

own territory was called immunity, in the style of the formularies, of the charters, and of the Capitularies.^q

The law of the Ripuarians ^r forbids the freedom of the churches ^s to hold the assembly for administering justice in any other place than in the church where they were manumitted.^t The churches had, therefore, jurisdictions even over freemen, and held their *placita* in the earliest times of the monarchy.

I find in the "Lives of the Saints," ^u that Clovis gave to a certain holy person power over a district of six leagues, and exempted it from all manner of jurisdiction. This, I believe, is a falsity, but it is a falsity for a very ancient date; both the truth and the fiction contained in that life are in relation to the customs and laws of those times, and it is these customs and laws we are investigating.^v

Clotharius II orders the bishops or the nobility who are possessed of estates in distant parts, to choose upon the very spot those who are to administer justice, or to receive the judiciary emoluments.^w

The same prince regulates the judiciary power between the ecclesiastic courts and his officers.^x The Capitulary of Charlemagne in the year 802 prescribes to the bishops and abbots the qualifications necessary for their officers of justice. Another Capitulary of the same prince inhibits the royal officers ^y to exercise any jurisdiction over those who are employed in cultivating church lands, except they entered into that state by fraud, and to exempt themselves from contributing to the public charges.^z The bishops assembled at Rheims made a declaration that the vassals belonging to the respective churches are within their immunity.^a The Capitulary of Charlemagne in the year 806 ordains that the churches should have both crim-

^q See the 3d and 4th formularies of Marculfus, book I.

^r "Ne aliubi nisi ad ecclesiam, ubi relaxati sunt, mallum teneant," tit. lviii. sec. 1; see also sec. 19; Lindembrock's edition.

^s "Tabulariis."

^t "Mallum."

^u "Vita St. Germeri, Episcopi Tolosani apud Bollandianos 16 Maii."

^v See also the life of St. Melanius, and that of St. Deicola.

^w In the Council of Paris, in the year 615. "Episcopi vel potentes, qui in aliis possident regionibus, iudices vel missos discussores de aliis provinciis

non instituant, nisi de loco qui justitiam percipiant et aliis reddant," art. 19. See also the 12th art.

^x Ibid. art. 5.

^y In the law of the Lombards, book II. tit. 44, chap. ii., Lindembrock's edition.

^z "Servi Aldiones, libellarii antiqui, vel alii noviter facti."—Ibid.

^a Letter in the year 858, art. 7, in the Capitularies, p. 108. "Sicut illæ res et facultates, in quibus vivunt clerici, ita et illæ sub consecratione immunitatis, sunt de quibus debent militare vassalli."

inal and civil jurisdiction over those who live upon their lands.^b In fine, as the Capitulary of Charles the Bald ^c distinguishes between the king's jurisdiction, that of the lords, and that of the church, I shall say nothing further upon this subject.^d

22.—That the Jurisdictions were established before the End of the Second Race

It has been pretended that the vassals usurped the jurisdiction in their seignories, during the confusion of the second race. Those who choose rather to form a general proposition than to examine it found it easier to say that the vassals did not possess than to discover how they came to possess. But the jurisdictions do not owe their origin to usurpations; they are derived from the primitive establishment, and not from its corruption.

"He who kills a freeman," says the law of the Bavarians, "shall pay a composition to his relatives if he has any; if not, he shall pay it to the duke, or to the person under whose protection he had put himself in his lifetime."^e It is well known what it was to put one's self under the protection of another for a benefice.

"He who had been robbed of his bondman," says the law of the Alemans, "shall have recourse to the prince to whom the robber is subject; to the end that he may obtain a composition."^f

"If a *centenarius*," says the decree of Childebert, "finds a robber in another hundred than his own, or in the limits of our faithful vassals, and does not drive him out, he shall be answerable for the robber, or purge himself by oath."^g There was, therefore, a difference between the district of the *centenarii* and that of the vassals.

^b It is added to the law of the Bavarians, art. 8. See also the 3d art. Lindembrock's edition, p. 444. "Imprimis omnium jubendum est ut habeant ecclesie earum justitias, et in vita illorum qui habitant in ipsis ecclesiis et post, tam in pecuniis quam et in substantiis eorum."

