

The Origin of the Distinction of Ranks

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The Origin of the Distinction of Ranks: or, An Inquiry into the Circumstances which give rise to Influence and Authority, In the Different Members of Society. by John Millar, Esq. Professor of Law in the University of Glasgow

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Introduction

Those who have examined the manners and custom of nations have had chiefly two objects in view. By observing the system of law established in different parts of the world, and by remarking the consequences with which they are attended, men have endeavoured to reap advantage from the experience of others, and to make a selection of such institutions and modes of government as appear most worthy of being adopted.

To investigate the causes of different usages has been likewise esteemed an useful as well as an entertaining speculation. When we contemplate the amazing diversity to be found in the laws of different countries, and even of the same country at different periods, our curiosity is naturally excited to enquire in what manner mankind have been led to embrace such different rules of conduct; and at the same time it is evident, that, unless we are acquainted with the circumstances which have recommended any set of regulations, we cannot form a just notion of their utility, or even determine, in any case, how far they are practicable.

In searching for the causes of those peculiar systems of law and government which have appeared in the world, we must undoubtedly resort, first of all, to the differences of situation, which have suggested different views and motives of action to the inhabitants of particular countries. Of this kind, are the fertility or barrenness of the soil, the nature of its productions, the species of labour requisite for procuring subsistence, the number of individuals collected together in one community, their proficiency in arts, the advantages which they enjoy for entering into mutual transactions, and for maintaining an intimate correspondence. The variety that frequently occurs in these, and such other particulars, must have a prodigious influence upon the great body of a people; as, by giving a peculiar direction to their inclinations and pursuits, it must be productive of correspondent habits, dispositions, and ways of thinking.

When we survey the present state of the globe, we find that, in many parts of it, the inhabitants are so destitute of culture, as to appear little above the condition of brute animals; and even when we peruse the remote history of polished nations, we have seldom any difficulty in tracing them to a state of the same rudeness and barbarism. There is, however, in man a disposition and capacity for improving his condition, by the exertion of which, he is cAred on from one degree of advancement to another;

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and the similarity of his wants, as well as of the faculties by which those wants are supplied, has every where produced a remarkable uniformity in the several steps of his progression. A nation of savages, who feel the want of almost every thing requisite for the support of life, must have their attention directed to a small number of objects, to the acquisition of food and clothing, or the procuring shelter from the inclemencies of the weather; and their ideas and feelings, in conformity to their situation, must, of course, be narrow and contracted. Their first efforts are naturally calculated to increase the means of subsistence, by catching or ensnaring wild animals, or by gathering the spontaneous fruits of the earth; and the experience, acquired in the exercise of these employments, is apt, successively, to point out the methods of taming and rearing cattle, and of cultivating the ground. According as men have been successful in these great improvements, and find less difficulty in the attainment of bare necessaries, their prospects are gradually enlarged, their appetites and desires are more and more awakened and called forth in pursuit of the several conveniencies of life; and the various branches of manufacture, together with commerce, its inseparable attendant, and with science and literature, the natural offspring of ease and affluence, are introduced, and brought to maturity. By such gradual advances in rendering their situation more comfortable, the most important alterations are produced in the state and condition of a people: their numbers are increased; the connections of society are extended; and men, being less oppressed with their own wants, are more at liberty to cultivate the feelings of humanity: property, the great source of distinction among individuals, is established; and the various rights of mankind, arising from their multiplied connections, are recognised and protected: the laws of a country are thereby rendered numerous; and a more complex form of government becomes necessary, for distributing justice, and for preventing the disorders which proceed from the jarring interests and passions of a large and opulent community. It is evident, at the same time, that these, and such other effects of improvement, which have so great a tendency to vary the state of mankind, and their manner of life, will be productive of suitable variations in their taste and sentiments, and in their general system of behaviour.

There is thus, in human society, a natural progress from ignorance to knowledge, and from rude, to civilized manners, the several stages of which are usually accompanied with peculiar laws and custom. Various accidental causes, indeed, have contributed to accelerate, or to retard this advancement in different countries. It has even happened that nations, being placed in such unfavourable circumstances as to render them long stationary at a particular period, have been so habituated to the peculiar manners of that age, as to retain a strong tincture of those peculiarities, through every subsequent revolution. This appears to have occasioned some of the chief varieties which take place in the maxims and customs of nations equally civilized.

The character and genius of a nation may, perhaps, be considered as nearly the same with that of every other in similar circumstances; but the case is very different with respect to individuals, among whom there is often a great diversity, proceeding from no fixed causes that are capable of being ascertained. Thus, in a multitude of dice thrown together at random, the result, at different times, will be nearly equal; but in one or two throws of a single die, very different numbers may often be produced. It is to be expected, therefore, that, though

the greater part of the political system of any country be derived from the combined influence of the whole people, a variety of peculiar institutions will sometimes take their origin from the casual interposition of particular persons, who happen to be placed at the head of a community, and to be possessed of singular abilities, and views of policy. This has been regarded, by many writers, as the great source of those differences which are to be found in the laws, and government of different nations. It is thus that Brama is supposed to have introduced the peculiar customs of Indostan; that Lycurgus is believed to have formed the singular character of the Lacedemonians; and that Solon is looked upon as the author of that very different style of manners which prevailed at Athens. It is thus, also, that the English constitution is understood to have arisen from the uncommon genius, and patriotic spirit of King Alfred. In short, there is scarcely any people, ancient or modern, who do not boast of some early monarch, or statesman, to whom it is pretended they owe whatever is remarkable in their form of government.

But, notwithstanding the concurring testimony of historians, concerning the great political changes introduced by the lawgivers of a remote age, there may be reason to doubt, whether the effect of their interpositions has ever been so extensive as is generally supposed. Before an individual can be invested with so much authority, and possessed of such reflection and foresight as would induce him to act in the capacity of a legislator, he must, probably, have been educated and brought up in the knowledge of those natural manners and customs, which, for ages perhaps, have prevailed among his countrymen. Under the influence of all the prejudices derived from ancient usage, he will commonly be disposed to prefer the system already established to any other, of which the effects have not been ascertained by experience; or if in any case he should venture to entertain a different opinion, he must be sensible that, from the general prepossession in favour of the ancient establishment, an attempt to overturn it, or to vary it in any considerable degree, would be a dangerous measure, extremely unpopular in itself, and likely to be attended with troublesome consequences.

