, and of an impatient disposition, was not the kind of man tranquilly to see his rights encroached upon; and he must have felt so much the more offended at the possession of the gates of the town being disputed with him, as he himself had laboured to increase the fortifications, in accordance with the order given by Philip Augustus, in 1190, to augment the means of defence of Beauvais. Setting out for the crusades, the king was well content to insure from attack a town upon which the kings of France might always count.

Another difference arose between the bishop and the corporation of Beauvais. The latter had demolished, doubtless

[1] Soyel, p. 299-284; *Recueil des Ordonnances*, &c., t. vii. p. 621; t. xi. p. 193; Thierry, *Letteres sur l'Histoire de France*, p. 300, 3rd edition.

under the pretext of a violation of its privileges, the house of a gentleman named Enguerrand de la Tournelle. Now, Enguerrand, it is said, was not a member of the borough, nor amenable to it. Plaint was therefore carried before the bishop, who wished to decide in the matter; but he could not persuade the peers of Beauvais to submit to his jurisdiction, nor to come to answer before his tribunal. It was then agreed between the parties that the judgment of this affair should take place by duel; and the lists were raised out of the town by order of the bishop, who sent thither a champion to maintain his right, but the arrival of Philip Augustus prevented the combat. Besides, the moment was ill-chosen for such differences: the quarrel of the bishop of Beauvais with the count of Boulogne was nothing more than an episode of a greater and more national war; and whoever felt attached to rising France hastened, in 1214, to assist in defending at Bovines the repose, and perhaps the existence, of the country. The bishop and the corporation of Beauvais distinguished themselves in this day of patriotic memory; and it seems that upon the field of battle they forgot their anterior differences; at least, we no longer find, down to the death of Philip de Dreux, in 1217, any storm arising among them; and that bishop having obtained an order from the king that the mayor and peers of Beauvais should take an oath to him, it does not appear that they interposed the slightest difficulty therein. There is one remarkable fact in the letter of the king; it is addressed to two persons, strangers in the town of Beauvais, whom he charged with the execution of his orders. Thus the kings of France, on every occasion, and in every place, extended their authority by means of their officers, and incessantly applied themselves to form regular public functionaries, independent of the clergy, the nobility, the corporations, and having nothing to do but with themselves.

"Philip, by the grace of God, king of the French, to his dear and faithful Gilon de Versailles, and Reinaud de Bethisy, health and love. We order you to cause to swear fidelity in this form to our dear relation and faithful bishop of Beauvais, all the men of Beauvais, mayors and jurats,[1] and all others in the borough. Let each swear by the

[1] *Juratis.* In this instance the word must be taken as synonymous with peers, and not with *simple* members of the borough. This confusion is constantly met with.

holy and sacred gospels to guard faithfully the body and limbs of the bishop, his life, his honour, his moveables, his rights, as far as consistent with the faith due to us. . . You shall previously make them swear fidelity to us in the same form. Given at Melun, the year of the Lord 1216."[1]

Milon de Nanteuil, after some difficulties succeeded to Philip de Dreux; a good understanding reigned between him and the burghers, and no external quarrel, either with the king or the neighbouring lords, troubled the first twelve years of his episcopacy, when an irregular act of Louis IX., or rather of the regent Blanche, for a long period destroyed this tranquillity.

The concession of Philip de Dreux, and the charter of Philip Augustus, as you have seen, had given to the burghers of Beauvais the right of electing a mayor, charged, in concert with the peers, with the government of the borough. In 1232, this charge was to be given; and we catch glimpses in the somewhat confused accounts of this event, of two parties which profoundly divided the borough: the one formed of great burghers, rich people, *changeurs*, as they were then called; the other of people of low estate, of that turbulent and envious populace which filled the cities of the middle ages, and became more ardent, and more ungovernable in proportion as the progress of wealth and civilization raised the burghers beyond its level and separated their interests from its own.

Perhaps it was of her own inclination that the regent desired to interfere in the affairs of Beauvais; perhaps also the great burghers sought in the royal power a support against the turbulence of their adversaries. However this may be, a mayor, and what appears to be a great fault, a mayor who was a stranger to the town, was nominated by the king; and we find the burghers eagerly ranging themselves around this intruder, whose illegal nomination they had reason to reject with anger.

The populace of Beauvais, doubly wounded in its party and its rights, did not patiently submit to the usurpation; a violent sedition broke out. I might here recount the

[1] Louvet, t. ii., p. 344.

excesses committed, the vengeance which the young king took for them, the protestations of the bishop against this encroachment on his rights as high justiciary, the haughty and contemptuous manner with which the king received these, and treated the bishop himself on several occasions, the complaints made of this by the bishop before the provincial council, and finally the conclusion, or rather the composition of the affair; but I prefer laying these events before you in the colouring which they borrow from the language and the passions of the period; and I will translate here, adding the necessary explanation, the inquiry made into these circumstances in 1235; merely, for the better understanding of the narrative, inverting occasionally the order of the depositions, without adding to, or changing anything in themselves. I will begin with the second witness, who will better enable you to understand the first.

"*Second Witness.*

"Bartholomew de Franoy, knight, says that a dissension already existing between the burghers and the commonalty of the city of Beauvais, Robert de Moret, a burgher of Senlis, was made mayor thereof by order of the king, and new discord arose touching this matter between the burghers and the commonalty, many of the latter themselves desiring to nominate the mayor; they attacked the mayor and the principal persons of the town, who were called *changeurs*, took them prisoners, and wounded and killed several, as the deponent witnessed. After this assault, the deponent was immediately sent by the bailiff to the bishop at Brœlle, charged to tell him not to come into the town unless with a sufficient force; and whilst he was on his way to the bishop, he met him on the road to Beauvais, and delivered to him his message; but the bishop would not allow this to prevent him coming, and at night he entered the town; and having heard the whole account of what had passed, held counsel as to the manner of obtaining justice for these things: and as about the middle of the night the bishop heard that the king was coming to Beauvais, he sent to him the present witness, and master Robert the official, to pray for his advice upon so enormous a matter, saying that he was ready to do justice according to his advice. Upon this the king answered that

he himself would do justice, and the queen[1] answered the same. That day, therefore, the king came to Brœlle, and the bishop went thither, and prayed the king not to come to Beauvais to his detriment, since he was ready to execute justice according to his decision. The king replied: 'I will go to Beauvais, and you shall see what I will do.'

"The king entered Beauvais, and went to the house of the bishop. The latter again called upon him to do nothing to his detriment, for that he was ready to execute justice, according to his decision, upon offenders. But the king did not give way; and the next and following days he proclaimed the ban, and destroyed houses, and seized upon men.

"*First Witness.*

"The head prior, canon of Beauvais, says that on a certain day, he does not remember which in particular, three years ago next Lent, he went to the council of Reims, held in the town of Noyou, and there heard Milon, of blessed memory, formerly bishop of Beauvais, complaining to the council of the multiplied injuries which the king had done him at Beauvais; when, in spite of his remonstrances, warnings, and supplications, he had entered his town with armed troops, and followed by many people of the commune, because of certain homicides and other enormous crimes committed in this city, and had proclaimed the ban, seized men, levelled houses, and destroyed household furniture belonging to the episcopal jurisdiction, all to the prejudice of his seigneury and justiciary authority; for to himself belonged all the jurisdiction of the town, and the exercise thereof. And to prove this, the said bishop produced, and had read, certain letters from the king of France,[2] confirming his seigneury, and his entire jurisdiction in the town; and he supplicated the council to oppose itself to these things, and to aid the church of Beauvais.

"The said bishop had sent his official and a knight, to inform and petition the king as to these things; and the next day, the vigil, or day before the vigil of the Purification, the king being at Brœlle, the said bishop went to him, and said, 'My lord, do not wrong me; I call upon you, as your liege man, not to interfere in this affair, for I am ready to do jus-

[1] Blanche of Castille, mother of Saint Louis.

[2] Charter of Louis le Jeune in 1157, in the affair of Henry of France.

tice immediately, and with the advice of your council; and I pray you to send one of your councillors with me, that he may see if I render true justice.' And the bishop did not receive a favourable answer hereto from the king.

" The following day the king entered Beauvais, and the bishop went to meet him with several of the chapter, and again petitioned him in the manner aforesaid; and read to him the letters from the king Louis, touching the jurisdiction possessed by the bishop of Beauvais, and the letters from the lord pope[1] regarding the same, and again petitioned him, and said, ' that whatever justice the king should order to be done in this affair, he would consult thereupon with the king's council, provided it were done by himself, the bishop, or his delegate;' and he warned him in quality of bishop, and the king gave him no answer of consequence; and when the ban had been proclaimed on the part of the king, the houses destroyed, the men taken, the bishop complained to the king, and demanded of him to restore him the right of justice, of which he had dispossessed him.

" The council replied to the bishop, that the bishops of Laon, Chalons, and Soissons should be sent to the king, and should warn him on the part of the council to amend these things; and that if he did not do this, the same three bishops should go to Beauvais to inquire into these things. And the witness adds that he heard these three bishops say that they had given notice to the king to send, if he pleased, some one to this inquiry. These bishops came then to Beauvais, and made inquiries, and received many citizens, and the witness thinks that the citizens of the other party also produced witnesses before them. The bishops proposed to Simon de Pissy and Pierre de Hale, placed by the king in guard of the city, to be present at the inquiry, and the witness saw these officers attend; and, the inquiry terminated, the bishops reported it to the council, as had been agreed; and there it was decided that the king should be warned again and again, and the witness knows that the archbishops and bishops went to the king, and warned him twice; he knows it, for he was with them.

" Moreover, he said that the archbishop afterwards went

[1] A bull of pope Lucius III., confirming the charter of Louis le Jeune.

to the king with many prelates and the envoys from the chapter of Beaumont, and they supplicated and warned him to have pity on the church of Beauvais; but the king did nothing of the kind. And then the archbishop having held a council with some prelates, ordered the sentence of interdict to be launched, according to the form expressed in his letters; he believes, however, that the sentence of interdict was only issued by the archbishop of Reims, and that this interdict established in the province of Reims, was observed in the dioceses of Laon and of Soissons.

"*Third Witness.*

"Raoul, a priest of Saint Waast of Beauvais, deposes that he has heard it said that the interdict had been put upon the province of Reims by the council, because of the injustice done by the king to the church; and that he was at Beauvais it will be three years ago at the Feast of the Purification, when, the eve of the day of this feast, the king came to Beauvais, with many soldiers and people of the commune; that the Monday before the feast a skirmish had taken place between the citizens and the populace, and that he had seen the populace leading the mayor named by the king, with his tunic torn, and his robe torn down to the waist; several people were killed and wounded, and the populace were heard to say, 'It is thus we make thee mayor.' Now the king in naming this mayor had done an injustice to the bishop, because it was the custom in Beauvais that the twelve peers, citizens of Beauvais, should elect from among themselves two mayors, and present them to the bishop; and on this occasion the king had named a stranger to be mayor.

"He says that thirty-six years ago, as well as he can remember, while king Philip was warring against king Richard, the people there destroyed the house of a certain Enguerrand de la Tournelle, and that for this, bishop Philip cited certain burghers to appear before him; and as on account of this there was great discord between the bishop and the commune, king Philip came at last to the town, and there was a great disturbance.

"The king[1] then sent Simon de Pissy, and certain knights

[1] Saint Louis.

and servants to keep the city against the right of the bishop, and these were warned in the bishop's name to quit the town; and as they did not leave it, they were excommunicated. In the same way, according to the aforesaid mode, the mayor and the peers of Beauvais were admonished and then excommunicated.

"Then two of the king's servants, Durand de Sens and Chrétien de Paris, established themselves in the bishop's residence, seized his house and his wines, and collected his rents, and Pierre de Hale sold the wine, and when the bishop came to Beauvais he lodged with the treasurer.

"*Fourth Witness.*

"Pierre, a priest, called De Meschines, says, that the right of administering justice in the town belonged wholly to the bishop; namely, as to murder, rape, spilling of blood, theft, adultery, the right of domiciliary visits in affairs of robbery, and of highway regulations.

"*Fifth Witness.*

"The seigneur Evrard, abbot of Saint Lucian, brother of Baudoin de Mouchy, says that the king had the right of taking the citizens on his incursions and in his wars, or if he so preferred to receive money instead; and that he had heard it said, that sometimes he had received for this fifteen hundred livres, and sometimes less."

This last testimony does not seem, any more than much of the rest, to relate to the object of the inquiry; it serves, however, to throw a light upon it, by indicating the various rights of the bishops, the king, and the commune, which has decided us on retaining it here; we find in it, besides, curious information respecting the privileges of these three distinct powers.

"*Sixth Witness.*

"Master Bernard, chorister, deposes, that the bishop Milon, said to the chapter that a certain bishop of Reims had promised him that the interdict should be put upon all the dioceses of the province, if he put it upon his own; that he did put it, and then came to the council held at Saint Quentin, by the authority of the lord of Reims, and that in this council the interdict was taken off, in the hope of obtaining peace, and according to the letters of the lord pope."