^c In the year 857, "in synodo apud Carisiacum," art. 4, edition of Baluzius, p. 96.

^d See the letter written by the bishops assembled at Rheims, in the year 858, art. 7, in the Capitularies, Baluzius's edition, p. 108. "Sicut illæ res et facultates, in quibus vivunt clerici, ita

et illæ sub consecratione immunitatis sunt de quibus debent militare vassalli," etc.

^e Tit. iii. chap. xii., Lindembrock's edition.

^f Tit. 85.

^g In the year 595, arts. 11 and 12, edition of the Capitularies by Baluzius, p. 19. "Pari conditione convenit ut si una centena in alia centena vestigium secuta fuerit et invenerit, vel in quibuscunque fidelium nostrorum terminis vestigium miserit, et ipsum in aliam centenam minime expellere potuerit, aut convictus reddat latronem," etc.

This decree of Childebert ^h explains the constitution of Clotharius of the same year, which being given for the same occasion and on the same matter differs only in the terms; the constitution calling *in trustee* what by the decree is styled *in terminis fidelium nostrorum*. Messieurs Bignon and Ducange, who pretend that *in trustee* signified another king's desmesne, are mistaken in their conjecture. ⁱ

Pepin, King of Italy, in a constitution that had been made as well for the Franks as for the Lombards, ^j after imposing penalties on the counts and other royal officers for prevarications or delays in the administration of justice, ordains that if it happens that a Frank or a Lombard, possessed of a fief, is unwilling to administer justice, the judge to whose district he belongs shall suspend the exercise of his fief, and in the meantime, either the judge or his commissary shall administer justice. ^k

It appears by a Capitulary of Charlemagne, ^l that the kings did not levy the *freda* in all places. Another Capitulary of the same prince shows the feudal laws ^m and feudal court to have been already established. Another of Louis the Debonnaire, ordains, that when a person possessed of a fief does not administer justice, ⁿ or hinders it from being administered, the king's commissaries shall live in his house at discretion, till justice be administered. I shall likewise quote two Capitularies of Charles the Bald, one of the year 861; ^o where we find the particular jurisdictions established, with judges and subordinate officers: and the other of the year 864, ^p where he makes a dis-

^h "Si vestigius comprobatur latronis tamen presentia nihil longe mulctando; aut si persequens latronem suum comprehenderit, integram sibi compositionem accipiat. Quod si in trustee invenitur, medietatem compositionis trustis acquirat, et capitale exigat a latrone," arts. 2 and 3.

ⁱ See the Glossary on the word "trustis."

^j Inserted in the law of the Lombards, book II. tit. lii. sec. 14. It is the Capitulary of the year 793, in Baluzius, p. 544, art. 10.

^k "Et si forsitan Francus aut Longobardus habens beneficium justitiam facere noluerit, ille iudex in cujus ministerio fuerit, contradicat illi beneficium suum, interim, dum ipse aut missus ejus justitiam faciat." See also the same law of the Lombards, book II. tit. 52, sec. 2, which relates to the Capitulary of Charlemagne of the year 779, art. 21.

^l The third of the year 812, art. 10.

^m The second of the year 813, Baluzius's edition.

ⁿ Capitulare quintum anni 819, art. 23, Baluzius's edition, p. 617. "Ut ubicumque missi, aut episcopum, aut abbatem, aut alium quemlibet honore præditum invenerint, qui justitiam facere noluit vel prohibuit, de ipsius rebus vivant quandiu in eo loco justitias facere debent."

^o Edictum in Carisiaco in Baluzius, tom. ii. p. 152, "unusquisque advocatus pro omnibus de sua advocacione . . . in conveniente ut cum ministerialibus de sua advocacione quos invenerit contra hunc bannum nostrum fecisse . . . castiget."

^p Edictum Pistense, art. 18, Baluzius's edition, tom. ii. p. 181. "Si in fiscum nostrum vel in quamcunque immunitatem aut alicujus potentis potestatem vel proprietatem confugerit," etc.

inction between his own seigniories and those of private persons.

We have not the original grants of the fiefs, because they were established by the partition which is known to have been made among the conquerors. It cannot, therefore, be proved by original contracts, that the jurisdictions were at first annexed to the fiefs: but if in the formularies of the confirmations, or of the translations of those fiefs in perpetuity, we find, as already has been observed, that the jurisdiction was there established; this judiciary right must certainly have been inherent in the fief and one of its chief privileges.