As the greater part of those heroes and sages that are reputed to have been the founders and modellers of states, are only recorded by uncertain tradition, or by fabulous history, we may be allowed to suspect that, from the obscurity in which they are placed, or from the admiration of distant posterity, their labours have been exaggerated, and misrepresented. It is even extremely probable, that those patriotic statesmen, whose existence is well ascertained, and whose laws have been justly celebrated, were at great pains to accommodate their regulations to the situation of the people for whom they were intended; and that, instead of being actuated by a protecting spirit, or attempting from visionary speculations of remote utility, to produce any violent reformation, they confined themselves to such moderate improvements as, by deviating little from the former usage, were in some measure supported by experience, and coincided with the prevailing opinions of the country. All the ancient systems of legislation that have been handed down to us with any degree of authenticity, show evident marks of their having been framed with such reasonable views; and in none of them is this more remarkable than in the regulations of the Spartan Lawgiver, which appear, in every respect, agreeable to the primitive manners of that simple and barbarous people, for whose benefit they were promulgated.

Among the several circumstances which may affect the gradual

improvements of society, the difference of climate is one of the most remarkable. In warm countries, the earth is often extremely fertile, and with little culture is capable of producing whatever is necessary for substance. To labour under the extreme heat of the sun is, at the same time, exceedingly troublesome and oppressive. The inhabitants, therefore, of such countries, while they enjoy a degree of affluence, and, while by the mildness of the climate they are exempted from many inconveniencies and wants, are seldom disposed to any laborious exertion, and thus, acquiring habits of indolence, become addicted to sensual pleasure, and liable to all those infirmities which are nourished by idleness and sloth. The people who live in a cold country find, on the contrary, that little or nothing is to be obtained without labour; and being subjected to numberless hardships, while they are forced to contend with the ruggedness of the soil, and the severity of the seasons, in earning their scanty provision, they become active and industrious, and acquire those dispositions and talents which proceed from the constant and vigorous exercise both of the mind and body.

Some philosophers are of opinion, that the difference of heat and cold, of moisture and dryness, or other qualities of the climate, have a more immediate influence upon the character and conduct of nations, by operating insensibly upon the human body, and by effecting correspondent alterations in the temper. It is pretended that great heat, by relaxing the fibres, and by extending the surface of the skin, where the action of the nerves is chiefly performed, occasions great sensibility to all external impressions; which is accompanied with proportionable vivacity of ideas and feelings. The inhabitants of a hot country are, upon this account, supposed to be naturally deficient in courage, and in that steadiness of attention which is necessary for the higher exertions of judgment; while they are no less distinguished by their extreme delicacy of taste, and liveliness of imagination. The weakness, too, of their bodily organs prevents them from consuming a great quantity of food, though their excessive perspiration, the effect of the climate, requires continual supplies of such thin liquors as are proper to repair the waste of their fluids. In this situation, therefore, temperance in eating and drinking becomes a constitutional virtue.

The inhabitants of a cold region, are said, on the other hand, to acquire an opposite complexion. As cold tends to brace the fibres, and to contract the operation of the nerves, it is held to produce a vigorous constitution of body, with little sensibility or vivacity; from which we may expect activity, courage, and resolution, together with such calm and steady views of objects, as are usually connected with a clear understanding. The vigorous constitutions of men, in a cold climate, are also supposed to demand great supplies of strong food, and to create a particular inclination for intoxicating liquors.

In some such manner as this, it is imagined that the character of different nations arises, in a great measure, from the air which they breathe, and from the soil upon which they are maintained. How far these conjectures have any real foundation, it seems difficult to determine. We are too little acquainted with the structure of the human body, to discover how it is affected by such physical circumstances, or to discern the alterations in the state of the mind, which may possibly proceed from a different conformation of bodily organs; and in the history of the world, we see no regular marks of that secret influence which has been ascribed to the air and climate, but, on the contrary, may commonly explain the great differences in the

manners and custom of mankind from other causes, the existence of which is capable of being more clearly ascertained.

How many nations are to be found, whose situation in point of climate is apparently similar, and, yet, whose character and political institutions are entirely opposite? Compare, in this respect, the mildness and moderation of the Chinese, with the rough manners and intolerant principles of their neighbours in Japan. What a contrast is exhibited by people at no greater distance than were the ancient Athenians and Lacedemonians? Can it be conceived that the difference between the climate of France and that of Spain, or between that of Greece and of the neighboring provinces of the Turkish empire, will account for the different usages and manners of the present inhabitants? How is it possible to explain those national peculiarities that have been remarked in the English, the Irish, and the Scotch, from the different temperature of the weather under which they have lived?

The different manners of people in the same country, at different periods, are no less remarkable, and afford evidence yet more satisfactory, that national character depends very little upon the immediate operation of climate. The inhabitants of Sparta are, at present, under the influence of the same physical circumstances as in the days of Leonidas. The modern Italians live in the country of the ancient Romans.

The following Inquiry is intended to illustrate the natural history of mankind in several important articles. This is attempted, by pointing out the more obvious and common improvements which gradually arise in the state of society, and by showing the influence of these upon the manners, the laws, and the government of a people.

With regard to the facts made use of in the following discourse, the reader, who is conversant in history, will readily perceive the difficulty of obtaining proper materials for speculations of this nature. Historians of reputation have commonly overlooked the transactions of early ages, as not deserving to be remembered; and even in the history of later and more cultivated periods, they have been more solicitous to give an exact account of battles, and public negotiations, than of the interior police and government of a country. Our information, therefore, with regard to the state of mankind in the rude parts of the world, is chiefly derived from the relations of travellers, whose character and situation in life, neither set them above the suspicion of being easily deceived, nor of endeavouring to misrepresent the facts which they have related. From the number, however, and the variety of those relations, they acquire, in many cases, a degree of authority, upon which we may depend with security, and to which the narration of any single person, how respectable soever, can have no pretension. When illiterate men, ignorant of the writings of each other, and who, unless upon religious subjects, had no speculative systems to warp their opinions, have, in distant ages and countries, described the manners of people in similar circumstances, the reader has an opportunity of comparing their several descriptions, and from their agreement or disagreement is enabled to ascertain the credit that is due to them. According to this method of judging, which throws the veracity of the relater very much out of the question, we may be convinced of the truth of extraordinary facts, as well as of those that are more agreeable to our own experience. It may even be remarked, that in proportion to the singularity of any event, it is the more improbable that different persons, who design to impose upon the world, but who have no concert with each other, should agree in

relating it. When to all this, we are able to add the reasons of those particular custom which have been uniformly reported, the evidence becomes as complete as the nature of the thing will admit. We cannot refuse our assent to such evidence, without falling into a degree of scepticism by which the credibility of all historical testimony would be in a great measure destroyed. This observation, it is hoped, will serve as an apology for the multiplicity of facts that are sometimes stated in confirmation of the following remark. At the same time, from an apprehension of being tedious, the author has, on other occasions, selected only a few, from a greater number to the same purpose, that might easily have been procured.

Chapter I

Of the rank and condition of woman in different ages

Section I

The effects of poverty and barbarism, with respect to the condition of women

Of all our passions, it should seem that those which unite the sexes are most easily affected by the peculiar circumstances in which we are placed, and most liable to be influenced by the power of habit and education. Upon this account they exhibit the most wonderful variety of appearances, and, in different ages and countries, have produced the greatest diversity of manners and customs.