Bishop Milon did, in point of fact, impose this interdict; but to obtain for this measure the necessary co-operation of the canons of Beauvais, he was obliged to treat with these proud associates, and to submit to give them the following declaration:

"Milon, by divine mercy, bishop of Beauvais, to all who shall see these letters, salvation in the Lord. We make known to all, that we will and accord that no prejudice shall be done to the rights of the chapter of Beauvais, from having conformed to the interdict in the month of June, 1233, Monday, the feast of the apostle Saint Barnabas; and that from this said interdict, however long it may last, no right of property or custom shall be acquired by us from the said chapter; but we will and accord that the chapter and church of Beauvais shall remain wholly in the same state in all respects as before the interdict was promulgated in the church of Beauvais, and the said chapter conformed to it.

"Given the year of the Lord, 1223, in the month of June."

Two years afterwards, Godefroy de Nesle, successor of Milon, renewing the interdict over the diocese for the same cause, found himself also obliged to make a similar declaration; we there read this remarkable sentence: "Know all, that having placed our diocese under interdict, we have prayed the dean and chapter to conform thereto, out of compassion for us, and that, yielding to our prayers, the dean and chapter have, on their personal authority, accepted the interdict."

"*Continuation of the Sixth Witness.*

"He said that it will be three years at the Eve of the Purification, since the common people of the city rose against the mayor and the money-changers of this town; and that the mayor and the money-changers having by force seized upon a house[1] into which they retired, the next house was set on fire, and they were taken by assault, and several of them killed.

"He adds that the bishop came to Beauvais the following night, and that, as he heard, eighty of the most guilty in this affair, by their own confession, presented themselves before the bishop, and were by him summoned to submit themselves to his high and low justice. They then took counsel with the

[1] It was the house of an armourer.

mayor Robert Desmureaux,[1] who dissuaded them from it, saying that if they did so, their life and limbs would be in danger. They then went away without submitting to the bishop, who was angry at the counsel which had been given them, and reprimanded his people for not having detained them; these replied that they were not strong enough for that. The same day, the bishop came to the king at Brœlle, and the day following the king came to Beauvais, where on the morrow he took from the bishop's prisons those men of Beauvais who had been taken prisoners, and proclaimed his ban that all should come to the market-place; on their arrival, he had them taken, imprisoned in the market-house, and the day after many were banished from the kingdom, and the king had this signified to the mayor and the peers.

"Now twenty persons had been killed and thirty wounded; and when the king came, the children of those who had been killed and the wounded complained to the king, and it was ordered by his council and the council of the borough, that the houses of the guilty persons should be levelled, and fifteen houses were accordingly pulled down. The mayor of the commune struck the first blow, and the people of the commune completed the destruction.[2] But the king did no injustice to the bishop in doing these things in the town, for the bishop had not himself administered justice, and the mayor may do justice upon a citizen of Beauvais, on his body by the axe, and on his goods by the destruction of his house.

"*Seventh Witness.*

"Pierre Maillard a man of the borough, says, that when Philip was at war with the count de Boulogne, the bishop

[1] The name of this mayor is almost always written in French, and we find it given in these three different forms: de Moret, de Mouret, Desmureaux. It seems somewhat surprising to find him so soon on terms again with those who had but just before sought his death; but these sudden changes are of frequent occurrence in the histories of boroughs, the inhabitants of which constantly found themselves under the necessity of sinking all their own differences, in order to combine against external enemies, the kings, or their lay or ecclesiastical superiors.

[2] It is evident that this witness was favourable to the king: the testimony of the eighth witness is quite of the opposite character; but he makes the number of houses destroyed fifteen hundred, which is an obvious exaggeration.

begged the king to confide to him the keys of the town, and that he himself had seen that the keys were sent and given to the bishop on the part and by order of the king. He also says that the walls and ditches belong to the borough.[1]

"*Eighth Witness.*

"The archdeacon Pierre states, that the year of the Incarnation of our Lord 1225, the month of September, Saint Michaelmas day, he was present when the commons of the lord king of France and of the count de Boulogne went, as it was said, to Beauvais, by order of the lord king. *Item*, that he was present when the lord Milon, formerly bishop, spoke to the king the Eve of the Purification, the year of the Lord 1232. *Item*, that he was present at the provincial council assembled at Noyou the year of the Lord 1232, in the first week of Lent, and that the bishop carried there a complaint by his official against the lord king for injustice done to him, in these terms: 'Holy fathers; the bishop of Beauvais signifies to you that, whereas the justice and jurisdiction of the city of Beauvais belong to the bishop, who can judge all and every one of Beauvais, and that himself and his predecessors have peaceably enjoyed this right, the lord king, on the occasion of an offence committed against him, has entered Beauvais in arms, with many of the borough people, and despite the admonitions and supplications of the bishop, proclaimed his ban in the city, seized men, destroyed fifteen hundred houses, banished many persons; and when, on quitting the town he demanded from the bishop for the expense of these five days, eighty livres Parisis,[2] and the bishop upon this new and unusual demand required a short delay from the lord king in order to deliberate with his chapter, the lord king refused all delay, seized the things belonging to the bishop's house, and went away, leaving guards in the town, and in the houses of the bishop; wherefore the said bishop entreats the holy synod to give counsel and aid to himself and his church. . . . .

"And the three bishops came to Beauvais, and informed

[1] We here see that the town had gained somewhat since 1214; the property in its walls and ditches being thus recognised and assured to it.

[2] The sum demanded by Saint Louis was a sort of host-tribute, which the superior suzerain was entitled to demand of his men when he paid them a visit

the bishop of Beauvais, and those who were there for the lord king, and Robert de Muret and the peers of the city, that they came from the council to inquire into the jurisdiction of the church of Beauvais and the injuries which the lord bishop said he had received. The said bishops then inquired into these things.

"*Item.* The said witness was present in Passion week at Laon, when the council was assembled and the inquiry held. And the following year, on a day which he does not remember, before Martlemas, he was present at Beaumont, where they conferred a long time touching a settlement of the matter; and as the archbishop of Reims, who said he had the authority of the council, could not effect this, they consulted on the manner of putting the interdict; and there were present the bishops of Senlis, Soissons, Chalons, Cambrai, and Beauvais; but nothing was done beyond conferring amongst themselves; the archbishop and the council then remained a long time together, and the archbishop said to the deponent, 'Know that sentence will be pronounced.'"

The archbishop of Reims did in fact go to Beaumont to the king, with several bishops and deputies from the chapters, to intreat him to pardon the church of Beauvais, and to enter into an accommodation with it; but the king could not agree with them, and dismissed them. Upon this the interdict was immediately pronounced by the archbishop.

"*Item.* He was present when the lord bishop of Soissons, on the part of the lord archbishop and bishops who were at thecouncil, in spite of the appeal of the bishop of Beauvais, annulled the interdict pronounced on the church of Beauvais; and that was done the Monday or Tuesday before Christmas, and the Sunday previous the bishop had appealed."

It was not entirely of their own free will that the bishops raised this interdict; they were in some measure forced to it by the clamours which reached them from every quarter. Two chapters of the diocese of Senlis refused to submit to it; and the curates of this same diocese, "seeing that they gained nothing by ceasing to pray to God for the dead," menaced their bishops that they would appeal if he did not raise the interdict. The dioceses of Laon and Soissons absolutely refused to observe it; the chapter of Amiens declared to the archbishop of Reims that it recognised neither the

interdict nor the council. Finally, several bishops of the province of Reims opposed the measure, and in presence even of the council announced that they would appeal to the pope. The archbishop of Reims, far more decided in the affair, saw himself forced to yield, and appeal was the only resource left to the bishop of Beauvais; he accordingly had recourse to it, and his protest was in these terms:

"Lord archbishop; you know that, by the authority of the council, you and your suffragans have placed the interdict upon your dioceses for the injuries done to the church of Beauvais; none of these injuries have been repaired, and you well know that it is important to me that the interdict should not be taken off before I have received satisfaction; and since the interdict was pronounced with your consent and that of your suffragans, I appeal against its revocation, to the lord pope, placing myself, my church, and my case, under his protection."

But the pope, Gregory IX., did not take up the affair of the church of Beauvais so warmly as might have been expected; he himself persuaded the bishop to raise the interdict, promising him, by way of consolation, that he should be at liberty to repeat it if he did not receive satisfaction. It appears that the bishop decided upon submission; but inconsolable at this result, he retired to Rome, where he died soon after. Godefroy de Nesle succeeded him in 1235, immediately replaced the interdict, and also went to die at Rome, without having settled this important dispute with the king; yet this king was Saint Louis, who in this affair showed more firmness, we might even say obstinacy, than we might have been disposed to expect from him; he even had to resist the solicitations of pope Gregory, of whom there still exists a bull with this title:

"Bull of pope Gregory, in sending to the king legates to engage him to desist from the wrongs done by him to the church of Beauvais."

There are three other bulls of the same pope on this affair; the last is entitled thus:

"Letters touching the interdict laid upon the province of Reims, because of the injuries done by the king to the churches and bishops."

Robert de Cressonsac, dean of the church of Beauvais,

succeeded Godefroy de Nesle in 1240, and at last the king settled this long enduring quarrel, which, at least on the part of the king, rested more upon the right of host-dues than the right of justice; for an arrangement having been concluded upon the first question, peace was completed, and the interdict raised. This time the arrangement was a final one, and not like that made, in a similar case, by Pierre de Dreux, for his life only. Here is the text of the treaty, for such it really is:

"Louis, by the grace of God king of the French; we make known to all that we have maintained our right to have what host-dues we in our discretion choose from the bishop of Beauvais, or the said bishop to make them good to us; but having regard to the fidelity to us of the present bishop of Beauvais, and wishing to aid this church in the dangers and expenses which its future bishops may incur, we will and accord that he who for the future shall be bishop of Beauvais, shall not be bound, in respect of host-dues, to us and our successors, to pay more than one hundred livres Parisis a year in our town of Paris, at the Ascension of our Lord, whether we go to Beauvais or not; if we go to Beauvais, the dues paid shall not exceed that sum. And for the said sum we acquit the church of Beauvais of all claim for host-dues, that we have or might claim from it, always excepting the other claims that we may have upon the other churches of Beauvais. And that this writing may be valid for ever, we have ordered it to be fortified with the authority of our seal, and below by the signature of our royal name.

"Given at the Hospital near Corbeil, in the month of June, the year 1240 of the Incarnation of our Lord, the twenty-second of our reign. Present in the palace those whose names and seals are here: No seneschal; Stephen the butler; John the Chamberlain; no constable; and the chancellorship vacant."

The bishops of Beauvais still found means to free themselves from part of this due. The king having given to the chapter of Rouen the annual pension of one hundred livres, of which he reserved only twenty-five payable by this chapter, Jean de Dormans, bishop of Beauvais, in 1363, bought this annuity for certain lands situated in the Vexin,

which he transferred to the chapter; the bishop of Beauvais then only owed the king twenty-five livres per annum, and one hundred when he should come to Beauvais.

As to the right of justice, which is not mentioned in this arrangement, it was more difficult to regulate, and was, as we shall see, a continual source of debate between the king and the bishop, the bishop and the citizens. As to Robert de Mouret, the cause of so much dissension, it appears that he retained peaceable possession of his mayoralty; it is true that he had a powerful party in the town, that of the *haute bourgeoise* party, which is almost always certain to triumph over its popular adversaries, when a violent commotion has made the want of repose more strongly felt, and thus given the ascendancy to those who put themselves forward as the defenders and guarantees of public order.

In 1254, Guillaume des Grez acceded to the episcopal throne of Beauvais, and the first years of his episcopacy witnessed the renewal of the quarrel which his predecessor had just allayed. This time it was with the chapter that the commune had to do, and the bishop, perhaps, derived some satisfaction from watching the struggle between these two rivals of his power. The decree given in 1257, by the parliament of Paris, clearly explains the matter in hand:

"The year of the Lord 1257, Louis reigning, and Guillaume des Grez governing the church of Beauvais, the mayor and commons of Beauvais brought an action before the lord king, against the dean and chapter of Beauvais, setting forth and maintaining that amongst the liberties and privileges granted to the commons of Beauvais by the kings, it had been granted and recorded in the charters, 'That whoever shall injure a jurat of the town, the mayor and the peers, when complaint of this is brought before them, shall do, according to their judgment, justice on the body and goods of the delinquent.' And, say they, several examples have been made upon abbots, knights, and many others. And that a certain man of the said dean and chapter, named Etienne de Mouchy, living in their territory of Mareuil, had struck a burgher of the town, named Clement, and that the dean and chapter, often requested by the said mayor and peers to send the offender into the town, that he might expiate his crime according to their judgment, did not trouble them-

selves to do so; they therefore demanded that the dean and chapter should be constrained to do it by the lord and king.

"The dean and chapter on their side maintained that their man not having been convicted of the crime of which he was accused, and not admitting it, not having been taken in the fact, and having offered to uphold his right before themselves, the dean and chapter, his lords, they were ready and had offered to the mayor and peers to cite before them the said Stephen, and to pronounce upon the affair, and that they were still willing, and earnestly enjoined on their court to grant full justice to whomsoever should complain of the said Stephen.

"Having heard these reasons, and examined the charters produced by the mayor and commons, it has been decided by the lord king and his council, that the dean and chapter should hear the matter before their court. Given publicly at Paris, in full court of parliament, the same year 1257."