We have a far greater number of records that establish the patrimonial jurisdiction of the clergy in their districts, than there are to prove that of the benefices or fiefs of the feudal lords; for which two reasons may be assigned. The first, that most of the records now extant were preserved or collected by the monks, for the use of their monasteries. The second, that the patrimony of the several churches having been formed by particular grants, and by a kind of derogation from the order established, they were obliged to have charters granted to them; whereas the concessions made to the feudal lords being consequences of the political order, they had no occasion to demand, and much less to preserve, a particular charter. Nay the kings were oftentimes satisfied with making a simple delivery with the sceptre, as appears from the "Life of St. Maur."

But the third formulary of Marculfus sufficiently proves that the privileges of immunity, and consequently that of jurisdiction, were common to the clergy and the laity, since it is made for both. ^q The same may be said of the constitution of Clotharius II. ^r

23.—General Idea of the Abbé du Bos's Book on the Establishment of the French Monarchy in Gaul

Before I finish this book, it will not be improper to write a few strictures on the Abbé du Bos's performance, because my notions are perpetually contrary to his; and if he has hit on the truth I must have missed it.

^q Lib. 1. "Maximum regni nostri augere credimus monumentum, si beneficia opportuna locis ecclesiarum aut cui volueris dicere, benevola deliberatione concedimus."

^r I have already quoted it in the preceding chapter, "Episcopi vel potententes."

This performance has imposed upon a great many because it is penned with art; because the point in question is constantly supposed; because the more it is deficient in proofs the more it abounds in probabilities; and, in fine, because an infinite number of conjectures are laid down as principles, and thence other conjectures are inferred as consequences. The reader forgets he has been doubting in order to begin to believe. And as a prodigious fund of erudition is interspersed, not in the system but around it, the mind is taken up with the appendages, and neglects the principal. Besides, such a vast multitude of researches hardly permit one to imagine that nothing has been found; the length of the way makes us think that we have arrived at our journey's end.

But when we examine the matter thoroughly we find an immense colossus with earthen feet; and it is the earthen feet that render the colossus immense. If the Abbé du Bos's system had been well grounded, he would not have been obliged to write three tedious volumes to prove it; he would have found everything within his subject, and without wandering on every side in quest of what was extremely foreign to it; even reason itself would have undertaken to range this in the same chain with the other truths. Our history and laws would have told him, Do not take so much trouble, we shall be your vouchers.

24.—*The same Subject continued. Reflection on the main Part of the System*

The Abbé du Bos endeavors by all means to explode the opinion that the Franks made the conquest of Gaul. According to his system our kings were invited by the people, and only substituted themselves in the place and succeeded to the rights of the Roman emperors.

This pretension cannot be applied to the time when Clovis, upon his entering Gaul, took and plundered the towns; neither is it applicable to the period when he defeated Syagrius, the Roman commander, and conquered the country which he held; it can, therefore, be referred only to the period when Clovis, already master of a great part of Gaul by open force, was called by the choice and affection of the people to the sovereignty over the rest. And it is not enough that Clovis was received, he

must have been called; the Abbé du Bos must prove that the people chose rather to live under Clovis than under the domination of the Romans or under their own laws. Now the Romans belonging to that part of Gaul not yet invaded by the barbarians were, according to this author, of two sorts: the first were of the Armorican confederacy, who had driven away the Emperor's officers in order to defend themselves against the barbarians, and to be governed by their own laws; the second were subject to the Roman officers. Now, does the abbé produce any convincing proofs that the Romans, who were still subject to the empire, called in Clovis? Not one. Does he prove that the republic of the Armoricans invited Clovis; or even concluded any treaty with him? Not at all. So far from being able to tell us the fate of this republic he cannot even so much as prove its existence; and, notwithstanding, he pretends to trace it from the time of Honorius to the conquest of Clovis, notwithstanding he relates with most admirable exactness all the events of those times; still this republic remains invisible in ancient authors. For there is a wide difference between proving by a passage of Zozimus ^s that under the Emperor Honorius, the country of Armorica ^t and the other provinces of Gaul revolted and formed a kind of republic, and showing us that notwithstanding the different pacifications of Gaul, the Armoricans formed always a particular republic, which continued till the conquest of Clovis; and yet this is what he should have demonstrated by strong and substantial proofs, in order to establish his system. For when we behold a conqueror entering a country, and subduing a great part of it by force and open violence, and soon after find the whole country subdued, without any mention in history of the manner of its being effected, we have sufficient reason to believe that the affair ended as it began.