The state of mankind in the rudest period of society, is extremely unfavourable to the improvement of these passions. A savage who earns his food by hunting and fishing, or by gathering the spontaneous fruits of the earth, is incapable of attaining any considerable refinement in his pleasures. He finds so much difficulty, and is exposed to so many hardships in procuring mere necessities, that he has no leisure or encouragement to aim at the luxuries and conveniencies of life. His wants are few, in proportion to the narrowness of his circumstances. With him, the great object is to be able to satisfy his hunger, and, after the utmost exertions of labour and activity, to enjoy the relief of idleness and repose. He has no time for cultivating a correspondence with the other sex, nor for attending to those enjoyments which result from it; and his desires being neither cherished by affluence, nor inflamed by indulgence, are allowed to remain in that moderate state which renders them barely sufficient for the continuation of the species.

The facility with which he may commonly gratify these appetites, is another circumstance by which his situation is peculiarly distinguished. In the most rude and barbarous ages, little or no property can be acquired by particular persons; and, consequently, there are no differences of rank to interrupt the free intercourse of the sexes. The pride of family as well as the insolence of wealth, is unknown; and there are no distinctions among individuals, but those which arise from their age and experience, from their strength, courage, and other personal qualities. The members of different families, being all nearly upon a level, maintain the most familiar intercourse with one another, and, when impelled by natural instinct, give way to their mutual desires without hesitation or reluctance. They are unacquainted with those refinements which create a strong preference of particular objects, and with those artificial rules

of decency and decorum which might lay a restraint upon their conduct.

It cannot be supposed, therefore, that the passions of sex will rise to any considerable height in the breast of a savage. He must have little regard for pleasures which he can purchase at so easy a rate. He meets with no difficulties nor disappointments to enhance the value of his enjoyment, or to rouse and animate him in the pursuit of it. He arrives at the end of his wishes, before they have sufficiently occupied his thoughts, or engaged him in those delightful anticipations of happiness which the imagination is apt to display in the most flattering colours. He is a stranger to that long continued solicitude, those alternate hopes and fears, which agitate and torment the lover, and which, by awakening the sensibility, while they relax the vigour of his mind, render his prevailing inclinations more irresistible.

The phlegmatic disposition of savages, in this particular, has accordingly been often remarked as a distinguishing part of their character. There is good reason to believe that, in the state of simplicity which precedes all cultivation and improvement, the intercourse of the sexes is chiefly regulated by the primary intention of nature; that it is of consequence totally interrupted by the periods of pregnancy; and that the same laws, with respect to the difference of seasons, which govern the constitution of inferior animals, have also an influence upon the desires of the human species.(1*)

It is true, that, even in early ages, some sort of marriage, or permanent union between persons of different sexes, has been almost universally established. But when we examine the nature of this primitive alliance, it appears to have been derived from motives very little connected with those passions which we are at present considering. When a child has been produced by the accidental correspondence of his parents, it is to be expected that, from the influence of natural affection, they will be excited to assist one another in making some provision for his maintenance. For this purpose, they are led to take up their residence together, that they may act in concert with each other, and unite their efforts in the preservation and care of their offspring.

Among inferior animals, we may discern the influence of the same principle in forming an association between individuals of different sexes. The connexion indeed, in this case, is commonly of short duration; because the young animal is soon in a condition to provide for its own subsistence. In some of the species of birds, however, the young which are hatched at one time, are frequently incapable of procuring their own food before the mother begins to lay eggs a-new; and the male and female are, therefore, apt to contract a more permanent attachment. To this circumstance we may ascribe the imagined fidelity of the turtle, as well as the poetical honours that have been paid to the gentleness of the dove; an animal which, notwithstanding the character it has so universally acquired, appears remarkable for its peevish and quarrelsome temper. Among common poultry, on the contrary, whose offspring is reared without much assistance even from the dam, the disposition to unite in pairs is scarcely observable.

But the long culture which is necessary in rearing the human species, will generally afford to the parents a second pledge of their commerce, before their assistance can be withdrawn from the former. Their attention, therefore, is extended from one object to another, as long as the mother is capable of child-bearing; and their union is thus continued by the same causes which first

gave rise to it. Even after this period, they will naturally be disposed to remain in a society to which they have been so long accustomed: more especially, as by living at the head of a numerous family, they enjoy a degree of ease, respect, and security, of which they would otherwise be deprived, and have reason, in their old age, to expect the assistance and protection of their posterity, under all those diseases and infirmities by which they are rendered incapable of providing for themselves.(2*)

These were in all probability the first inducements to marriage among the rude and barbarous inhabitants of the earth. As it appears to have taken its origin from the accidental and unforeseen exertions of parental affection, we may suppose that it would be commenced without any previous contract between the parties, concerning the term or duration of their correspondence. Thus, among the Romans, it should seem that the most ancient marriage was formed merely by use; that is, by the parties, living constantly together for the space of a year; a period which, in the ordinary course of things, was sufficient to involve them in the care of a family.(3*) It is believed that the early Greeks were accustomed to marry in the same simple manner.(4*) The Kalmuck Tartars have, at present, a similar practice. Among them, it is usual for a young pair to retire, and live together as man and wife for one year; and if, during this time, the woman has produced a child, their marriage is understood to be completed; but if not, they either separate at pleasure or agree to make another year's trial. Traces of this primitive custom may still be discovered in the law of Scotland; according to which, a marriage dissolved within a year and day, and without a child, has no legal consequences, but restores the property of either party to the same situation as if no such alliance had ever existed.

Time and experience gradually improved this connexion, and discovered the many advantages of which it is productive. The consideration of those advantages, together with the influence of fashion and example, contributed to promote its universal establishment. The anxiety of parties, or of their relations, to avoid those disputes and inconveniences with which it was frequently attended, made them endeavour, by an express stipulation, to settle the conditions of their union, and produced a solemn and formal celebration of marriage. The utility of this contract, as it makes a regular provision for multiplying the inhabitants of a country, gave rise to a variety of public regulations for promoting the institution in general, for directing its particular forms, and for discouraging the vague and irregular commerce of the sexes.

The marriages, however, of rude people, according to all accounts, are usually contracted without any previous attachment between the parties, and with little regard to the gratification of their mutual passions. A savage is seldom or never determined to marry from the particular inclinations of sex, but commonly enters into that connexion when he arrives at an age, and finds himself in circumstances, which render the acquisition of a family expedient or necessary to his comfortable subsistence. He discovers no preference of any particular woman, but leaves it to his parents, or other relations, to make choice of a person whom it is thought proper that he should marry: He is not even at the trouble of paying her a visit, but allow them to begin and finish the bargain, without concerning himself at all in the matter: If his proposals are rejected, he hears it without the least disturbance; or if he meets with a favourable reception, he is

equally unmoved; and the marriage is completed, on both sides, with the most perfect indifference.(5*)

From the extreme insensibility, observable in the character of all savage nations, it is no wonder they should entertain very gross ideas concerning those female virtues which, in a polished nation, are supposed to constitute the honour and dignity of the sex.