The burghers must have been little satisfied with this decree, which so completely gave the victory to their adversaries; perhaps their defeat appeared to the bishop a good opportunity for renewing against them the eternal question of the right of justice, for he re-engaged in it without any cause known to us; and meeting in the mayor and peers of Beauvais with the same resistance as before, he, in 1265, placed the interdict upon the town and suburbs, after having given to the chapter all the humble declarations they demanded from him as from his predecessors. The king, judging this affair worthy of his presence, went to Beauvais; and the bishop, as if to do him the honours of his city, raised the interdict for all the time it might please the king to remain there. I am even inclined to believe that he did not renew it after the departure of Louis, and that the parties, out of consideration for their powerful mediator, consented to some hollow compromise. Their passions, checked against their will, were all the more prompt to inflame anew, and Beauvais became as full of agitation as ever when Renaud de Nanteuil, successor to Guillaume des Grez, sought, in 1273, contrary to the ancient custom of the place, to take upon himself the right of removing the sentinels placed by the mayor and the peers, on the occasion of a tumult in the town. The people rose violently against the infringement of

its rights, and the bishop, seeing himself obliged to withdraw his sentinels, and to let the citizens have their own way, had recourse to the arms which could not be denied him, and placed the town with its suburbs under interdict. This rigour did not terminate the insurrection, to which was added the dispute, ever renewing, of the right of jurisdiction; finally, at the end of two years, this dispute had become sufficiently grave to attract the attention of Philip le Hardi. The choice of the persons whom he sent to Beauvais alone suffices to indicate the importance which he attached to their mission. They were, the cardinal de Sainte-Cecile, legate of the holy see; Ansold, lord of Offemont, and the chanter of the church of Reims. These three royal envoys, after having passed some time at Beauvais, at last brought the parties to an accommodation, commonly called the *great composition* (*compositio pacis*), and which, says Louvet, ought rather to have been called the *great confusion*. The reader will without hesitation admit the justice of this reproach; events alone will demonstrate it.

"Philip, by the grace of God, king of the French; we make known to all present and to come, that there has been dispute and contention between our dear and loyal Renault, bishop of Beauvais on the one part, and the mayor and peers of this town of Beauvais on the other, touching divers articles contained herein; finally, by the mediation of our friends and faithful the venerable Père Simon, by the grace of God, cardinal de Sainte Cecile, and legate of the holy see, Ansold d'Offemont, knight, and M. Thibault de Ponceaux, chanter of Reims, our secretary, by us sent on this matter to the town of Beauvais; after several altercations and many arrangements made upon the said articles, they have arrived at this point of agreement, namely, that the said bishop for himself and his party on one side, and the said mayor and peers for themselves and their party on the other side, save and except an express condition that, upon such articles as the parties may find too rigorous, we should apply such modification as shall seem good to us, have made before the said legates, Ansold and Thibault, the agreement and settlement following:

"1. That whatever may have been done heretofore, for the future the mayor and peers cannot, and may not, officially

interfere or take cognizance of any offence or crime, even where complaint touching such have been made to them before, except in cases of truce, as set forth below.

"2. Also, they shall not take cognizance of any crime or offence, for which the delinquent forfeits his life or one of his limbs, even though complaint thereof may have been made to them before it has been made to the bishop or his justice, and even though the mayor or one of the peers shall have been struck by a townsman; nor, in like manner, of any misconduct or quarrel of which complaint shall have been first made to the bishop or his officers.

"3. Nevertheless, the bishop or his officers may not hinder or forbid any townsman, or bind him by oath or otherwise, not to complain to the said mayor and peers, if he choose, instead of to the bishop or his justice, or not to make peace with the other party, without the leave and permission of the said bishop or of his justice, save and except the right of the bishop.

"4. For the future, also, the said mayor and peers may not cut off the hand of him who has struck them, or any of them, nor deprive him of any other limb; but may punish him by money or other penalty, more rigorously than if he had struck a simple commoner.

"5. Nor can the said mayor and peers take cognizance of matters touching disputed inheritances, though the dispute may have been brought before them previously to its being brought before the bishop or his justice.

"6. But if any townsman, before complaining to the bishop or his justice, has complained to them that his neighbour has turned the gutter of his house otherwise than where it ought to be, or that it is not in other respects as it ought to be, in consequence of which he is in danger of suffering loss or damage; or if a difference arises because the parapet or wall of a neighbour leans or hangs over a man's house, so that he is in danger of suffering loss or damage; in such cases, the said mayor and peers may receive the complaint and take cognizance of it, and remedy the grievance according to the report of the sworn carpenters, who, after they have been selected for this purpose, shall take their oath before the bishop or before his justice, or before the said mayor and peers, faithfully to fulfil their charge and duty.

"7. If it happens that any townsman wound another with a knife, sword, club, stone, or other weapon, the said mayor and peers may not take cognizance of it nor interfere touching the said offence, while the wound is unhealed, even though complaint has been made to them before it has been made to the bishop or his officers; except that for the safety and common good of the town they can by their office command the parties under penalty of a sum of deniers to keep the peace until a certain time, but they cannot command any one to give security.

"8. If he or they whom they have commanded to make a truce, will not obey, they cannot constrain him, but they can disown and efface him from the town-roll, and then call upon the bishop or his justice to constrain him to make truce until a certain time prescribed by them, and to pay the penalty imposed for not having obeyed their order.

"9. And the said bishop or his justice shall be bound three days after the requisition has been made, to constrain this man, by the seizure of his body and goods, or to expel him from the town of Beauvais; if he fail to do so, the said mayor and peers three days afterwards may appeal to us for the execution of their ordinance; and if any one say that the bishop or his officers have not been called upon, and are not in fault for not executing what they were stated to have been required to do, the said mayor and peers who have appealed to us, shall be bound to prove upon oath that the said bishop or his people have been sufficiently requested by them, and have not executed it in the fixed term, in which case faith shall be given them without further proof.

"10. *Item.* It has been agreed and settled between the parties, that if any one complain of a wound after it is cured, to the mayor and peers before he complains to the bishop, the said mayor and peers may take cognizance of it, but not impose any penalty, even though there be mutilation or cutting off any limb; they may only condemn the delinquent to indemnify the wounded man according to the usage of the town, which is (as the parties have agreed) that for a wound without mutilation, they have been accustomed to pay twenty sols three deniers, with all the costs and expenses which have been incurred in the cure; and if the wounded man be a labourer, he shall have payment for the days that he has lost

on account of the said wound. That if there has been *mehain*, and that the wounded man was a man accustomed to live by the labour of his body and limbs, and that on account of the said mutilation he cannot work, they may, having regard to the condition of the person, and the nature of the wound, adjudge him a certain competent sum, and order the delinquent, or, if he be since dead, his heirs, to pay yearly to the person wounded, so long as he shall live, the said sum; the said mayor and peer shall also make the malefactor pay a fine according to the nature of the offence.

"11. If the delinquent will not acquiesce in their sentence, they may not constrain him, but only efface him from their town roll, and call upon the bishop or his justice to constrain him by taking his body and goods, or by banishment, to execute what has been required by them. If the said bishop or his justice say that the said mayor and peers have not proceeded in the affair as they ought, or that the case was not one of which they ought to take cognizance, the said mayor and two peers shall declare upon oath to the said bishop that the case was such that they could take cognizance of it according to the ordinance and agreement made by the said legates, Ansold and Thibault, and according to what is contained in these presents, and that in the affair they have proceeded faithfully and legally, neither the bishop nor his justice, nor any other person, can stay them longer, but on the contrary shall be bound to execute their request as is stated above; and if he does not do it in the said term, the mayor and two peers may come to us as near Paris as may—at Tours, Bourges, or other place nearer, and summon us to uphold what they have ordered and decreed.

"12. If by chance any one shall say that the bishop or his justice has not been sufficiently warned, and has not been in fault, the said mayor and peers shall be believed without any other proof, on their oath before us that the said bishop or his people have been sufficiently summoned, and that they have not done what they ought within the prescribed time. And then if it be our good pleasure, we may command the said bishop and compel him by seizure of his furniture, so that, however, it be done without injury, to constrain the expelled townsman to return to the obedience of the said mayor and peers, as has been set forth; and if we are further distant from

the town of Paris than Tours or Bourges, in whatever place it may be, the said mayor and peers shall not be bound to come to us, and make their request in person, to constrain the said bishop as above said: but may go to our bailiff of Senlis,[1] whom we especially appoint in our place for this purpose, and summon him to constrain the said bishop, by seizure of his goods, to bring within the obedience of the mayor and peers the said expelled townsman; and after having taken the oath in the prescribed form, as to the due calling upon and default of the said bishop, the said bailiff shall compel the said bishop (in manner nevertheless that no injury be done to him), as we ourselves should do if we were nearer Paris, and as in case of truce.

"13. *Item.* If it happen that a townsman of Bourges address injurious language to another, or strike him with the hand or the foot, the said mayor and peers may take cognizance of it, if complaint be made to them before it be made to the bishop or his justice, supposing even that he had lost blood at the nose, mouth or nails; they may order him who has thus insulted or injured the other to repair the said insults or damage which he has done, according to the custom of the town, which is to pay five sols for an insult, or for an injury when no blood has been spilled, or, if blood has been spilled, twenty sols and three deniers; and besides, they shall condemn the guilty person to pay them a fine.

"14. If he will not acquiesce in their judgment, they cannot banish him for that, but only exclude him from their books, and then call upon the bishop or his justice, or ourselves in his default, as has been stated above; and the said mayor and peers shall have cognizance and justice in the said case, even though it happened during the night.

"15. *Item.* If any one of the town proceed before the mayor and peers, against another commoner, in an action for furniture or household goods, before accusing him to the bishop or his justice, the said mayor and peers may summon the accused before them; and after having heard his adversary's statement, they may order the accused to deny or con-

[1] We shall find this royal officer frequently interposing in the affairs of Beauvais, a town situated within his bailiwick. According to Loysel, this city had no bailiwick of its own until 1682 and yet he himself, at page 316, quotes a decision given in 1379 by the bailiff of Beauvais.

fess the accusation. If the defendent refuse to avow, deny, or proceed at all before them, then he may leave their justice safe and free; but if he denies and contests the accusation before them, then they may ask him whether he will submit to their examination; but if he replies that he will not plead before them, but elsewhere that he considers more fitting, then the said mayor and peers cannot oblige him to proceed further, and he may retire free and safe. If he consent to their inquiring into the affair, they may proceed to the inquiry; and if by that he is found liable to the demand made against him, or if at the outset he acknowledges the debt without further inquiry, then they may constrain him to make the payment within a fortnight, or to restore the things demanded of him, and which he shall have admitted to be due, or which have been found due upon inquiry, without incurring any penalty. And if he fail to return them, or pay the amount within the prescribed period, they may not therefore impose upon him any penalty, nor banish him from the town, nor exclude him from the roll; but they may go to his house, or send their sergeant, who, if he finds it open, may enter; but if it be shut, they can force neither door, window, nor any other entry; finding the door open, and having entered, they may take in this house all that they can find of his, but without forcing door, window, coffer or lock. If the person upon whom this execution has been made, or another sent by him, endeavour to repossess himself of what has been taken, or is about to be taken, they shall not for this rescue fail to take and carry away the goods in payment of the debt admitted or adjudged, and they shall inflict a penalty for the attempted rescue.

"16. If the defendant will not make reparation for the rescue, or pay the penalty, they may not for that banish him from the town, but they may exclude him from their roll, and then call upon the said bishop or his justice to order him to make reparation for the rescue, and to pay the penalty, which he shall be bound to do in manner as aforesaid in the article of the healed wound with or without mutilation; and on his refusal or default, the mayor and two peers may come to us, according to the form expressed in the said article. But, however, the said mayor and peers, on the occasion of a debt confessed or proved before them, as above, may not

seize by execution the furniture and goods of the debtor in the public square or market place, or in the house of another, but only in his own house.

"17. It is agreed between the parties that henceforth the said mayor and peers may not, in any case, remove any one from the commune of Beauvais, nor in punishing any one use the term remove or banish; but that they may exclude him from their roll, and call upon the said bishop, or his justice, or ourself in his default, to do as above set forth.

"18. It is agreed between the parties, upon the article concerning the form and manner of levying the assessed tax in the town of Beauvais, that when the mayor and peers have assessed the tax, and fixed the terms of payment, they shall come to us to obtain our letters patent, by which we shall order the bishop or his justice not to hinder them; but, on the contrary, to permit the said mayor and peers to levy their tax upon the assessment, and by the day fixed by them; and after the said bishop or his justice has received our letters patent, the said mayor and peers may levy the tax by force, if need be, break open doors, coffers, windows, and locks, seize in the market place, streets, and houses of all the townsmen, on the bishop or his justice having had due notice. And the said bishop or his justice may not forbid, disturb, or hinder the tax from being levied as above.