When we find he has mistaken this point, it is easy to perceive that his whole system falls to the ground; and as often as he infers a consequence from these principles that Gaul was not conquered by the Franks, but that the Franks were invited by the Romans, we may safely deny it.

This author proves his principle by the Roman dignities with

^s Hist. lib. vi.

^t "Totusque tractus Armoricus aliaque Galliarum provinciæ."—Ibid.

which Clovis was invested: he insists that Clovis succeeded to Childeric his father in the office of *magister militiæ*. But these two offices are merely of his own creation. St. Remigius's letter to Clovis, on which he grounds his opinion, is only a congratulation upon his accession to the crown.^u When the intent of a writing is so well known why should we give it another turn?

Clovis, towards the end of the reign, was made Consul by the Emperor Anastasius: but what right could he receive from an authority that lasted only one year? It is very probable, says our author, that in the same diploma the Emperor Anastasius made Clovis Proconsul. And, I say, it is very probable he did not. With regard to a fact for which there is no foundation the authority of him who denies is equal to that of him who affirms. But I have also a reason for denying it. Gregory of Tours, who mentions the consulate, says never a word concerning the proconsulate. And even this proconsulate could have lasted only about six months. Clovis died a year and a half after he was created Consul; and we cannot pretend to make the proconsulate an hereditary office. In fine, when the consulate, and, if you will, the proconsulate, were conferred upon him, he was already master of the monarchy, and all his rights were established.

The second proof alleged by the Abbé du Bos is the renunciation made by the Emperor Justinian, in favor of the children and grandchildren of Clovis, of all the rights of the empire over Gaul. I could say a great deal concerning this renunciation. We may judge of the regard shown to it by the kings of the Franks, from the manner in which they performed the conditions of it. Besides, the kings of the Franks were masters and peaceable sovereigns of Gaul; Justinian had not one foot of ground in that country; the Western Empire had been destroyed a long time before, and the Eastern Empire had no right to Gaul, but as representing the Emperor of the West. These were rights upon rights; the monarchy of the Franks was already founded; the regulation of their establishment was made; the reciprocal rights of the persons and of the different nations who lived in the monarchy were admitted, the laws of each nation were given and even reduced to writing.

^u Tom. ii. book III. chap. xviii. p. 270

What, therefore, could that foreign renunciation avail to a government already established?

What can the abbé mean by making such a parade of the declamations of all those bishops, who, amidst the confusion and total subversion of the state, endeavor to flatter the conqueror? What else is implied by flattering but the weakness of him who is obliged to flatter? What do rhetoric and poetry prove but the use of those very arts? Is it possible to help being surprised at Gregory of Tours, who, after mentioning the assassinations committed by Clovis, says, that God laid his enemies every day at his feet, because he walked in his ways? Who doubts but the clergy were glad of Clovis's conversion, and that they even reaped great advantages from it? But who doubts at the same time that the people experienced all the miseries of conquest and that the Roman Government submitted to that of the Franks? The Franks were neither willing nor able to make a total change; and few conquerors were ever seized with so great a degree of madness. But to render all the Abbé du Bos's consequences true, they must not only have made no change among the Romans, but they must even have changed themselves.

I could undertake to prove, by following this author's method, that the Greeks never conquered Persia. I should set out with mentioning the treaties which some of their cities concluded with the Persians; I should mention the Greeks who were in Persian pay, as the Franks were in the pay of the Romans. And if Alexander entered the Persian territories, besieged, took, and destroyed the city of Tyre, it was only a particular affair like that of Syagrius. But, behold the Jewish pontiff goes forth to meet him. Listen to the oracle of Jupiter Ammon. Recollect how he had been predicted at Gordium. See what a number of towns crowd, as it were, to submit to him; and how all the satraps and grandees come to pay him obeisance. He put on the Persian dress; this is Clovis's consular robe. Does not Darius offer him one-half of his kingdom? Is not Darius assassinated like a tyrant? Do not the mother and wife of Darius weep at the death of Alexander? Were Quintius Curtius, Arrian, or Plutarch, Alexander's contemporaries? Has not the invention of printing afforded us

great light which those authors wanted? *v* Such is the history of the "Establishment of the French Monarchy in Gaul."