The Indians of America think it no stain upon a woman's character, that she has violated the laws of chastity before marriage: nay, if we can give credit to travellers who have visited that country, a trespass of this kind is a circumstance by which a woman is recommended to a husband; who is apt to value her the more, from the consideration that she has been valued by others, and, on the other hand, think that he has sufficient ground for putting her away, when he has reason to suspect that she has been overlooked.

Young women, among the Lydians, were not accustomed to marry, until they had earned their doweries by prostitution.

The Babylonians had a public regulation, founded upon their religion, and probably handed down from very remote antiquity, that every woman, of whatever rank should, once in her life submit to a public prostitution in the temple of Venus. A religious ceremony of a like nature is said to have been observed in some parts of the Island of Cyprus.

The infidelity of a married woman is naturally viewed in a different light, and, upon account of the inconveniences with which it is attended, is often regarded as an offence that deserves to be severely punished. To introduce a spurious offspring into the family; to form a connexion with a stranger, by which the wife is diverted from her proper employments and duties, and by which she may be influenced to embezzle the goods committed to her charge; these are circumstances, that even in a rude period, are apt to awaken the jealousy of the husband, and to excite his indignation and resentment. There are nations, however, who have disregarded even these considerations, and who have looked upon the strict preservation of conjugal fidelity as a matter of no consequence.

Among the ancient Massagetæ, it was usual for persons who resided in the same part of the country to possess their wives in common. The same custom is said, by Diodorus Siculus, to have taken place among the ancient Troglodites, and the Ichthyophagi, inhabiting the coast of the Red Sea.

Caesar observes that, in Britain, ten or a dozen persons, chiefly near relations, were accustomed to maintain a community of wives; but that the offspring of such promiscuous intercourse was reputed to belong to that man who had been first connected with the mother.

Some authors, from a laudable desire of vindicating our forefathers, have called this fact in question, and have been willing to believe, that, in this particular, Caesar was imposed upon by the simple accommodation of those persons who lodged in the same cottage. But it is difficult to conceive that the judicious and well informed conqueror of Gaul, who had been long acquainted with the manners of rude people, and was of a disposition to look upon this as a matter of curiosity, would have made so slight an inquiry, or satisfied himself with so superficial an examination, as might expose him to such a gross deception.(6*)

The custom of lending a wife to a friend, that he might have children by her, appears to have been universal among the ancient Greek and Romans, and even when these nations had become wealthy

and civilized, was openly countenanced by persons of the highest rank and character. It is said to have been recommended, in a particular manner, to the Spartans, by the celebrated institutions of Lycurgus.(7*)

In the country of Kamtschatka, there are several tribes of savages, who esteem it an ordinary mark of politeness, when they entertain a friend, to offer him the enjoyment of their wife or their daughter; and whoever refuses a civility of this kind, to his guest, is supposed to have intended an affront; and his behaviour is resented accordingly. In Louisiana, upon the coast of Guinea, in several parts of the East Indies, in Pegu, Siam, Cochinchina, and Cambodia, the inhabitants are, in like manner, accustomed, for a small present, to make an offer of their women to all strangers who have occasion to visit the country.

Among all men who have made any considerable advances towards refinement, sentiments of modesty are connected with the intercourse of the sexes. These sentiments are derived from the very different manner in which individuals are affected, when under the immediate influence of desire, and upon other occasions. After the violence of passion has subsided, and when the mind returns to its usual state of tranquillity, its former emotions appear, in some measure, extravagant, and disproportioned to the object which excited them. But if, with all our partiality, the recollection of our own appetites, in the case here alluded to, be seldom agreeable even to ourselves, we have good reason to conclude that an open display of them will be extremely offensive to others. Those who are not actuated by the same desires must behold our enjoyment with disgust: those who are, must look upon it with jealousy and rivalry. It is to be expected, therefore, that, according as men become sensible of this, they will endeavour to remove such disagreeable appearances. They will be disposed to throw a veil over those pleasures, and to cover from the public eye those thoughts and inclinations, which, they know by experience, would expose them to contempt and aversion. The dictates of nature, in this respect, are inculcated by the force of education; our own feelings are continually gathering strength by a comparison with those of the people around us; and we blush at every deviation from that concealment and reserve which we have been taught to maintain, and which long practice has rendered habitual. Certain rules of decency and decorum with relation to dress, the modes of expression, and general deportment, are thus introduced; and as these contribute, in a high degree to improve and embellish the commerce of society, they are regarded as peculiarly indispensable to that sex, in which, for obvious reasons, the greatest delicacy and propriety is required.

But mere savages are little acquainted with such refinements. Their situation and manner of life prevent them, either from considering the intercourse of the sexes as an object of importance, or from attending to those circumstances which might suggest the propriety of concealing it. Conscious of nothing blameable in that instinct which nature has bestowed upon them, they are not ashamed of its ordinary gratifications; and they affect no disguise, as to this particular, either in their words or in their actions.

From the account given by Herodotus of the Massagetæ, it appears that those barbarians were strangers to reserve or modesty in the commerce of the sexes. The same circumstance is mentioned by Caesar, in describing the ancient Germans; a people who had made some improvements in their manner of life.(8*) The form of courtship among the Hottentots, by which the lover is

permitted to overcome the reluctance of his mistress, may be considered as a plain indication of similar manners, and exhibits a striking picture of primitive rudeness and simplicity.

When Mr. Banks was in the Island of Otaheite, in 1769, he received a visit from some ladies, who made him a present of cloth, attended with very uncommon ceremonies, of which the following account is published by Dr. Hawkesworth.

There were nine pieces; and having laid three pieces one upon another, the foremost of the women, who seemed to be the principal, and who was called Oorattooa, stepped upon them, and taking up her garments all round her to the waist, turned about, and with great composure and deliberation, and with an air of perfect innocence and simplicity, three times: when this was done, she dropped the veil, and stepping off the cloth, three more pieces were laid on, and she repeated the ceremony. then stepping off as before, the last three were laid on, and the ceremony was repeated in the same manner the third time.(9*)

Though the inhabitants of that country are, almost without labour, supplied with great plenty of food, and may therefore be supposed more addicted to pleasure than is usual among savages in a colder climate, yet they appear to have no such differences of wealth as might restrain the free indulgence of their appetites, and by that means produce a degree of refinement in their passions.

Upon the discovery of the new world by Columbus, the natives appeared to have no idea of clothing as a matter of decency: for, though the men made use of a garment, the women, it is said, had not the least covering. The nakedness, however, of these Indians, when authorised by custom, had probably no more tendency to promote debauchery than similar circumstances can be supposed to have upon inferior animals. Rude nations are usually distinguished by greater freedom and plainness of behaviour, according as they are farther removed from luxury and intemperance.