"19. *Item.* The said mayor and peers stating, that having been for a long time in peaceable possession of the right of placing guards and sentinels at the gates and ramparts of the town, they have been deprived of it by the bishops, who removed these sentinels, and put others in their place, it has been in this manner arranged and determined between the said parties: the citizens of Beauvais having first recognised and confessed before the said legates Ansold and Thibault that the lordship and right of the doors and keys belong to the bishop, and that the watch kept is in his behalf, so that always when a new bishop is created at Beauvais, they are bound to bring him the keys of the town, even although not required by him, and that after having kept them awhile, he returns them to them, and commits to them the care of the gates, ramparts, and walls, which the said bishop may resume whenever he pleases, they being bound to return them to him when he so requires, the said bishop, in consideration

of this recognition and acknowledgment of the citizens of Beauvais, has willed and granted that those who had been placed by him on guard at the gates and ramparts of the walls shall be withdrawn, and that the said mayor and peers may place others to remain there, as is wont.

"20. *Item*, the said mayor and peers, stating that they have from time immemorial peaceably possessed the right of placing guards and sentinels in the city of Beauvais to guard the said city during the night, and that the said bishop had created trouble and disorder by removing the guards they had placed in the city, and substituting others on his own private authority; it has been also agreed and granted that the said bishop shall withdraw the said guards placed there by him, and the said mayor and peers shall place others whenever and as often as it shall be necessary for the future, having first obtained leave of the bishop or his justice at Beauvais, and on condition that the malefactors taken by the said guards shall be by them placed in the bishop's prisons.

"21. It has also been agreed between the parties concerning the article of the cloth facture, that for the future the bishop shall allow the mayor and peers to receive from the collector of Beauvais the scales and weights of the cloth; and if there be any dispute as to their weight, it shall be determined by the weights of the collector to whom they appertain, and who holds them from the bishop in faith and homage.

"22. And it has also been settled that the mayor and peers, knowing better than the bishop the good and capable workers in cloth,[1] shall choose for the future, without being hindered by the bishop or his people, six, seven, or at the most, ten honest men expert in this art, who shall take care that the cloth ware be such as it ought to be, and shall swear to the mayor and peers, and before the bishop, that they will execute their charge well and loyally. And if they find any cloth so defective that in their opinion it ought to be burnt, the said mayor and peers shall have it taken to the market-place of Beauvais with wood and fire to burn it. And before the

[1] The various manufactures in wool were in great activity at Beauvais, much of whose population was connected with the making of cloths, serges, tapestry, &c. There were also dyers here before the twelfth century, as we find from the decree issued against Bishop Ansell in 1019.

third hour,[1] they shall give notice to the justice of the bishop to come and set fire to the said cloth. If he does not appear and has not burnt the said cloth before the hour at which they go to vespers in the church of the blessed Saint Peter, then the said mayor and peers may take the said cloth and give it to the Hotel Dieu of Beauvais without the permission of the bishop or his justice. If the defectiveness of the cloth be not such that the said honest men can declare that it ought to be burnt, but only cut, the said mayor and peers shall bring it to the market-place at Beauvais, and shall give notice to the justice of the bishop, before the third hour, to come and cut the said cloth; and the said justice ought and may cut the cloth until the accustomed hour for ringing to vespers at the church of Saint Peter at Beauvais; and the cut pieces shall be returned to the owner thereof, so that he shall be obliged to sell them by retail in the town of Beauvais. And if, after having been summoned as above, the bishop's justice has not cut the cloth before the appointed hour, the mayor and peers may have it cut in the market-place, or in the place where they hold their public pleas, and the pieces of cloth shall be restored to the owner to be by him sold by retail in the town of Beauvais.

"23. *Item.* It has been agreed that if the piece of forty ells have two pounds, the cloth of twenty ells one pound less than the recognised weight, this cloth, if it have no other defect, may not be either burnt or cut, but shall remain whole and entire to the owner; only for the light weight he shall pay twelve deniers; or if the difference be less, according to the quantity wanting; and the said deniers shall be given to the weighers aforesaid. But if the defectiveness of the piece of forty ells exceed two pounds, or that of the cloth of twenty ells one pound, it shall be burnt or cut as aforesaid.

"24. *Item.* It has been agreed between the parties as to the manner of citing the townsmen before the bishop of Beauvais, that the said bishop or his provost may cite the townsmen by the sergeant of the bishop, without the sergeant of the mayor being present or called; and they may punish those who, cited by the sergeant of the bishop, have not appeared, for such is the custom in the town of Beauvais.

[1] The third hour corresponds with our nine o'clock, A.M. Vespers were then celebrated at about five, P.M.

"25. *Item.* It has been agreed that for the future the bishop and his justice shall cite before them any townsman of whom complaint has been previously laid before the mayor and peers in cases within their jurisdiction, which cases are set forth in the articles above, provided always that the said mayor and peers have not failed to administer justice in such cases within their cognizance.

"26. *Item.* It has been agreed that in all the aforesaid articles of which it is set forth that the mayor and peers shall take cognizance, if the mayor, being absent by reason of illness or other cause, cannot appear, his lieutenant may take cognizance and act with the peers as though the mayor were present.

"27. *Item.* It has been agreed that for the future the provost of Beauvais or some other of his officers of justice, may not cite before them a townsman, nor place guards in his house, for personal or household debts, nor for any other case unless it is for a crime, so long as he consents to proceed before them, and to give them good bail.

"28. *Item.* Regarding the superintendence of bread, of which the said mayor and peers declared themselves recently deprived by the bishop, for the future he shall appoint inspectors, as he thinks good."

"29. *Item.* It has been ordered by us and our court, that the said mayor and peers may not in any way avail themselves as against the things set forth above, of any usage that they may have had heretofore, and such shall serve them in no stead, nor harm the bishop and his church."

"30. *Item.* It has also been ordained by us, that the said peace or composition shall not in anything injure or prejudice the said mayor or peers, or their borough charter, any more than the bishop, his church, or the charter of our ancestor, Louis, king of the French, of excellent memory, which is in the possession of the said bishop, excepting in such things as are contained and set forth in the above composition: which composition, and the things contained in it, we hold for good and enduring; and at the request of the parties, we have to these presents set our seal, saving in all things and to all men our own rights. Given at Montargis, the year of the Lord 1276, in the month of August."

"It seems," says Louvet, "that this composition was ap-

proved of by the parties rather out of the respect they bore the legate and the commissioners of his majesty, than from the equity and justice they saw in it, especially as, in reading them, several articles are found to be so ill drawn up, and so remote from anything like justice, that the parties would have just cause for declining them."[1] And, in fact, whether it was that the defects of the great composition rendered its execution impossible, or that no treaties are sufficient to unite in good understanding interests and powers so utterly opposed, and yet so closely mingled together, as were the interests and powers of the town of Beauvais, and those of its bishop, a new subject of dispute soon rekindled reciprocal animosity, and the strife recommenced more fiercely than ever, despite the thirty articles of the great composition.

Amongst the ancient rights of the bishop of Beauvais was that of making use of the citizens' horses when he required them for his affairs. Renaud de Nanteuil, wishing to make use of this right in 1278, his people had the horses that they had seized taken from them by order of the mayor, who took the horses under pretext of their being needed by the town, for as yet he could not venture to assail in full front the privilege whose use began to appear to him an abuse. The bishop having inquired into the affair, and the mayor refusing to acknowledge his jurisdiction, the cause was brought before the parliament of Paris, which issued the following decree:—

"A dispute having arisen between the lord king on one part, and the bishop of Beauvais on the other, as to the right of justice of the whole body of the commune of Beauvais, and a certain inquiry which was had into the said right of justice having been brought before the lord king, not as before one of the parties concerned, but as before a superior, and the said inquiry remaining still undecided upon, the said bishop demanded that the said inquiry should be expedited, for that by the delay of the said inquiry a great danger menaced himself and his church, as to his jurisdiction in Beauvais. On this occasion he could not judge Guillaume Vierie, mayor of Beauvais, touching a certain rescue which he had made at Beauvais upon his people for a certain horse which they had taken for the affairs of the said bishop; and

[1] Histoire du diocese de Beauvais, t. 11, p. 465.

the said mayor stated that he had taken the said horse for the business of the town, and that he would not answer before the said bishop for this fact, which concerned the town, and he could say the same in all cases; wherefore the said bishop demanded that this disorder should be remedied. Having heard the demand of the said bishop, and the defence of the mayor, the lord king has withdrawn his protection in all that regards the rescue.

"*Item.* It has been decreed that in the said inquiry the witnesses of the town of Beauvais cannot be admitted, because the affair concerns them. Given at Paris, the year of the Lord one thousand two hundred and seventy-nine, in the parliament of All Saints."[1]

The town, thus condemned, was obliged to submit, and to allow the bishop to take its horses at his discretion. They freed themselves from this vexation in 1395, but only at the price of an annual payment of fourteen livres Parisis.

In 1280, the mayor and peers of Beauvais, discontented at the manner in which the tax was assessed and levied, complained of it to the king, from whom the parliament sent them to their natural lord, reserving, however, to the king, the right of taking care that the bishop acquitted himself of his duty. The parliament could not do less for the royal authority, and I am astonished that it did not do more, by thoroughly entering into the complaint of the citizens of Beauvais. The decree is in these terms:—

"Having heard the supplications of the citizens of Beauvais that the king would order the taxes assessed by his officer to be duly levied by force, if necessary, they were directed to apply to their bishop, upon whose default the king would see to the matter, and compel the bishop to apply such care and diligence that the things complained of might not continue, and that no fraud be committed in the levy of the taxes.

"*Item.* As the officers of the king had, to make up the taxation of the town, taxed each townsman the sum of three sols in the livre of their household goods, and that the said mayor and peers had on their own personal authority diminished this tax, and reduced the three sols to two, it was said, that

[1] Louvet, ii. 467.

no account should be taken of this diminution, and that every one should pay three sols in the livre.[1] The bishop of Beauvais, in his turn, wished to find something to say against the *great composition*, in which, however, he had certainly not been neglected. In 1281 he addressed a request to the king to obtain a more extensive jurisdiction over the district of Beauvais. The citizens maintained before the parliament that the jurisdiction claimed by the bishop belonged to the king, and that the question had been several times decided by the court. The argument was too favourable not to be received, and a decree was issued which reserved to the king the decision and jurisdiction of all points relating to the liberties of the district. This was not what the bishop wanted; the citizens had beaten him.

"Philip, by the grace of God king of the French: We make known to all present and to come, that our dear and loyal bishop of Beauvais, having intreated us to permit him to use and to enjoy the right of justice which he claimed to have in the city of Beauvais over the entire district, and over the person of each townsman, saying, that himself and his predecessors had enjoyed it until now; on the other hand, the mayor and peers of Beauvais, whom we cited before us to hear the said supplication and to defend our right and their own, if they felt themselves interested in the affair, having maintained that we were in peaceable possession of the execution of justice over the whole commune of Beauvais, in every case regarding the said commune, and that they had several times declared so in our court: having read the inquiry made by our order into these matters, and heard the reports of our court that each party demanded, having seen the charters, privileges, and guarantees produced by the two parties, and the reasons of both having been sufficiently heard, judgment has been pronounced in our court that the jurisdiction throughout Beauvais in matters of obligations, contracts, agreements, and offences, belongs to the said bishop. And by the same judgment it has been decreed that respecting the right of justice in the affair in question, and as to the liberties of the said district, conceded to it by privilege, and as to all the rights of the said commune, they belong to us. In confirma-

[1] Louvet, ii. 469.

tion of which we have affixed our seal to the present letters. Given at Paris, the year of the Lord 1281, in the month of August."[1]

In 1288 the commune again gained its cause in an affair carried before the parliament of Paris, and in which, indeed, justice appears completely on its side. The bishop in question was named Simon de Nesle:

"A dispute having arisen between the mayor and the peers of Beauvais on one side, and Henri Aleaume and the bishop of Beauvais, each for himself for as much as concerned him, on the other side; the said Henry stated, that the said mayor and peers had subjected him to their justice, he being justifiable to the bishop in whose jurisdiction he was, sleeping and waking, and before whom he demanded to be sent, seeing that he was not the man of the mayor and peers of Beauvais, and that he had long left their commune, and had done all that was required at the time of leaving it. And the said bishop has demanded that the said Henry should be sent to his court, being ready to do full justice by and to him. The said mayor and peers stated that this ought not to be, as they had subjected the said Henry to their justice as their citizen, and taxable for the tax imposed upon him, of which they have maintained that the cognisance belongs to us. For, said they, the custom and usage of Beauvais is, that whoever wishes to leave the commune of Beauvais ought to inform the mayor and peers thereof, to give good bail to be responsible for him, or to place his goods in our hands; and before all things render account of his administration, if he has exercised any charge, pay the arrears, and apply to pay the tax on quitting; then he may leave the commune; otherwise he will always remain a citizen, and taxable. Inquiry having been made diligently into all these things, and the arguments on both sides being heard, it has been found that the mayor and peers have sufficiently proved their statement; wherefore it has been pronounced by our said court, that the said Henry ought not to be sent to the court of the said bishop, but must, as to the said case, undergo our examination."[2]

Simon de Nesle was a bishop of violent manners, of war-

[1] Loysel, Memoires de Beauvais, p. 299.