25.—*Of the French Nobility*

The Abbé du Bos maintains, that at the commencement of our monarchy there was only one order of citizens among the Franks. This assertion, so injurious to the noble blood of our principal families, is equally affronting to the three great houses which successively governed this realm. The origin of their grandeur would not, therefore, have been lost in the obscurity of time. History might point out the ages when they were plebeian families; and to make Childeric, Pepin, and Hugh Capet gentlemen, we should be obliged to trace their pedigree among the Romans or Saxons, that is, among the conquered nations.

This author grounds his opinion on the Salic law.*w* By that law, he says, it plainly appears that there were not two different orders of citizens among the Franks: it allowed a composition of two hundred sous for the murder of any Frank whatsoever; *x* but among the Romans it distinguished the king's guest, for whose death it gave a composition of three hundred sous, from the Roman proprietor to whom it granted a hundred, and from the Roman tributary to whom it gave only a composition of forty-five. And as the difference of the compositions formed the principal distinction, he concludes that there was but one order of citizens among the Franks, and three among the Romans.

It is astonishing that his very mistake did not set him right. And, indeed, it would have been very extraordinary that the Roman nobility who lived under the domination of the Franks should have had a larger composition, and been persons of much greater importance than the most illustrious among the Franks, and their greatest generals. What probability is there, that the conquering nation should have so little respect for themselves, and so great a regard for the conquered people? Besides, our author quotes the laws of other barbarous nations which prove that they had different orders of citizens. Now it

v See the preliminary discourse of the Abbé du Bos.

w See the "Establishment of the French Monarchy," vol. iii. book VI. chap. iv. p. 304.

x He cites the 44th title of this law, and the law of the Ripuarians, tits. 7 and 36.

would be a matter of astonishment that this general rule should have failed only among the Franks. Hence he ought to have concluded either that he did not rightly understand or that he misapplied the passages of the Salic law, which is actually the case.

Upon opening this law, we find that the composition for the death of an antrustion,*y* that is, of the king's vassal, was six hundred sous; and that for the death of a Roman, who was the king's guest, was only three hundred.*z* We find there likewise that the composition *a* for the death of an ordinary Frank was two hundred sous; *b* and for the death of an ordinary Roman, was only one hundred.*c* For the death of a Roman tributary,*d* who was a kind of bondman or freed-man, they paid a composition of forty-five sous: but I shall take no notice of this, any more than of the composition for the murder of a Frank bondman or of a Frank freed-man, because this third order of persons is out of the question.

What does our author do? He is quite silent with respect to the first order of persons among the Franks, that is the article relating to the antrustions; and afterwards upon comparing the ordinary Frank, for whose death they paid a composition of two hundred sous, with those whom he distinguishes under three orders among the Romans, and for whose death they paid different compositions, he finds that there was only one order of citizens among the Franks, and that there were three among the Romans.

As the abbé is of opinion that there was only one order of citizens among the Franks, it would have been lucky for him that there had been only one order also among the Burgundians, because their kingdom constituted one of the principal branches of our monarchy. But in their codes we find three sorts of compositions, one for the Burgundians or Roman nobility, the other for the Burgundians or Romans of a middling condition, and the third for those of a lower rank in both nations.*e* He has not quoted this law.

y "Qui in truste dominicâ est," tit. 44, sec. 4, and this relates to the 13th formulary of Marculfus, "de regis Antrustione." See also the title 66, of the Salic law, secs. 3 and 4, and the title 74; and the law of the Ripuarians, tit. 11, and the Capitulary of Charles the Bald, "apud Carisiacum," in the year 877, chap. xx.

z Salic law, tit. 44, sec. 6.

a Ibid., sec. 4.

b Ibid., secs. 1-7.

c Ibid., sec. 15.