In the Odyssey, when Telemachus arrives at Pylos, he is stripped naked, bathed, and pointed by the king's daughter.

While these officious tend the rites divine,
The last fair branch of the Nestorian line,
Sweet Polycaste, took the pleasing toil
To bathe the prince, and pour the fragrant oil.
O'er his fair limbs a flowery vest he threw,
And issued, like a god, to mortal view.(10*)

A remarkable instance of this plainness and simplicity occurs in the behaviour of Ruth to Boaz her kinsman.

And when Boaz had eaten and drunk and his heart was merry, he went to lie down at the end of the heap of corn: and she came softly, and uncovered his feet and laid her down.

And it came to pass at midnight, that the man was afraid, and turned himself: and behold a woman lay at his feet.

And he said, Who art thou? And she answered, I am Ruth, thine handmaid: spread therefore thy skirt over thine handmaid, for thou art a near kinsman.(11*)

The influence of such manners must be extremely unfavourable to the rank and dignity of the women; who are deprived of that consideration and respect which, in a polished nation, they are accustomed to derive from the passion between the sexes. It is,

at the same time, impossible, in a rude age, that they should procure esteem by such employments as they have any occasion to exercise.

Among those who are almost continually employed in war, or in hunting, and who, by their manner of life, are exposed to numberless hardships and dangers, activity, strength, courage, and military skill, are the chief accomplishments that are held in high estimation. These accomplishments, which in all ages excite a degree of admiration, are, in a barbarous country, the principal sources of rank and dignity; as they are most immediately useful to the people in procuring food, and in providing for their personal safety, the two great objects which they have constantly in view. When the members of a rude tribe return from an expedition, every man is respected in proportion to the actions which he has performed; and that person is distinguished at the feast who has been so fortunate as to signalize himself in the field. The various incidents of the battle, or of the chase, occupy their thoughts, and become an interesting subject of conversation. Those who are old take pleasure in relating the deeds of former times, by which their own reputation has been established, and in communicating to the young those observations which they have treasured up, or those rules of conduct which appear most worthy of attention. The son, when he goes out to battle, is armed with the sword of his fathers, and, when he calls to mind the renown which they have acquired, is excited to a noble emulation of their achievements.

The inferiority of the women, in this respect, may be easily imagined. From their situation, indeed, they naturally acquire a degree of firmness and intrepidity which appears surprising to persons only acquainted with the manners of polished nations. It is usual for them to accompany the men in their expeditions either for hunting or for war; and it sometimes happens that individuals are excited, by the general spirit of the times, to engage in battle, so as even to gain a reputation by their exploits. But whatever may have happened in some extraordinary cases, we may venture to conclude, that the female character is by no means suited to martial employments; and that, in barbarous, as well as in refined periods, the women are, for the most part, incapable of rivalling the other sex in point of strength and courage. Their attention, therefore, is generally limited to an humbler province. It falls upon them to manage all the inferior concerns of the household, and to perform such domestic offices as the particular circumstances of the people have introduced: offices which, however useful, yet requiring little dexterity or skill, and being attended with no exertion of splendid talents, are naturally regarded as mean and servile, and unworthy to engage the attention of persons who command respect by their military accomplishments.

From these observations we may form an idea of the state and condition of the women in the ages most remote from improvement. Having little attention paid them, either upon account of those pleasures to which they are subservient, or of those occupations which they are qualified to exercise, they are degraded below the other sex, and reduced under that authority which the strong acquire over the weak: an authority, which, in early periods, is subject to no limitation from the government, and is therefore exerted with a degree of harshness and severity suited to the dispositions of the people.

We accordingly find that, in those periods, the women of a family are usually treated as the servants or slaves of the men. Nothing can exceed the dependance and subjection in which they

are kept, or the toil and drudgery which they are obliged to undergo. They are forced to labour without intermission in digging roots, in drawing water, in carrying wood, in milking the cattle, in dressing the victuals, in rearing the children, and in those other kinds of work which their situation has taught them to perform. The husband, when he is not engaged in some warlike exercise, indulges himself in idleness, and devolves upon his wife the whole burden of his domestic affairs. He disdains to assist her in these employments: she sleeps in a different bed, and is seldom permitted to have any conversation or correspondence with him.

Among the negroes upon the slave-coast, the wife is never allowed to appear before the husband, or to receive any thing from his hands, without putting herself into a kneeling posture.

In the empire of Congo, and in the greater part of those nations which inhabit the southern coast of Africa, the women of a family are seldom allowed to eat with the men. The husband sits alone at table, and the wife commonly stands at his back, to guard him from the flies, to serve him with his victuals, or to furnish him with his pipe and his tobacco. After he has finished his meal, she is allowed to eat what remains; but without sitting down, which it seems would be inconsistent with the inferiority and submission that is thought suitable to her sex. When a Hottentot and his wife have come into the service of a European, and are entertained in the same house, the master is under the necessity of allotting to each of them a distinct portion of victuals; which, out of regard to the general usage of their country, they always devour at a distance from one another.

In the account lately given by Commodore Byron of the Indians of South America, we are told, that:

the men exercise a most despotic authority over their wives, whom they consider in the same view they do any other part of their property; and dispose of them accordingly: even their common treatment of them is cruel; for though the toil and hazard of procuring food lies entirely upon the women, yet they are not suffered to touch any part of it till the husband is satisfied; and then he assigns them their portion, which is generally very scanty, and such as he has not a stomach for himself.

The same author informs us, that he observed a like arbitrary behaviour in many other nations of savages with whom he has since become acquainted.(12*)

From the servile condition of the women in barbarous countries, they are rendered in a great measure incapable of property, and are supposed to have no share in the estate of that particular family to which they belong. Whatever has been acquired by their labour is under the sole administration and disposal of those male relations and friends, by whom they are protected, and from whom they receive a precarious subsistence. Upon the death of a proprietor, his estate is continued in the possession of his sons, or transmitted to his other male relations; and his daughters are so far from being entitled to a share of the succession, that they are even considered as a part of the inheritance, which the heir has the power of managing at pleasure.

At the Cape of Good Hope, in the kingdom of Benin, and in general upon the whole southern and western coast of Africa, no female is ever admitted to the succession of any estate, either real or personal.

The same custom is said to be observed among the Tartars; and

there is some reason to believe that it has been anciently established among all the inhabitants of Chaldea and Arabia.

From the famous decision of this point related by Moses, it appears that, in his time, the succession of females had been without a precedent; and, by his appointment, they were only permitted to inherit upon a failure of males of the same degree.

Then came the daughters of Zelophehad -- and they stood before Moses, and before Eleazar the priest, and before the princes, and all the congregation, by the door of the tabernacle of the congregation, saying:

Our father died in the wilderness, and he was not in the company of them that gathered themselves together against the Lord in the company of Korah; but died in his own sin, and had no sons.