[2] *Enquetes et estimations expediées dans le Parlement de la Toussant.* 1288.

like habits, of untractable temper, and consequently very unlikely to adapt himself to the turbulent character of the citizens of Beauvais; accordingly they did not long live on good terms, and, by the unanimous statement of the chroniclers of the time, the first faults were on the bishop's side. "The people rose against him," it is written, "because of several vexatious customs which he endeavoured to introduce into the town of Beauvais." The loudest complaints arose, it appears, from the exactions added by the bishop's officers to the dues demanded from every one who made use of the episcopal mills and ovens. And as, with all their liberties, the citizens of Beauvais had not that of grinding their corn and baking their bread where they pleased, these vexations, which affected them every day, and in the first necessaries of life, irritated them to the last degree; the mayor and peers had it proclaimed through the town that all should grind and bake where they pleased, and that all were likewise at liberty to place planks across the river. This last clause had reference, no doubt, to some toll with which the bishop impeded the passage over the bridges of the Therain. Simon de Nesle, as may be supposed, did not endure with patience this renunciation of obedience to him. The two parties came to blows, and sanguinary excesses took place on both sides; but the bishop was defeated and forced to quit the town, after having set fire to the suburbs. Exasperated by this defeat, and enraged at being called, mockingly, *Simon the Stripped*, he made an appeal to the clergy of his diocese, and in the following missive denounced to them the crimes of the people of Beauvais. We shall presently see those with which they in their turn reproached him; it does not appear that either picture was exaggerated:

"Simon, by the grace of God bishop of Beauvais, to all and every priest established in the town and suburbs of Beauvais, to whom these presents shall come, salvation in our Lord.

"It is a true thing, notorious and attested by public voice, that the mayor, peers, and council, and commons of Beauvais, despite the oath they have legitimately sworn to us as bishop of Beauvais, to preserve the rights, the honour, the state of our church and ourself, have, at the peril of their souls, wandering from the catholic faith, perversely, and without

thinking of their salvation, audaciously dared to ring the bell of the commune destined to assemble the people, and held counsel and deliberation among themselves: then, to the not slight but very great prejudice and damage of our episcopacy and our church, to the injury, offence, outrage, contempt, and despite of Almighty God, of the blessed Mary ever Virgin, of the glorious apostle Peter, in whose honour the aforesaid church is founded, of all the saints, of the liberty of the church and all the faithful in Christ, they came with a great army, furnished with crossbows, bows, javelins, bucklers, stones, axes, and swords, iniquitously to attack our house or episcopal manor, situated in the town of Beauvais; they impetuously and in a hostile manner invaded it, assaulted our people placed to guard and defend it, and set fire to it, unjustly burning and destroying a great part of this manor; this part being thus burnt by them, they entered the other, broke the doors, windows, and locks, spilled sixteen hogsheads of wine of the bishopric and church of Saint Peter, placed there for our sustenance and nourishment, and that of our officers. They also carried away other provisions, furniture, and utensils, which we estimate at the value of two thousand livres Parisis.

" And, also, they violently broke the doors and tore off the locks of the prisons of the said manor, and took from the prisons, to set them free, several persons, laymen and ecclesiastics, detained by our officers for several crimes—namely, Quentin de Roquencourt, for a notorious murder; Mathieu Poulain, for having forged letters; Jean de Beaumont, for rape; all priests. Gregory Bardoul, layman, for murder; and several other priests or laymen, detained in these prisons for various offences.

" And not content with all these things, but accumulating crime upon crime, and going from bad to worse, they forcibly entered two blessed and consecrated chapels or churches belonging to the said manor, burst open the doors, locks, windows, frames and iron-work of the windows, and carried away the chalices, books, and blessed and consecrated ornaments of the said churches or chapels.

" And, shameful to say, they committed several vile obscenities within the said churches, thus, like infidels, wickedly and without the fear of God, committing an enormous sacri-

lege, damnably incurring the sentence of excommunication pronounced by the canons against those who break open and violate churches, especially when the said churches are gifted with perpetual and sufficient revenues. And afterwards, continuing in their malice and obstinacy, they several times horribly and iniquitously attacked, with a great army and warlike arms, as has been stated above, the tower of our bishopric, built behind our house, as also the castle contiguous to the said tower, and which was made for the preservation and defence of it; also, they have killed several of our people, who were placed there to defend and preserve the said tower and castle—namely, Erard de L'Olive, Manasserus and his son, and several others; they also endeavoured to destroy and raze to the ground the said tower and castle.

"For these things we command you, in virtue of holy obedience and under penalty of suspension and excommunication which we shall fulminate against you if you do not what we order you, that you publicly and loudly denounce and excommunicate in your churches and offices the violators of the said churches, until they have performed sufficient penance; also, citing manifestly and publicly in your churches, the mayor, peers, councillors, and the whole community of Beauvais, to come, on our order, before us at Saint Just, in the diocese, the day of Saint Magdalen, to see and hear the decree and sentence that we intend to give on the said day, regarding the above-mentioned offences, as it ought to be done according to the law, and let them know that whether they appear or no, they will be equally proceeded against. And as a sign that you have executed our command, you will affix your seal to these presents. Given under our seal, the year of the Lord one thousand three hundred and five, the Thursday after the summer feast of Saint Martin."[1]

I do not know that in any case the mayor and peers would have thought fit to submit to the injunction of their adversary, and to acknowledge, as guilty subjects, his sovereign judgment: at all events, it was not at the moment of victory that they would make such a concession; but the embarrassment of a refusal was spared them, for the citation was signified to them the day on which they were commanded to

[1] Louvet, ii. 48.

appear. The distance from Beauvais to Saint Just, where the bishop then lay, was six leagues; they required time to come to a decision, and to prepare a defence; in brief, a decent pretext was a piece of fortune on such an occasion: the mayor and peers profited by it, and did not appear. As they had not submitted, they were, as they no doubt expected, excommunicated, and the town of Beauvais placed under interdict. From this they appealed, by the following document, which was signified to the bishop on the 12th of July, 1305. They availed themselves of the irregularity of the citation.

"In the name of our Lord, in the year 1305, the third of the indiction, the 12th day of the month of July, the discreet person Gerbaud de la Fontaine, in the name of the mayor and peers of Beauvais here present, and of all the community of the same place, has publicly read before the reverend father the bishop of Beauvais, and his official, a schedule of the tenour following:

"Because you, my lord, the bishop, your bailiff, people, and officers, have done great injuries, and many wrongs and oppressions to the mayor, peers, and whole community of Beauvais, by striking, wounding, and killing certain of the said community, by seizing and ruining their goods, by destroying with all manner of hostilities their possessions, and burning them to the value of a hundred thousand livres; and not content with that, but heaping evils upon evils, you have caused the said mayor, peers, and whole community to be cited to appear before you at Saint Just on the very day of citation, which is a thing unheard of, unreasonable, and contrary to custom and statute, the said mayor, peers, and whole community, feeling themselves aggrieved by you against justice in all these things, and considering that they may be still more so hereafter by you and your officers ;—

"For these reasons, we, the mayor, peers, and jurats of the said community, declare, that we interpose an appeal from all these wrongs and grievances to the holy see apostolic.

"And in order that you may not proceed further against the said community, or any commoner thereof, we now once more declare to you that we interpose an appeal, putting under the protection of the apostolic see the said mayor, peers, ourselves and all the community, taking to witness all present, and praying you, James de Jassein, notary of the

most holy Roman church, to deliver to us a public act of all this.

"These things were done in the abbey of Saint Lucian of Beauvais, on the day and year abovementioned."

We must not be surprised to see a protest against the bishop of Beauvais dated from the abbey of Saint Lucian. Simon de Nesle had stirred up all parties against him; for he spared nobody. The banditti, who maintained his cause, made no more scruple to burn the house of a canon, than one of a burgess, or to lay waste the lands of an abbey, than those of the community: and probably when they took it into their heads to rob, ill-treat, to even kill an enemy, they did not give themselves the trouble to inquire what jurisdiction he was subject to. As to the chapter, indeed, that was nothing remarkable; people were accustomed to see them contending with the bishop, and little reverence was paid to these proud and worldly-minded dignitaries; but the abbey of Saint Lucian, founded in honour of the apostle of the Beauvaisan country, and endowed with so many privileges, regarded with such high respect!—an outrage to that was indeed revolting. Accordingly, the haughty Simon himself was brought to his senses, and felt himself obliged to issue a sort of pastoral letter, in which we find proofs of the very excesses with which he was reproached by his adversaries.

"To all who shall see these presents, Simon, by the grace of God, salutation in our Lord. Be it known, that about the feast of Pentecost, in the year 1305, differences having arisen between us and the mayor, peers, jurats, counsellors, and whole community of Beauvais, our people occupying on that account all the surrounding country; and some fires, and other occurrences, which appear to carry with them injustice, having taken place within the lands and jurisdiction of our dear sons in Jesus Christ, the abbot and convent of the monastery of St. Lucian of Beauvais, to the prejudice, as they assure us, of the said religious persons, our will nevertheless had no part in these proceedings; and it is not our intention that by these facts, if they have so happened, any damage should be caused to the rights and jurisdiction of the said religious persons, nor any new right thereby acquired to us or our successors. In faith of which we have caused our seal to be put to the pre-

sent letters. Given in the year of our Lord 1305, on the Saturday next after the feast of St. Mary Magdalen."[1]

The brothers of St Lucian were probably appeased by this *amende honorable* of the bishop, and no longer thought of joining the mayor and peers of Beauvais, nor of appealing to the competent authority for reparation of the damages which they had suffered. Simon de Nesle, however, was still little less embarassed, for he had soon on his hands an enemy much worse to deal with, namely, the king of France, who seems to have been only watching for a pretext to interfere in the dispute. Having learnt at Montmirail en Perche, where he then was, that the quarrel between the burgesses and bishop of Beauvais was still going on, and that the latter, finding he could do little with his spiritual arms, was endeavouring to overcome his enemies by famine, and had, with that view, prohibited the inhabitants of the neighbouring country to carry any provisions into the rebellious city, under pain of excommunication, Philip le Bel remonstrated loudly against this abuse of power by the bishop, taxed him with trenching on the rights of his paramount sovereign, and even reproached him (a strange reproach in the mouth of a king) with thereby violating the rights of the pope, before whom the matter had been carried by the appeal of the community; and, finally, he commissioned the bailiff of Senlis to cause an end to be forthwith put to this oppression. The importance which he attached to the performance of this command is obvious from the sharpness of his language.

"Philip, by the grace of God, king of the French, to the bailiff of Senlis, health! We write in the following form to our faithful and well beloved the bishop of Beauvais:

"Philip, by the grace of God, king of the French, to our faithful and well beloved the bishop of Beauvais, or his vicars, health and loving kindness! We learn that whilst in regard to the quarrel which has arisen between you and the mayor, peers, and community of Beauvais, and to the excesses committed on the one side and the other, we are causing the truth to be sought out by the inquest of certain commissioners, and whilst the inquest is still going on, you, under pretence of the said excesses, have issued a sentence of interdict

[1] Louvet, t. ii. p. 494.

against the city and community of Beauvais and all the persons who dwell there, and have caused prohibition to be made in the neighbouring towns, under pain of excommunication, against carrying provisions into the said city, which, without doubt, is acting in prejudice of us and our temporal lordship, and also in prejudice of the appeal heretofore interposed by the said mayor and peers against you and your officers to the apostolic see. Wherefore, we order you immediately to revoke this oppression so as to content us; otherwise we cannot tolerate it, but will promptly apply an opportune remedy. Given at Montmirail en Perche, the 15th of September.

"We enjoin thee immediately to present this letter to the said bishop, and to require him on our part to put an end, without delay, to the said oppression. And if he will not do so, guard and defend our right and jurisdiction in all this matter, promptly, and by just remedies, in such sort that no complaint may be made of thy default, and that we may not have to reprimand thee for neglect.—Given at Breteuil, in the year of our Lord 1305."[1]

The king's orders met with little obedience. The bailiff of Senlis repaired indeed to Beauvais, and there intimated to the adverse parties an express prohibition, under pain of fines and other punishments, against doing to each other thenceforward any wrong or injury; but their passions were still too violent to listen to the voice of authority. A new conflict took place as terrible as before, and sullied with as many crimes. The king, then, irritated at this contempt of his commands, caused John de Moliens, the mayor of Beauvais, and the bishop's bailiff, to be both arrested. Philip le Bel himself dared not attack the bishop in person, but he avenged himself on his temporalities, and jurisdiction, which were seized, as were the goods and jurisdiction of the community of Beauvais. The bailiff of Senlis, moreover, received orders to prosecute the affair vigorously. The proceedings which he instituted, joined to the terror caused by the measures already taken, disposed the parties to desire an accommodation, and in order to obtain it, they mutually relaxed their pretensions. A kind of truce was then agreed upon, and on the

[1] Louvet, t. ii. p. 495.

Wednesday after All Saints Day, 1305, the mayor and peers of Beauvais gave procuration and full powers to three persons to proceed to Lyons, where the bishop, and probably the king, were to be met with, in order to treat in their name for a durable peace, and for taking off the interdict and excommunication. The following is the *procès-verbal* of this union, omitting only the details which have been already given in other documents.

"In the name of the Lord, amen! Be it known to all, by whom this public act shall be seen—"

Here follows the enumeration of the complaints of the commune and the bishop respectively.

