

BOOK XXVIII. Chap. 27. "bat; for it is very just that the person who has offered to swear, and has declared that he was certain of the truth, should make no difficulty to maintain it." Thus the witnesses were deprived by this king of every kind of subterfuge to avoid the judiciary combat.

CHAP. XXVII.

Of the judicial combat between one of the parties, and one of the lord's peers. Appeal of false judgment.

AS the nature of judicial combats was to terminate the affair for ever, and was incompatible with ^(a) a new judgment and new prosecutions; an appeal, such as is established by the Roman and Canon laws, that is to a superior tribunal in order to rejudge the proceedings of an inferior court, was a thing unknown in France.

^(a) Beaumanoir chap. 2. p. 22.

This is a form of proceeding to which a warlike nation, entirely governed by the point of honour, was quite a stranger; and agreeably to this very spirit, the same methods ^(b) were used against the judges, as were allowed against the parties.

^(b) Beaumanoir ch. 67. p. 338.

An appeal among the people of this nation was a challenge to fight with arms, a challenge decided by blood, and not by an invitation to a paper quarrel, the knowledge of which was deferred to succeeding ages ^(c).

^(c) Book 2. ch. 15.

Thus S. Lewis in his institutions says, that an appeal includes both felony and iniquity. Thus Beaumanoir tells us, that if a vassal ^(d) wanted to make his complaint of any outrage committed against him by his lord, he was first obliged to denounce

^(d) Beaumanoir ch. 67. p. 337.