Why should the name of our father be done away from among his family, because he hath no son? Give unto us therefore a possession among the brethren of our father.

And Moses brought their cause before the Lord.

And the Lord spake unto Moses, saying:

The daughters of Zelophehad speak right; thou shalt surely give them a possession of an inheritance among their father's brethren, and thou shalt cause the inheritance of their father to pass unto them.

And thou shalt speak unto the children of Israel, saying, If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter.(13*)

In all those German nations which over-ran and subdued the different provinces of the Roman empire, the same notions were entertained concerning the inferiority of the women; and the same rules of succession were naturally introduced. It is probable that, according to the original customs which prevailed in all these nations, daughters, and all other female relations, were entirely excluded from the right of inheritance; but that afterwards, when the increase of opulence and luxury had raised them to higher consideration, they were admitted to succeed after the males of the same degree.

In a country where the women are universally regarded as the slaves of the other sex, it is natural to expect that they should be bought and sold, like any other species of property. To marry a wife must there be the same thing as to purchase a female servant, who is to be entrusted, under the husband's direction, with a great part of the domestic economy.

Thus, in all savage nations, whether in Asia, Africa, or America, the wife is commonly bought by the husband from the father, or those other relations who have an authority over her; and the conclusion of a bargain of this nature, together with the payment of the price, has therefore become the most usual form of solemnity in the celebration of their marriages.(14*)

This appears to be the real foundation of what is related by historians; that in some parts of the world it is usual for the husband to give a dowery to the wife or her relations, instead of the wife bringing along with her a dowery to the husband.

'Dotem non uxor marito, sed uxori maritus offert,' is the expression used by Tacitus in speaking of this practice among the ancient German nations.(15*)

When Shechem wanted to marry the daughter of Jacob -- 'He said unto her father, and unto her brethren, Let me find grace in your eyes, and what ye shall say unto me I will give.

'Ask me never so much dowery and gift, And I will give

according as ye shall say unto me: but give me the damsel to wife.'(16*)

When David married the daughter of king Saul, he was obliged to pay a dowry of a very singular nature.(17*)

This ancient custom, that the husband should buy his wife from her relations, remains at present among the Chinese; who, notwithstanding their opulence, and their improvement in arts, are still so wonderfully tenacious of the usages introduced in a barbarous period.

Sir Thomas Smith takes notice, that, according to the old law of England, 'the woman, at the church-door, was given of her father, or some other man of the next of her kin, into the hands of the husband; and he laid down gold and silver for her upon the book, as though he did buy her.'(18*) In the early history of France we meet with a similar practice; of which there are traces remaining in the present marriage ceremony of that country.

Upon the same principle, the husband is generally understood to have the power of selling his wife, or of putting her away at pleasure.

It may however be remarked, that this is a privilege, which, from the manners of a rude people, he seldom has reason to exercise. The wife, who is the mother of his children, is generally the most proper person to be employed in the office of rearing and maintaining them. As she advances in years, she is likely to advance in prudence and discretion; a circumstance of too much importance to be counterbalanced by any considerations relating to the appetite between the sexes. Nothing but some extraordinary crime that she has committed, will move the husband to put away so useful a servant, with whom he has long been acquainted, and whose labour, attention, and fidelity, are commonly of more value than all the money she will bring in a market. Divorces are therefore rarely to be met with in the history of early nations.

But though the wife is not apt to incur the settled displeasure of her husband, which might lead him to banish her from the family, she may often experience the sudden and fatal effects of his anger and resentment. When unlimited power is committed to the hands of a savage, it cannot fail, upon many occasions, to be grossly abused. He looks upon her in the same light with his other domestic servants, and expects from her the same implicit obedience to his will. The least opposition kindles his resentment; and from the natural ferocity of his temper, he is frequently excited to behave with a degree of brutality which, in some cases, may prove the unhappy occasion of her death.

Among the ancient inhabitants of Gaul, the husband exercised the power of life and death over his wives, and treated them with all the severity of an absolute and tyrannical master. In that country, whenever a person of distinction was thought to have died a violent death, his wives lay under the same suspicion of guilt with his other domestic servants; and in order to discover who had committed the crime, they were all subjected to the torture.(19*)

But of all the different branches of power with which in a rude age the husband is usually invested, we meet with the fullest and most complete illustration in the ancient law of the Romans. By that law, a wife was originally considered as, in every respect, the slave of her husband.(20*) She might be sold by him, or she might be put to death by an arbitrary exertion of his authority. From the ceremonies which were used in the more solemn and regular celebration of marriage, it seem probable that, in early times, the wife was purchased with a real price

from her relations.(21*) She was held incapable of having any estate of her own, and whatever she possessed at the time of her marriage became the absolute property of her husband.

It will be thought, perhaps, a mortifying picture that is here presented to us, when we contemplate the barbarous treatment of the female sex in early times, and the rude state of those passions which may be considered as the origin of society. But this rudeness and barbarism, so universally discovered in the early inhabitants of the world, is not unsuitable to the mean condition in which they are placed, and to the numberless hardships and difficulties which they are obliged to encounter. When men are in danger of perishing for hunger; when they are exerting their utmost efforts to procure the bare necessaries of life; when they are unable to shelter themselves from beasts of prey, or from enemies of their own kind, no less ferocious; their constitution would surely be ill adapted to their circumstances, were they endowed with a refined taste of pleasure, and capable of feeling the delicate distresses and enjoyments of love, accompanied with all those elegant sentiments, which, in a civilized and enlightened age, are naturally derived from that passion. Dispositions of this nature would be altogether misplaced in the breast of a savage: They would even be exceedingly hurtful, by turning his attention from real wants, to the pursuit of imaginary, and what, in his situation, must be accounted fantastical gratifications. Neither will it escape observation, that this refinement would be totally inconsistent with the other parts of his character. Nations who have so little regard to property as to live in the continual exercise of theft and rapine; who are so destitute of humanity, as, in cold blood, to put their captives to death with the most excruciating tortures; who have the shocking barbarity to feed upon their fellow-creatures, a practice rarely to be found among the fiercest and most rapacious of the brute animals; such nations, it is evident, would entirely depart from their ordinary habits and principles of action, were they to display much tenderness or benevolence, in consequence of that blind appetite which unites the sexes. It ought, at the same time to be remembered, that, how poor and wretched soever the aspect of human nature in this early state, it contains the seeds of improvement which, by long care and culture, are capable of being brought to maturity; so that the lower its primitive condition, it requires the greater exertions of labour and activity, and calls for a more extensive operation of those wonderful powers and faculties, which, in a gradual progression from such rude beginnings, have led to the noblest discoveries in art or science, and to the most exalted refinement of taste and manners.