"At length certain honourable persons having interfered, and persuaded the parties for the love of the public good, and for their own advantage, to proceed in the ways of peace and concord; and the parties themselves having appeared before me, a notary public, and the underwritten witnesses, the said bishop being present in person, and the said mayor, peers, and jurats being represented by John de Caillou, William de Marchal, and Theobald le Mellian, citizens of Beauvais, and procurators duly appointed of the mayor, peers, and jurats, by letters sealed with the seal of the community of Beauvais, which they received on the Wednesday after the feast of All Saints, in the year 1305, the said parties proceeded as follows, in presence of me, a notary public, and of the underwritten witnesses:

"To wit, that the said procurators, and Simon de Montere, a citizen of Beauvais, here present, coming before the said bishop, present in person, after having as well in their own name, as in the name of those whose powers they have received, corporally touched the holy and sacred gospels, and sworn to fulfil the orders of the church, and to pay the fines which may be imposed on them, if it shall be so adjudged, have prayed the benefit of absolution, if they need it in any particular, and to be released from the burthen of the interdict. They then renounced, absolutely and expressly, all appeal made, or procuration given, against the said bishop, in the court of Rome, or in any other ecclesiastical court, on behalf of the said mayor, peers, jurats, and whole community, as well as all citations and proceedings made in this matter, and all benefit which from these appeals, procurations, cita-

tions, and proceedings might accrue to them to the detriment of the said bishop or of his adherents; and they promised on oath to give up to me, the notary, all acts, or rescripts apostolic touching this affair, and also the other acts done or accorded by the superior officers of our lord the king. The said procurators and the said Simon, moreover, promised both in their own name, and in the name of those whose powers they have received, and under the penalty of ten thousand livres of Tours, that the things aforesaid, and all that shall be said and done by the said procurators and the said Simon shall be held valid by the mayor, peers, and jurats of the said community, and shall be ratified by them, or by persons sent for that purpose, in presence of the lord bishop, and they engage themselves under the foresaid penalty that this shall be done.

"Moreover, the noble man, William, lord of Vicenobon, knight, and counsellor of our lord the king, promised the said bishop, at the request of the said procurators and the said Simon, that our lord the king himself should compel, by the royal authority, the mayor, the peers, the community, the procurators and Simon faithfully to perform all the matters aforesaid, and to pay the agreed penalty if it should be incurred.

"The said bishop having acquiesced in the demands and promises aforesaid of the said procurators and Simon, granted to them distinctly in canonical form the benefit of absolution, and entirely and expressly released them from the interdict: he also declared the said mayor, peers, jurats, counsellors, and whole community to be absolved from all sentences of excommunication, or other canonical punishment, which they may have undergone from the power of the ordinary. He said that he caused and would cause to cease all that concerned and regarded him in the sentence of excommunication denounced by the canons, and incurred by them for the facts above-mentioned. The bishop, moreover, promised that if justice required any fine to be laid on the mayor, peers, jurats, counsellors, or community for any one or more of the said facts, he, the bishop, would not proceed to the fixing of such tax except it were by and with the king's counsel. These things were done at St. Just, near Lyons, in the year 1305, and on the 8th day of December.

"Afterwards, John, mayor of Coudun, deputed by the

said community, as the said procurators and Simon affirmed, ratified on oath all the things aforesaid."[1]

The interdict was taken off, and the church appeased by this accord; but the king had as yet pronounced nothing; and the mayor, as well as the bishop's bailiff, remained still in prison: the affair, therefore, was further prosecuted before Philip le Bel, who issued the following decree:—

"In the name of God, Amen! Philip, by the grace of God, king of the French, to all who shall see these presents, health! We make known, that inasmuch as the mayor, peers, jurats, and community of Beauvais gave us to be informed that our dear and faithful bishop of Beauvais, his bailiffs, people, officers, and accomplices had burnt their farms, with a great company of armed men; had arrested and taken all the persons whom they found; had turned the course of the river which runs through the town, and had committed in an hostile manner other enormous excesses set forth in the informations taken on the occasion; we did, in virtue of our office, depute certain auditors with commission and power to call parties before them, and to search out the truth. To which auditors the said bishop, appearing in person, declared that he would not make himself a party, nor proceed before them; but maintained that he had exercised his own right, and done justice to his subjects in acting as he had lawfully acted, asserting, moreover, and saying that he had good reasons to give in his defence, and offering to proceed before us.

"Now inquest having been made with care and diligence on this matter, and as it behoved to be made for civil purposes, as has been declared by judgment, it has been sufficiently proved, that proclamation was publicly made at Beauvais on the part of the mayor, peers, and jurats of the said community that no person was to plead before the bishop or his officers, but that all should plead before the mayor and peers;

"That no person was bound to grind or bake at the mills or bakehouses of the bishop, but might go where he pleased;

"That any person might lay down boards over the river of the said city;

"That the mayor and peers had forced the gates of the city

[1] Louvet, t. ii. p. 498.

against the bishop and his people, and had taken by assault the said bishop's palace, and burnt some of his houses;

"That by means of these rebellions they had excited and raised a sedition against the said bishop, who claims to have jurisdiction over the whole city, in respect to obligations, contracts, and offences, with exception of certain points, liberties, and privileges granted by the kings to the said community, and other rights of the community itself, of which the cognizance and jurisdiction belong to us.

"Which invasion and burning of gates occurred after prohibition made on our part by the bailiff of Senlis, whom we had sent expressly for that purpose.

"By reason whereof the mayor, jurats, and community have been condemned, as to what regards us, to pay us a fine of ten thousand livres, small Parisis; and by the same decree, we have raised the sequestration laid on the mayoralty and community, and have ordered that John de Molliens, mayor at the time of the said rebellions, who has been sufficiently proved to have accepted the office only under constraint of a just fear, shall be enlarged from the prison in which he has been kept. And forasmuch as it has been proved by the said inquest, that after the prohibition made on our part to the bishop by the bailiff of Senlis, sent expressly for that purpose, several excesses were committed against the said community by the officers of the said bishop, it has been ordered by the same decree that the said bishop shall put into our hands the fine agreed upon with us, which he has forthwith delivered, saving in all things his right as to what touches his portion of the same.

"*Item*, considering the proceedings had by the commissioners of our court, it is ordered that the bishop shall be heard, to give his reasons to show that the said inquest ought not to condemn him to any reparation towards the community, and other reasons which he may think fit to allege.

"And in like manner shall the said mayor, peers, and community be heard thereupon. And for the purpose of hearing what the one party may have to say and allege against the other, we have assigned them to be at Paris on the day of the bailiff of Senlis in the approaching parliament; and there right shall be administered to them by our judges according to reason.

"*Item.* By the same decree we have raised the sequestration laid on the temporalities and jurisdiction of the said bishop, seized by us on account of the facts aforesaid. Save, nevertheless, that the bishop and his officers are forbidden to take, on account of the aforesaid inquest, any proceedings against the mayor, peers, jurats, and community, in any manner whatever. We have also enlarged the bailiff and other officers of the bishop detained for this matter in our prisons.

"Lastly, our court has forbidden the said bishop to do, or suffer to be done by his people or officers, on account of these things, any wrong or harm to the mayor, jurats, and community, so long as the suit shall be pending in our court. In faith of which we have caused our seal to be affixed to these presents. Given at Poissy, in our presence, the Thursday after the feast of St. Barnabas the apostle, in the year of our Lord 1306."[1]

The fine of the community to the king is here clearly expressed; that of the bishop is not; but we learn from the following document that it amounted to six thousand livres Parisis. This was not too severe a punishment for the misdeeds of which the bishop had been guilty; but it was a strong measure to treat him in the same manner as the community was treated. Assuredly, he was but little pleased with the decree.

"Philip, by the grace of God, king of the French, to all those who shall see the present letters, greeting. Know all men, that our well beloved and faithful the holy bishop of Beauvais having been accused of making, by himself or his people, many seizures from his burgesses of Beauvais, and causing them much damage in person and goods contrary to the prohibition made on our part to him and his people, as our officers informed us, the said bishop alleged for himself and his people various excuses, in particular that he had committed no disobedience towards us, inasmuch as he contended that he had a right to do all that had been done to the said burgesses by the said bishop's people. In fine, the said bishop having promised, of his own free will, to pay and furnish, at fixed periods, six thousand livres Parisis, good and old, of due weight and alloy, we have thought fit to

[1] Louvet, t. ii. p. 501.

remit fully to the said bishop and to his people all punishment, greater or less, which we might inflict on them in person or goods, and we have ordered to be set at liberty and restored to the said bishop all those of his people, who on account of the aforesaid matter are kept in our prisons, as well as those who have been already released on bail. In faith of which we have caused our seal to be affixed to these letters. Given at Poissy, the 18th of June, in the year of our Lord 1306." [1]

The bishop and burgesses had by this time learnt enough of the rigorous proceedings of the king and his parliament not to wish that they should not occupy themselves more with an affair in which both parties had so many reproaches to make to each other. They preferred, therefore, the mode of arbitration, and chose two arbitrators, with a full resolution to accede to their terms. It is easy to perceive from the earnestness of their promises, how wearied they must have been with their long and arduous contest. These are the terms in which the burgesses announced their resolution and their choice:

"To all who shall see these presents, the mayor, peers, and jurats of the community of Beauvais, and the whole community, health and entire loving kindness. We make known that inasmuch as between the reverend father and lord Messire Simon, by the grace of God bishop of Beauvais, our spiritual and temporal lord, both in his own name and in the name of his bishopric, on the one part, and us both in our own name and in that of the commune on the other part, there had been a suit and dispute, because the said bishop accused us, &c."

Here follow the accusations brought by the bishop against the community; after enumerating them in great detail, the mayor and peers add, "We, on our part, said," and then they set forth their own complaints. Afterwards comes the accommodation, in these terms:—

"Finally, to obtain the blessing of peace, in reference to all and every of the excesses and differences which have arisen on one side and the other, we have by common consent given full power to the discreet and honourable per-

[1] Louvet, t. ii. p. 508.

sons, Maître William, called Bonet, treasurer of Angers, and Messire William de Marcilly, knight and counsellor of the most illustrious prince Philip, king of the French, willing and according that they may, on all and each of the aforesaid matters, proceed, say, establish, pronounce, and give definitive sentence, at any time, and on any day, whether holiday or not, promising under the penalty of ten thousand livres, as a fine payable by the party contravening the said judgments and sentences to the party acquiescing in them, not to contravene, but to obey faithfully and inviolably the sentence and decision of the said commissioners on the facts aforesaid, without any reclamation, prayer, or request against the same, made to any superior, or other person, in order to cause any retractation or change to be made in their dictum, judgment, and ordinances, and without hope of any mitigation being applied to the arbitration by any other person's will.

"For the performance of which things we, the mayor, peers, jurats, counsellors, and citizens of the community, bind ourselves and the whole community, with all our goods, moveable and immovable, present and future. In faith of which, having notified all persons needful, we have caused to be hereto affixed the seal of the community. Given, A.D. 1306, on Thursday, the eve of St. Simon and St. Jude the apostles."[1]

The burgesses being sincere in their desire of an accommodation, and in their promise of submission to the decision of arbitrators, probably wished more ardently even than the bishop that an end should be put to this quarrel. Their industry suffered, their agriculture was menaced every day, the social bonds no doubt became relaxed in these long discords, and the piety of those times dreaded, perhaps, above all things, the return of the interdict, a source of desolation in the bosom of families, whom it reached in all the circumstances of life. It was in the most pacific disposition, therefore, that the community looked for the judgment of the arbitrators; and perhaps they had need of all their desire for an accommodation, to accept it with a good grace. After a recital of the facts which we already know, the arbitrators expressed themselves thus:—

"We, then, accepting for the good of peace the said com-

[1] Louvet, t. ii. p. 509.

mission, having before our eyes the ruins and places destroyed by the said crimes, having taken counsel with honourable men, sought for truth, and considered all that was to be considered, have ordered, pronounced, decided, and judged as follows:—

"That the said mayor, peers, and jurats present before us, and the whole community, with hands joined and knees bent, shall humbly ask pardon of the lord bishop for the things aforesaid, and for these same things shall engage in their own names individually to pay the fine hereinafter mentioned.

"*Item.* That they shall restore and bring back to the place from whence they were taken, the chains and fetters, which at the time of the said rebellion they carried away from the bishop's house, and also shall bring a stag's horn in lieu and stead of the bone of a giant, which was taken away from the place where it hung in the episcopal palace, which restitutions and demonstrations of humility and respect were devoutly performed in our presence.

"*Item.* That the mayor, or some one of the peers or jurats, shall offer a silver image of the Blessed Virgin Mary, of the weight of four marcs, on the day of the Purification, or on that of the Annunciation of that Blessed Virgin, when the procession shall go to the great chapel of the episcopal mansion, from whence the images and sacred utensils were taken at the time of the revolt, and where the said silver image shall remain for ever, to the honour of God, and of the Blessed Virgin Mary.

"*Item.* The bishop shall or may retain in his prison thirty persons of the community, who, nevertheless, shall be delivered when we think fit.