d Ibid., sec. 7.

e "Si quis, quolibet casu, dentem optimati Burgundioni vel Romano nobili excusserit, solidos viginti quin-

It is very extraordinary to see in what manner he evades those passages which press him hard on all sides.^f If you speak to him of the grandees, lords, and the nobility, these, he says, are mere distinctions of respect, and not of order; they are things of courtesy, and not legal privileges; or else, he says, those people belonged to the king's council; nay, they possibly might be Romans: but still there was only one order of citizens among the Franks. On the other hand, if you speak to him of some Franks of an inferior rank,^g he says they are bondmen; and thus he interprets the decree of Childebert. But I must stop here a little, to inquire further into this decree. Our author has rendered it famous by availing himself of it in order to prove two things: the one that all the compositions we meet with in the laws of the barbarians were only civil fines added to corporal punishments, which entirely subverts all the ancient records;^h the other, that all freemen were judged directly and immediately by the king,ⁱ which is contradicted by an infinite number of passages and authorities informing us of the judiciary order of those times.^j

This decree, which was made in an assembly of the nation,^k says, that if the judge finds a notorious robber, he must command him to be tied, in order to be carried before the king, *si Francus fuerit*; but if he is a weaker person (*debilior persona*), he shall be hanged on the spot. According to the Abbé du Bos, *Francus* is a freeman, *debilior persona* is a bondman. I shall defer entering for a moment into the signification of the word *Francus*, and begin with examining what can be understood by these words, "a weaker person." In all languages whatsoever, every comparison necessarily supposes three terms, the greatest, the less degree, and the least. If none were here meant but freemen and bondmen, they would have said "a bondman," and not "a man of less power." Therefore,

que cogatur exsolvere; de mediocribus personis ingenuis, tam Burgundionibus quam Romanis, si dens excussus fuerit, decem solidis componatur; de inferioribus personis, quinque solidis," arts. 1, 2, and 3, of tit. 26, of the law of the Burgundians.

^f "Establishment of the French Monarchy," vol. 3, book VI. chaps. iv. and v.

^g Ibid. vol. 3, chap. v. pp. 319 and 320.
^h Ibid. vol. 3, book VI. chap. iv. pp. 307 and 308.

ⁱ Ibid. p. 309, and in the following chapter, pp. 319 and 320.

^j See the 28th book of this work, chap. 28; and the 31st book, chap. 8.

^k "Itaque colonia convenit et ita bannivimus, ut unusquisque judex, criminisum latronem ut audierit, ad casam suam ambulet et ipsum ligare faciat; ita ut si Francus fuerit, ad nostram presentiam dirigatur; et si debilior persona fuerit, in loco pendatur."—Capitulary, of Baluzius's edition, tom. i. p. 19.

debilior persona does not signify a bondman, but a person of a superior condition to a bondman. Upon this supposition, *Francus* cannot mean a freeman, but a powerful man; and this word is taken here in that acceptation, because among the Franks there were always men who had greater power than others in the state, and it was more difficult for the judge or count to chastise them. This construction agrees very well with many Capitularies^l where we find the cases in which the criminals were to be carried before the king, and those in which it was otherwise.

It is mentioned in the "Life of Louis the Debonnaire,"^m written by Tegan, that the bishops were the principal cause of the humiliation of that Emperor, especially those who had been bondmen and such as were born among the barbarians. Tegan thus addresses Hebo, whom this prince had drawn from the state of servitude, and made Archbishop of Rheims: "What recompense did the Emperor receive from you for so many benefits? He made you a freeman, but did not ennoble you, because he could not give you nobility after having given you your liberty."ⁿ

This passage which proves so strongly the two orders of citizens does not at all confound the Abbé du Bos. He answers thus:^o "The meaning of this passage is not that Louis the Debonnaire, was incapable of introducing Hebo into the order of the nobility. Hebo, as Archbishop of Rheims, must have been of the first order, superior to that of the nobility." I leave the reader to judge whether this be not the meaning of that passage; I leave him to judge whether there be any question here concerning a precedence of the clergy over the nobility. "This passage proves only," continues the same writer,^p "that the free-born subjects were qualified as noblemen; in the common acceptation, noblemen and men who are free-born have for this long time signified the same thing." What! because some of our burghers have lately assumed the quality of noblemen, shall a passage of the "Life of Louis the Debonnaire" be applied to this sort of people? "And, perhaps," continues he

^l See the 28th book of this work, chap. 28; and the 31st book, chap. 8.