Section II

The Influence acquired by the mother of a family, before marriage is completely established

Such are the natural effects of poverty and barbarism, with respect to the passions of sex, and with respect to the rank in society which the women are permitted to enjoy. There is one circumstance, however, in the manners of a rude age, that merits particular attention; as it appears, in some countries, to have produced a remarkable exception to the foregoing observations.

Although marriage, for the reasons formerly mentioned, is undoubtedly a very early institution, yet some little time and experience are necessary before it can be fully established in a

barbarous community; and we read of several nations, among whom it is either unknown, or takes place in a very imperfect and limited manner.

To a people who are little acquainted with that institution it will appear, that children have much more connexion with their mother than with their father. If a woman has no notion of attachment or fidelity to any particular person, if notwithstanding her occasional intercourse with different individuals she continues to live by herself, or with her own relations, the child which she has borne, and which she maintains under her own inspection, must be regarded as a member of her own family; and the father, who lives at a distance, can have no opportunity of establishing an authority over it. We may in general conclude, that the same ideas which obtain in a polished nation, with regard to bastards, will, in those primitive times, be extended to all, or the greater part of the children produced in the country.

Thus, among the Lycians, children were accustomed to take their names from their mother, and not from their father; so that if any person was desired to give an account of the family to which he belonged, he was naturally led to recount his maternal genealogy in the female line. The same custom took place among the ancient inhabitants of Attica; as it does at present among several tribes of the natives of North America, and of the Indians upon the coast of Malabar.(22*)

In this situation, the mother of a numerous family; who lives at a distance from her other relations, will often be raised to a degree of rank and dignity to which, from her sex, she would not otherwise be entitled. Her children being, in their early years, maintained and protected by her care and tenderness, and having been accustomed to submit to her authority, will be apt, even after they are grown up, and have arrived at their full strength and vigour, to behave to her with some degree of reverence and filial affection. Although they have no admiration of her military talents, they may respect her upon account of her experience and wisdom; and although they should not themselves be always very scrupulous in paying her an implicit obedience, they will probably be disposed to espouse her quarrel, or to support her interest against every other person.

We are informed, indeed, that when a young Hottentot is of age to be received into the society of men, it is usual for him to beat and abuse his mother, by way of triumph at being freed from her tuition. Such behaviour may happen in a rude country, where, after marriage is established, the superior strength of the husband has raised him to the head of his family, and where his authority has of course annihilated that of the wife, or at least greatly reduced her consideration and importance. But in a country where children have no acquaintance with their father, and are not indebted to him for subsistence and protection, they can hardly fail, during a considerable part of their life, to regard their mother as the principal person in the family.

This is in all probability the source of that influence which appears to have been possessed by the women in several rude and barbarous parts of the world.

In the island of Formosa, it is said, that in forming that slight and transient union between the sexes, to which our travellers, in conformity to the customs of Europe, have given the name of marriage, the husband quits his own family, and passes into that of his wife, where he continues to reside as long as his connexion with her remains. The same custom is said to be established among the people called Moxos, in Peru.

In the Ladrone islands the wife is absolute mistress of the house, and the husband is not at liberty to dispose of any thing without her permission. She chastises him, or puts him away, at pleasure; and whenever a separation happens, she not only retains all her moveables, but also her children, who consider the next husband she takes as their father.

The North American tribes are accustomed to admit their women into their public councils, and even to allow them the privilege of being first called to give their opinion upon every subject of deliberation. Females, indeed, are held incapable of enjoying the office of chief, but through them the succession to that dignity is continued; and therefore, upon the death of a chief, he is succeeded, not by his own son, but by that of his sister; and in default of the sister's son, by his nearest relation in the female line. When his whole family happens to be extinct, the right of naming a successor is claimed by the noblest matron of the village.

It is observed, however, by an author who has given us the fullest account of all these particulars, that the women of North America do not Arve at this influence and dignity till after a certain age, and after their children are in a condition to procure them respect; that before this period they are commonly treated as the slaves of the men; and that there is no country in the world where the female sex is in general more neglected and despised.

Among the ancient inhabitants of Attica, the women had, in like manner, a share in public deliberations. This custom continued till the reign of Cecrops, when a revolution was produced, of which the following fabulous relation has been given by historians. It is said, that after the building of Athens, Minerva and Neptune became competitors for the honour of giving a name to the city, and that Cecrops called a public assembly of the men and women in order to determine the difference. The women were interested upon the part of Minerva; the men upon that of Neptune; and the former carried the point by the majority of one vote. Soon after, there happened an inundation of the sea, which occasioned much damage, and greatly terrified the inhabitants, who believed that this calamity proceeded from the vengeance of Neptune for the affront he had suffered. To appease him, they resolved to punish the female sex, by whom the offence was committed, and determined that no woman should for the future be admitted into the public assemblies, nor any child be allowed to bear the name of its mother.

It may explain this piece of ancient mythology to observe, that in the reign of Cecrops marriage was first established among the Athenians. In consequence of this establishment the children were no longer accustomed to bear the name of their mother, but that of their father, who, from his superior strength and military talents, became the head and governor of the family; and as the influence of the women was thereby greatly diminished, it was to be expected that they should, in a little time, be entirely excluded from those great assemblies which deliberated upon public affairs.

Among the ancient Britons we find, in like manner, that the women were accustomed to vote in the public assemblies. The rude and imperfect institution of marriage, and the community of wives, that anciently took place in Britain, must have prevented the children from acquiring any considerable connexion with their father, and have disposed them to follow the condition of their mother, as well as to support her interest and dignity.

When a woman, by being at the head of a large family, is thus

advanced to influence and authority, and becomes a sort of female chief, she naturally maintains a number of servants, and endeavours to live with suitable splendour and magnificence. In proportion to her affluence, she has the greater temptation to indulge her sensual appetites and, in a period when the sexes are but little accustomed to control or disguise their inclinations, she may, in some cases, be led into a correspondence with different male retainers, who happen to reside in her family, and over whom she exercises an authority resembling that of a master.

The above remark may account for what is related by historians; that, in some provinces of the ancient Median empire, it was customary for women to entertain a number of husbands, as in others, it was usual for men to entertain a number of wives or concubines. The dominion of the ancient Medes comprehended many extensive territories; in some of which, the inhabitants were extremely barbarous; in others, no less opulent and luxurious.