"Moreover, we condemn the mayor, peers, jurats, and community to pay to the said bishop eight thousand livres Parisis, for all fine and penalty on account of all and every offence committed. The payments shall be made at the following terms, to wit, one thousand livres at Easter, and two thousand before the All Saints day following. *Item*, two thousand before Easter, in the year of our Lord, 1308 (and so on.) We moreover ordain and pronounce, that if at any term of payment they shall be in default, the fine shall not on that account be raised to ten thousand livres; nor if the default exceed eight days shall it yet be raised to ten thousand

livres; but for every day's delay beyond the eight days, they shall pay as a fine to the said bishop fifty *sous* in addition to the principal. And the bishop, inasmuch as he is a temporal lord, may constrain them to this, all that we have said remaining, nevertheless, firm and inviolable, so that no reclamation can be brought against him on that account by any adversary in any court whatsoever. And both parties shall put their seals, together with ours, to the present letters in testimony of the truth.

"In consideration of these fines and satisfactions, we ordain and pronounce, that the said bishop shall not disturb, molest, or vex, directly or indirectly, in any point whatever, on account of the said excesses, the mayor, peers, jurats, counsellors, or community, nor require any person to vex them, nor ask any one so to do, nor cause it to be done, nor try to get it done, but on the contrary shall maintain them safe and secure against all who have been of his party. And in like manner the mayor, peers, jurats, counsellors, and community aforesaid, and every one of them, shall institute no action, nor bring any complaint henceforward, nor demand henceforward that any be brought for the aforesaid facts, and the murder of several of their party, against the said bishop and his people, or any accomplices in this fact, especially against John, lord of Rainceval, or John of Sonions, knight; but they shall hold him and them acquitted of all complaint made or to be made against them or any one of their fellows for this or any other fact: and if in this decision anything should appear obscure or equivocal, we reserve to ourselves its explanation.

"Furthermore, the bishop, if he shall be required so to do by the mayor, peers, jurats, and community, shall cause it to be inquired and known whether the miller at his mills to which people are obliged to resort for the grinding of their corn, exact as right of grinding more than is accustomed, and if it be found so, shall cause the excess to be abated, as is fitting to be done, and so that the matter may be brought to the regular state.

"All and each of these things, then, being, as is above set forth, pronounced, ruled, decided, and adjudged by us, the said bishop in his own name, and in that of the church, of his successors, and of his people and their associates, and the said

mayor, peers, jurats, and community in their own name and that of the whole community, have given thereto their assent and ratification. In faith of which we have caused to be affixed to the present letters, our seals, together with those of the bishop and of the community. Given at Beauvais, the Friday before the feast of All Saints, in the year of our Lord, 1306."[1]

Thus terminated this great affair; and it is clear that the desire of peace must have been strongly felt at Beauvais, to cause such a judgment, resting on the sole authority of two arbitrators, to be received therein as a sovereign law and almost as a benefit. In fact, the community was treated very severely: all the wrongs it had done were brought into account against it, and all those which it had suffered were disregarded; obliged to recognise the authority it had wished to shake off, constrained to pay one fine to the king for their disobedience, and another to the bishop for his damages, and receiving no compensation for all the ravages of their property by the bishop's followers, they must have long felt the consequences of such a crisis. And indeed, the remembrance of it was so acute, that they made no more attempts to do justice to themselves, and exposed themselves no more to the disasters of a civil war, and above all to the wrath of the king, who had now become too strong an opponent for a community or even for a bishop. Nor had the prelate of Beauvais much reason to congratulate himself on the result of this quarrel. He had received, it is true, eight thousand livres Parisis, and the people, in their ill will, persuaded themselves that he employed this money in building the towers of his episcopal palace and decorating it with his arms and his image. But he had been condemned to pay six thousand livres Parisis to the king as a punishment for his disobedience; he was obliged by the judgment of the arbitrators to give six hundred to the canons of Beauvais, in compensation of the injury done to their houses at the time of the fire perpetrated by his people in the city of Beauvais; in fine, his own house had been entirely laid waste. Assuredly, he could have little left of the eight thousand livres of the community. The king's treasury alone was a gainer by this business: it had suffered no loss, and it

[1] Louvet, t. ii. p. 516.

had gained ten thousand livres from the community, and six thousand from the bishop. The ascendancy of the royal power over all the petty local authorities became so conspicuous, that from that time no idea of its escaping its influence was ever entertained at Beauvais. It was from the king that they submissively sought the redress of all grievances, and the decision of all differences: they never more attempted to enforce it otherwise than by the humility of their language; and if mention was still made of their ancient rights and old privileges, it was only from a sort of respect for past times, and rather to ornament their obedience than to dispute it.

This new disposition of men's minds was not long before it found a public manifestation. In the spring of 1308, not quite two years after the judgment which we have just cited, the burgesses and the bishop finding themselves in contest on several points of their old dispute, there was no longer any talk of ringing the communal bell, or of putting the city under interdict, much less of fighting in the streets; but the affair was regularly and peaceably carried before the parliament of Paris, whose decree explains it very fully:

"Philip, by the grace of God, king of the French, to all who shall see these letters, greeting: We make known that a difference having arisen in our courts between the bishop of Beauvais, on the one part, and the mayor and peers of Beauvais, on the other part, the said mayor and peers, in the name of their community of the said city, alleged and maintained that they were in use and possession of the right of appointing wardens or superintendents for the wool, yarn, dyeing, and all matters connected with the making of cloth, in the whole town of Beauvais; as also of punishing, reforming, and causing to be observed by their jurisdiction all that they thought necessary to be reformed in the matters and things before mentioned. They further alleged that they were in use and possession of the right of holding their citizens, and all those of the said community, on whom according to custom they had inflicted any fine for offences committed in the said fabrication, quit and exempt from all other penalty to be imposed and levied by the said bishop, by reason of the same offences. They also alleged that they were in possession of the right of levying and taking the

monies customarily levied at Beauvais for making the roads, and of employing the same at their will in repairing the roads of the said city, without the bishop's having any power to interfere in the levy of the said monies, or to change in any manner their employment. And complaining that the said bishop impeded and troubled them, in numberless ways in the said matters, they prayed us to cause the said troubles to cease, and to compel the said bishop to abstain from the same. The said bishop on his part, and with reference to the things aforementioned, claimed jurisdiction for his court, and constantly maintained that he was in possession of all the rights above mentioned, and which he had always used, demanding that for this reason his court should be returned to him, and that the said mayor and peers should be examined by him as under his jurisdiction. The said mayor and peers maintained that the cognizance of the said affair ought to rest with our court. Whereupon the said parties being diligently heard, it was ordered, by decree of our court, that at the end of the present session inquiry shall be made as to the possession, the usages, and all the facts above alleged by either party. The inquiry being made into all things, the reasons of the two parties heard, and privileges and charters produced upon the subject on the part of the said borough examined, it was pronounced by judgment of our court, that the jurisdiction over all the said things ought to be given up to the said bishop. In faith of which we have caused our seal to be affixed to the present letters. Given at Paris, in our parliament, the Thursday before Palm-Sunday, the year of the Lord 1308."[1]

On this occasion, we see the parliament gave judgment in favour of the bishop; still the borough was not deterred from addressing itself to that court, and there seeking justice against the obstinate pretensions of its lord. Jean de Marigny, brother of the unhappy superintendent Enguerrand, recently promoted to the episcopal see, having in 1313, following the example of his predecessors, resumed all the disputes between him and the burghers, the latter did not attempt to decide the quarrel by force, but, despite the bishop, carried it before the parliament of Paris. I know

[1] Loysel, p. 311.

not whether it was by the influence of the superintendent, or whether the parliament was sincere in its jurisprudence, but the borough once again lost its cause.

"Philip, by the grace of God, king of the French, to all those who shall see these present letters: we make known that the mayor and the peers of the town of Beauvais have maintained in our court that the corporation, of the said town, and the right of justice over the said corporation, belonged to us, and that our well beloved and faithful bishop of Beauvais has seized certain goods of the said borough, to the detriment of the said borough and that of our right, for which reason they have demanded that the said goods should be regained and confided by us, as being suzerain, to the said mayor and peers. The said bishop, on the other hand, calling himself peer of France, and count and seigneur of Beauvais, has maintained that the right of justice over the said borough belonged to him, and that he had justly caused the said goods to be seized in virtue of a judgment of his court, seeing that the said mayor and peers, summoned by the said bishop for the defence of his fief and of the right of the church of Beauvais, had not complied with his mandate.

"*Item.* The said bishop complains that the said mayor and peers had compelled a certain man of the said borough of Beauvais to undergo a chastisement, although this right, as he himself said, belongs to the said bishop and not to the said mayor and peers; which thing, therefore, the aforesaid had done in prejudice of the bishop of the church of Beauvais, although they were bound to him by an oath of fidelity. The said mayor and peers being thereupon duly called before the court of the said bishop, had been declared contumacious by the repeated judgment of the said court, and held convicted according to the custom of the country, so that they owed reparation to the said bishop for all the things wherein the said bishop made complaint and demand that his goods should be given back to him, and the jurisdiction of the city restored to him. The said mayor and peers, and our attorney, have maintained, on the contrary, that for several reasons it should not be so, and that the jurisdiction in the aforesaid matters should remain unto us. The inquiry thereupon made by order of our court, having been carefully examined, and certain decrees of our court, and the documents produced by

the parties having been considered, the judgment of our court is, that the said goods should be restored to the bishop, and that the cognizance of these two cases should be given to him, saving, however, the reasons and protests put in by the said mayor, peers, and borough of Beauvais, as to the principal fact, and saving also our right in all things. In testimony whereof we have affixed our seal to these presents. Done at Paris, in parliament, the Wednesday before the Ascension, the year of our Lord, 1313."[1]

Defeated in this matter, the borough had its revenge in 1330, in a case before the bailiff of Senlis, in which the bishop was not concerned, but in his place one of the king's commissioners, who, though a native of Beauvais, claimed, in virtue of his office, to be exempt from the poll-tax. The bailiff of Senlis did not concur with him, and condemned him to fulfil all the obligations of a member of the borough, or to leave it in the regular way. This judgment was given in old French:

"To all who shall hear or see these presents, Jean de Sempi, now bailiff of Senlis, wishes health. Let all know that there has been brought before us a dispute between the mayor, peers, and jurats of the borough of Beauvais on the one part, and Henry de Saint Messien, sergeant of the king for the provostry of Senlis, on the other part; the said mayor, peers, and jurats say, and maintain, that the said Henry had been and was their burgess, and liable to pay them taxes, and that from time to time there had been assessed upon him various town taxes, amounting in the whole to sixteen livres, or thereabout, whereupon they required that the said Henry should be condemned and constrained by us to pay to the corporation the said sixteen livres, Parisis, of taxes in arrear, with interest thereon, and the costs of the said application to us. On the other hand, the said Henry affirmed and contended that he was sergeant to the king, and thereby free and exempt from all borough rates and taxes; and that he and his predecessors had been long enough in office to create the custom and to free and exempt from all such taxes; adding other reasons why the said mayor, peers, and jurats should not oblige him to pay the said taxes, and why he should be re-

[1] Loysel, p. 312.

lieved from their pursuit. And hereupon both parties appeared before us, and were sworn in the case, and put in their evidence; and commissioners were next appointed by us, who made full inquiry into the said matters, and reported thereupon to us; and upon the conclusion of these inquiries, both parties earnestly called upon us to pronounce judgment. We having carefully considered the said proceedings and the said inquiry, and taken counsel of learned persons thereupon, say and pronounce that the said mayor, peers, and jurats have better proved their case than has the said Henry; and that the said Henry is, has been, and ought to be, their burgess, taxable by them, notwithstanding his sergeantry, and may not exempt himself from the payment of any dues, more than other citizens, and must therefore pay the said taxes, and all arrears thereupon. In confirmation of which judgment, we have sealed these present letters with our own seal, saving in this, and in all other things, the king's right. Given at our court of Senlis, the Saturday after Low Sunday, in the year 1330. Present, Maître Guillaume de Balegny, advocate in the parliament; Maître Jacques du Change, canon of Senlis; Sire Henri du Change, lieutenant of our said bailiff; Maître Gautier de Moy; Guillaume de Hillers; Gerat de Part, our clerk; Jean Loquet, clerk of the provost of Senlis; Simon de la Ferté, royal advocate; Jehan de Han, and several others, besides the aforesaid parties."[1]

The burghers, it seems, were in a good vein of law-suits: in 1331, the canons of Beauvais carried one against them before the parliament of Paris, to complain of the mayor and the peers, who had imposed some punishment upon delinquents claimed by the chapter as under their jurisdiction, but the parliament did not find the mayor and peers guilty, and taking as good their reason "that the exercise of right could not be unjust," acquitted them of the plaint of the canons. This must have been a great triumph for the borough.