^m Chaps. xliii. and xlv.
ⁿ "O qualem remunerationem reddidisti ei! fecit te liberum, non nobilem,

quod impossibile est post libertatem."
—Ibid.

^o "Establishment of the French Monarchy," vol. 3, book VI. chap. iv. p. 316.

^p Ibid. p. 316.

still,^q "Hebo had not been a bondman among the Franks, but among the Saxons, or some other German nation, where the people were divided into several orders." Then, because of the Abbé du Bos's "perhaps," there must have been no nobility among the nation of the Franks. But he never applied a "perhaps" so badly. We have seen that Tegan distinguishes the bishops,^r who had opposed Louis the Debonnaire, some of whom had been bondmen, and others of a barbarous nation. Hebo belonged to the former and not to the latter. Besides, I do not see how a bondman, such as Hebo, can be said to have been a Saxon or a German; a bondman has no family, and consequently no nation. Louis the Debonnaire manumitted Hebo; and as bondmen after their manumission embraced the law of their master, Hebo had become a Frank, and not a Saxon or German.

I have been hitherto acting offensively; it is now time to defend myself. It will be objected to me, that, indeed, the body of the antrustions formed a distinct order in the state from that of the freemen; but as the fiefs were at first precarious, and afterwards for life, this could not form a nobleness of descent, since the privileges were not annexed to an hereditary fief. This is the objection which induced M. de Valois to think that there was only one order of citizens among the Franks; an opinion which the Abbé du Bos has borrowed of him, and which he has absolutely spoiled with so many bad arguments. Be that as it may, it is not the Abbé du Bos that could make this objection. For after having given three orders of Roman nobility, and the quality of the king's guest for the first, he could not pretend to say that this title was a greater mark of a noble descent than that of antrustion. But I must give a direct answer. The antrustions or trusty men were not such because they were possessed of a fief, but that they had a fief given them because they were antrustions or trusty men. The reader may please to recollect what has been said in the beginning of this book. They had not at that time, as they had afterwards, the same fief: but if they had not that they had another, because the fiefs were given at their birth, and because

^q "Establishment of the French Monarchy," vol. 3, book VI. chap. IV. p. 316.
^r "Omnes episcopi molesti fuerunt Ludovico, et maxime ii quos e servili

conditione honoratos habebat, cum his qui ex barbaris nationibus ad hoc fastigium perducti sunt."—"De gestis Ludovici Pii," cap. xliii. and xliv.

they were often granted in the assemblies of the nation, and, in fine, because as it was the interest of the nobility to receive them it was likewise the king's interest to grant them. These families were distinguished by their dignity of trusty men, and by the privilege of being qualified to swear allegiance for a fief. In the following book ^s I shall demonstrate how from the circumstances of the time there were freemen who were permitted to enjoy this great privilege, and consequently to enter into the order of nobility. This was not the case at the time of Gontram, and his nephew Childebert; but so it was at the time of Charlemagne. But though in that prince's reign the freemen were not incapable of possessing fiefs, yet it appears, by the above-cited passage of Tegan, that the emancipated serfs were absolutely excluded. Will the Abbé du Bos, who carries us to Turkey to give us an idea of the ancient French nobility; ^t will he, I say, pretend that they ever complained among the Turks of the elevation of people of low birth to the honors and dignities of the state, as they complained under Louis the Debonnaire and Charles the Bald? There was no complaint of that kind under Charlemagne, because this prince always distinguished the ancient from the new families; which Louis the Debonnaire and Charles the Bald did not.

The public should not forget the obligation it owes to the Abbé du Bos for several excellent performances. It is by these works, and not by his history of the establishment of the French monarchy, we ought to judge of his merit. He committed very great mistakes, because he had more in view the Count of Boulainvilliers's work than his own subject.

From all these strictures I shall draw only one reflection: if so great a man was mistaken how cautiously ought I to tread!

^s Chap. 23. "Establishment of the French Monarchy," vol. 3, book VI. chap. iv. p. 302.