"Philip, by the grace of God, king of the French, to all who shall see these presents, health. We make known that the attorney and the dean of the chapter of Beauvais, complaining in our court, have entered an action against the

[1] Loysel, p. 343.

mayor, the peers, and the corporation of the city of Beauvais, for that the said mayor and peers, abusing their privilege, have, contrary to the articles of their charter, imposed certain punishments, vulgarly called *hachies*, upon some of the vassals under the jurisdiction of the said dean and chapter; and this, as the attorney says, without reasonable cause, but to the wrong, injury, and contempt of the said dean and chapter, and which they had no right to do. The charter of the borough being seen, the said dean and chapter requested that our court would pronounce that the mayor and peers have abused their privileges, and for that cause ought to lose their borough, and be deprived of the said privileges; and that if the court would not take the said borough from them, that it would enjoin them no more to impose such punishment upon the vassals, and those under the jurisdiction of the said dean and chapter; and the said dean and chapter propose many means of, and reasons for arriving at that end. The mayor and the peers pretend, on the contrary, that the cause cannot be tried or decided according to the conclusions and ends to which the said attorney inclines; and that we could not decide against them upon that foundation; for the said borough is subject to us, and was founded by us and our predecessors: the said dean and chapter are only its neighbours, and cannot decide against the mayor and the peers, that they have abused their privileges, and ought to be deprived of their borough; and our attorney alone can, in the said case, decide thus against them. They added that, neither with regard to the fine, could the said attorney decide against them because of the fines imposed upon the vassals by the said dean and chapter, for they were not their body men, and the exercise of right could not pass for an injustice. They gave many other reasons in support of their opinion.

"The parties being heard, as well as the reasons stated on either side, and attention given to the conclusions of the said dean and chapter, our court rendered judgment to the effect that they did not admit the conclusions at which the attorney had arrived. In testimony of which we had our seals affixed to the present letters. Given at Paris, in our parliament, the last day of February, in the year of the Lord 1331."[1]

[1] Loysel, p. 315.

These burghers, who possessed so many privileges, who claimed and obtained by decree of justice rights, the exercise of which appear to us in the present day so inherent in the exercise of sovereignty, had not even actual possession of their town hall and their markets; they were obliged to hold them at a quit-rent of the bishop, and the latter might interdict their use in case of delay of payment. The following judgment is curious because of this contrast:—

"Appeared at Beauvais, before us, Guilbert Doublet, bailiff of Beauvais, in the last Tuesday but one in November, 1379, the attorney of Mons. de Beauvais, on the one hand, and the mayor and peers of the town of Beauvais appearing by Nicaise the bailiff, their attorney by procuration, sealed with the great seal of the county of Beauvais; at which cause were present the said Nicaise the bailiff, Jean de la Croix, Raoul, Jean Jacques de Senlis, Clement de Camberonne, Jean Derveil, and Cretofle du Puis, all and each of them. The said Nicaise having put in his procuration, the affair proceeded. The mayor and the peers of the said corporation complained that possession had been taken at the desire of Monseigneur de Beauvais, by Thomas Goumon, one of our sergeants, of the house called La Maison de la Voulte, and of the hall in which the said mayor and peers assemble to hold their meetings and to have their feasts, which house and hall are held at a ground rent of the said lord bishop, the Maison de la Voulte at a ground rent of six deniers Beauvaisins per annum, payable in equal parts, at the festival of St. Remy, and at Christmas, and the hall and appurtenances at a rent of fourteen deniers Beauvaisins per annum, payable at the same days, which said rents ought to have been paid at the said terms, with the arrears thereupon, from last St. Remy.

"The said taking possession was signified to the mayor and peers Monday last past, by the sergeant at the hour of ringing prime at the church of St. Pierre de Beauvais, as the said sergeant states. The said attorney for the corporation admits to us, that the places named are held of the said lord bishop at the rent stated, and he agrees that the said rent ought to be and shall be paid by Guillaume le Grand-Villiers and Thibault, treasurers of the said borough, namely, twenty deniers Beauvaisins for the current rent, and seven

sols six deniers for the arrear due last St. Remy. And whereas the said attorney for the said lord bishop says that there ought to be a further sum paid in respect of the said arrears, the said corporation and its attorney say that if the said bishop can show his right to more than these seven sols six deniers Parisis, it shall be paid at some future day, without prejudice; and thereupon the said mayor and peers require of us that the said lord bishop shall no longer hold possession of the said house and hall. Whereunto we answered, that as since there had been possession in the name of the said lord bishop, the said mayor and peers had had several meetings in the said places; whereat, and for other cause, the attorney of the said bishop had, in the name of his lord, made several complaints against the said mayor and peers and their officers, before the sergeant of the king our lord, who, after having read the agreements and statements of the two parties, remitted the matter to the lord king in his parliament. And we answered that, touching the said complaints and matters connected with them, we should not in any way interfere. But we said that, with the consent of the said bishop's attorney, and to us not to prejudice the case before the parliament, we were ready, as far as we were concerned, to raise the said possession. In witness whereof we have put our seal to these presents."[1]

As is clearly seen, all was then terminated by the voice of justice; no more recourse to force, no longer those energetic and brutal prosecutions which characterise the communal life of the middle ages. The citizens, as well as the authorities of Beauvais, have entered into the regular and progressive order of the French monarchy. Their town still possesses great privileges; the bishop is still count of Beauvais, and a peer of France; but the republican spirit has disappeared, as well as the feudal spirit and the ecclesiastical arrogance; prelates and burghers feel themselves subjects of the same master, and only ask of the king of France good government for the present, respect for the past. We shall therefore no longer encounter in the history of Beauvais those passionate and outrageous scenes, when the greatest social interests, the first public powers, are at war in the streets of a small town,

[1] Loysel, p. 315.

obscure in the history of the country. The old subject of disagreement still subsists; for, in 1617, the question of the right of justice is still pending in the parliament of Paris; but these affairs are pursued with little noise, according to the monotonous forms of justice, and their discussion has so little effect, that the historians of Beauvais neglect even to make us acquainted with its vicissitudes.

The borough, however, did not cease to exist; and it was not that institution which lost most by the extension of the royal power. Not only did it by that institution gain the repose, the internal order so necessary to industry, to its commerce, but it had to do, in the person of the king, with a suzerain less jealous of the petty burgher liberties than a bishop who was more nearly concerned, more trammelled by those liberties, and whose predecessors had spent their lives in combating them. The town even saw its privileges extended, in recompence for its good conduct in the wars against the English. Two annual fairs had been granted it in 1360, with all franchise and liberties for the persons and goods of those who repaired thither. The inhabitants of Beauvais, who, in 1350, had been placed under the particular safeguard of the king, were, in 1472, exempted from all taxation, and in the same year received the valuable right of being able to possess the fiefs of the nobility, without being obliged, for that reason, to pay indemnity, or even to go or to send to war—the keeping and defence of Beauvais being held as sufficient military service. Louis XI. further granted them, as nobles, exemption from various impositions. Charles IX., in 1572, confirmed all the liberties of the borough. Lastly, Henry IV., in recompence for the fidelity of the people of Beauvais towards the crown of France, engaged himself, by letters patent of 1594, to give them no governor, to hold no fortress or citadel in their town, and never to place any garrison there.

These great and lucrative favours might very well console the burghers of Beauvais for having their right of peculiar justice eclipsed by the jurisdiction of the parliament of Paris, the power of their mayor to levy taxes restrained by the assessors charged with that function in the name of the king, and finally the keeping of the town shared by a captain nominated by the king. But the bishop, whose seigneurial rights

had suffered more than those of the borough, whose temporal jurisdiction the parliament daily contracted; who saw the establishment at Beauvais, in opposition to his ancient privileges, of a hall for royal coinage; who daily found himself interrupted in the exercise of his power by that swarm of judicial and financial officers with whom royal policy had covered France; the bishop, I say, had not received the same recompence for so many losses as the borough had; he lost at least as much as it, and gained nothing. What privileges could have added to the rights of a bishop of the middle ages? what exemptions could have compensated for the declining power of a high baron?

One consolation offered itself to the bishops of Beauvais: their ancient and perpetual enemies had suffered like themselves; for a long period there had been no mention of castellans; between the aggrandisement of the borough and the strengthening of the royal power, those seigneurs once so formidable had been completely crushed; their very pretensions had vanished; there scarcely remained a shadow of their influence and functions. But it was not thus with the chapter of Beauvais: every day more independent of the bishop, it had even attempted to dominate over him; and in this struggle, the advantage did not always rest with the episcopal authority; the right of excommunication, given by Ansel to the chapter, was a terrible weapon which canons could use against all, and especially against their bishops. In 1109, bishop Godfrey disputed possession of an estate with them; the chapter put an interdict upon him. In 1145, Henri de Blargies, provost of the bishop Robert, having resorted to acts of violence against the canons, the chapter put an interdict upon him, and the bishop was obliged to give way: his provost was delivered to the chapter, dragged ignominiously out of Beauvais in a cart of dung, and sent to the Holy Land. The same thing happened in 1266, and the bishop was obliged to implore the indulgence of the canons, supplicating them to raise the interdict, and to pardon his officers. The same in 1272, and again in 1281. Accordingly, in 1355, the threat of interdict sufficed for the chapter; the bishop gave way before it was put in execution. We have seen, in the great quarrel of 1232, to what humilities of language a bishop was constrained to descend if he wished to obtain the co-operation of his haughty associates

against his enemies. There was no longer any means of retaining them under that jurisdiction for which the suzerain lords of Beauvais so long disputed. Fortified within its fierce independence, the chapter defied the count and the bishop. No one could judge one of its members except itself: it had its interdicts; at need, it had the arms of its vassals against the least encroachment upon its rights.

One may easily imagine then with what secret joy the bishops of Beauvais saw these inconvenient neighbours yield to the royal authority, and how favourably they regarded those decrees of parliament which accomplished what neither canons nor ecclesiastical mandates had effected. In default of their own, they rejoiced to behold the hand of royalty fall heavily upon the delinquent canons; and it must have been a day of great consolation to them when they saw the canons condemned, in 1614, by a decree of the provost and parliament of Paris, to proclaim in their church an interdict issued by the bishop.

As to the putting it on themselves, the canons had long tacitly renounced this; the imperious progress of order and regularity allowed not of such exceptions, such extravagances; they renounced it without avowing it, but still they renounced it. The bishop and the chapter from that time therefore re-entered the ordinary paths of ecclesiastical power, and they no longer concern us.

The borough, less a stranger than the chapter to royal authority, and the administrative progress, also preserved its individuality more obstinately, and we almost every year find some traces of its existence and privileges. It would be wearisome to expatiate upon all these circumstances; but we may be permitted to cite some few, wherein will be seen the continuance of the communal life and of the municipal spirit in Beauvais.

In 1472, the monks of Saint Lazare, appointed to the administration of the hospital of Beauvais, were suppressed; a great dispute arose as to who should receive the administration. The great almoner, the bishop of Beauvais, and the chapter, disputed for it; the mayor and the peers claimed it as representatives of the borough; a hundred years, and I know not how many decrees of parliament, were required to terminate this affair, which ended, like almost all affairs of the kind, in a composition.

In 1488, the episcopal see of Beauvais became vacant, and the choice of a successor was the source of a thousand intrigues. The party whose interest it was to delay the election, employed bribes, promises, even threats, to deter the chapter from proceeding in it; but the bourgeoisie was impatient of the delay, as well as of its causes, and the mayor and peers resolved to remedy it; they posted sentinels at the gates and roads of the town, interdicted even the entry to Beauvais of all chance comers, assuring the chapter against all fear; and the election took place.

In 1568, the mayor and peers claimed before the king's officers, as against the bishop and chapter of Beauvais, the execution of the ordinance of Orleans, enacting that a prebend in each chapter should be appropriated to the maintenance of a master charged with gratuitously instructing the poor and the children of the town; they succeeded in their application.

In 1583, a commissioner of aids, coming to Beauvais to collect a newly imposed subsidy, refused to lay down at the gate the arms of the town which he bore; the people, shocked at the violation of its privileges, angrily collected: in the confusion occasioned by the crowd, some persons were knocked down: the spectators cried out that the gate-keepers were being killed. The rumour of this went through the town, and 2000 persons in arms almost immediately collected at the Porte de Paris, and the commissioner would have been massacred with all his people, but for the prudence, the courage, the coolness of some citizens, who interposed, and rescued him from his perilous position.

In 1617, the chapter, in the name of the bishop, whose powers it was exercising during the vacancy of the see, sanctioned the establishment at Beauvais of the Minim friars; the consent of the mayor and peers was in like manner applied for, whereupon these convoked a general assembly at the town hall, that the people might give its assent.

We have the same fact, in 1626, with reference to a convent of Ursulines; the only difference was, that on this occasion the consent of the mayor and peers of Beauvais had been preceded by letters patent of Louis XIII., which, however, did not render that consent superfluous.

I might produce many more such facts, but those I have

given suffice. I have followed, step by step, the history of a French borough from the eleventh to the seventeenth century. Upon this so limited theatre, you have seen the various phases of the burgher spirit; energetic, brutal in its origin; obstinate in the defence of its privileges; prompt to accept, and skilful in supporting distant and superior powers, in its desire to escape the oppression of neighbouring and subaltern powers; changing its language, and even its pretensions with the progress of the changes in society and in government; but always persevering, intelligent, and with a thorough perception how to turn the general progress of civilization to its own profit. Thus was formed the third estate. Dating from the twelfth century, it is no longer in the charters or in the internal incidents of towns that we must seek the history of its destinies; these march onward in a sphere far more vast and more lofty; they have become the destinies of France.

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THE END.

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