This unusual kind of polygamy, if I may be allowed to use that expression, is established at present upon the coast of Malabar,(23*) as well as in some cantons of the Iroquois in North America; and though there is no practice more inconsistent with the views and manners of a civilized nation, it has in all probability been adopted by many individuals, in every country where the inhabitants were unacquainted with the regular institution of marriage.(24*)

It is highly probable, that the celebrated traditions of the Amazons, inhabiting the most barbarous regions of Scythia, and the relations of a similar people in some parts of America, have arisen from the state of manners now under consideration. Though these accounts are evidently mixed with fable, and appear to contain much exaggeration, we can hardly suppose that they would have been propagated by so many authors, and have created such universal attention, had they been entirely destitute of real foundation. In a country where marriage is unknown, females are commonly exalted to be the heads of families, or chiefs, and thus acquire an authority, which, notwithstanding their inferiority in strength, may extend to the direction of war, as well as of other transactions. So extraordinary a spectacle as that of a military enterprise conducted by women, and where the men acted in a subordinate capacity, must have filled the enemy with wonder and astonishment, and might easily give rise to those fictions of a female republic, and of other circumstances equally marvellous, which we meet with in ancient writers.

*Ducit Amazonidum lunatis agmina peltis
Pentheslea furens, mediisque in milibus ardet,
Aurea subnectens exertae cingula mammae,
Bellatrix, audetque viris concurrere virgo.*

Section III

The refinement of the passions of sex, in the pastoral ages

When we examine the circumstances which occasion the depression of the women, and the low estimation in which they are held, in a simple and barbarous age, we may easily imagine in what manner their condition is varied and improved in the subsequent periods of society. Their condition is naturally improved by every circumstance which tends to create more attention to the pleasures of sex, and to increase the value of those occupations that are suited to the female character; by the cultivation of the arts of life; by the advancement of opulence;

and by the gradual refinement of taste and manners. From a view of the progress of society, in these respects, we may, in a great measure, account for the diversity that occurs among different nations, in relation to the rank of the sexes, their dispositions and sentiments towards each other, and the regulations which they have established in the several branches of their domestic economy.

The invention of taming and pasturing cattle, which may be regarded as the first remarkable improvement in the savage life, is productive of very important alterations in the state and manners of a people.

A shepherd is more regularly supplied with food, and is commonly subjected to fewer hardships and calamities than those who live by hunting and fishing. In proportion to the size of his family, the number of his flock may in some measure be increased; while the labour which is requisite for their management can never be very oppressive. Being thus provided with necessaries, he is led to the pursuit of those objects which may render his situation more easy and comfortable; and among these the enjoyments derived from the intercourse of the sexes claim a principal share, and become an object of attention.

The leisure, tranquillity, and retirement of a pastoral life, seem calculated in a peculiar manner to favour the indulgence of those indolent gratifications. From higher notions of refinement a nicer distinction is made with regard to the objects of desire; and the mere animal pleasure is more frequently accompanied with a correspondence of inclination and sentiment. As this must occasion a great diversity in the taste of individuals, it proves, on many occasions, an obstruction to their happiness, and prevents the lover from meeting with a proper return to his passion. But the delays and the uneasiness to which he is thereby subjected, far from repressing the ardour of his wishes, serve only to increase it; and, amid the idleness and freedom from other cares which his situation affords, he is often wholly occupied by the same tender ideas, which are apt to inflame his imagination, and to become the principal subject of such artless expressive songs as he is capable of composing for his ordinary pastime and amusement.

In consequence of these improvements the virtue of chastity begins to be recognized; for when love becomes a passion, instead of being a mere sensual appetite, it is natural to think that those affections which are not dissipated by variety of enjoyment, will be the purest and the strongest.

The acquisition of property among shepherds has also a considerable effect upon the commerce of the sexes.

Those who have no other fund for their subsistence but the natural fruits of the earth, or the game which the country affords, are acquainted with no other distinctions in the rank of individuals, but such as arise from their personal accomplishments; distinctions which are never continued for any length of time in the same family, and which therefore can never be productive of any lasting influence and authority. But the invention of taming and pasturing cattle gives rise to a more remarkable and permanent distinction of rank. Some persons, by being more industrious or more fortunate than others, are led in a short time to acquire more numerous herds and flock, and are thereby enabled to live in greater affluence, to maintain a number of servants and retainers, and to increase, in proportion, their power and dignity. As the superior fortune which is thus acquired by a single person is apt to remain with his posterity, it creates a train of dependence in those who have been connected

with the possessor; and the influence which it occasions is gradually augmented, and transmitted from one generation to another.

The degree of wealth acquired by single families of shepherds is greater than may at first be imagined. In the eastern parts of Tartary, where the inhabitants are chiefly maintained upon the flesh of reindeer, many of the rich possess ten or twenty thousand of those animals; and one of the chiefs of that country, according to an account lately published, was proprietor of no less than an hundred thousand.

The introduction of wealth, and the distinction of rank with which it is attended, must interrupt the communication of the sexes, and, in many cases, render it difficult for them to gratify their wishes. As particular persons become opulent, they are led to entertain suitable notions of their own dignity; and, while they aim at superior elegance and refinement in their pleasures, they disdain to contract an alliance with their own dependents, or with people of inferior condition. If great families, upon an equal footing, happen to reside in the same neighbourhood, they are frequently engaged in mutual depredations, and are obliged to have a watchful eye upon the conduct of each other, in order to defend their persons and their property. The animosities and quarrels which arise from their ambition or desire of plunder, and which are fomented by reciprocal injuries, dispose them, in all cases, to behave to one another with distance and reserve, and sometimes prove an insuperable bar to their correspondence.

Among persons living upon such term, the passions of sex cannot be gratified with the same facility as among hunters and fishers. The forms of behaviour, naturally introduced among individuals jealous of each other, have a tendency to check all familiarity between them, and to render their approaches towards an intimacy proportionably slow and gradual. The rivalry subsisting between different families, and the mutual prejudices which they have long indulged, must often induce them to oppose the union of their respective relations: And thus the inclinations of individuals having in vain been smothered by opposition, will break forth with greater vigour, and rise at length to a higher pitch, in proportion to the difficulties which they have surmounted.

Upon the eastern coast of Tartary, it is said that such tribes as are accustomed to the pasturing of cattle discover some sort of jealousy with regard to the chastity of their women; a circumstance regarded as of no importance by those inhabitants of the same country who procure their subsistence merely by fishing.

From what is related of the patriarch Jacob, it would seem, that whole families or tribes of shepherds which were anciently scattered over the country of Arabia, had attained some degree of improvement in their manners.

And Jacob loved Rachel; and said, I will serve thee seven years for Rachel thy younger daughter.

And Laban said, It is better that I give her to thee than that I should give her to another man: abide with me.

And Jacob served seven years for Rachel: and they seemed unto him but a few days, for the love he had to her.(25*)

In the compositions of Ossian, which describe the manners of a people acquainted with pasturage, there is often a degree of tenderness and delicacy of sentiment which can hardly be equalled in the most refined productions of a civilized age. Some

allowance no doubt must be made for the heightening of a poet possessed of uncommon genius and sensibility; but, at the same time, it is probable, that the real history of his countrymen was the groundwork of those events which he has related, and of those tragical effects which he frequently ascribes to the passion between the sexes.(26*)

Lorma sat in Aldo's hall, at the light of a flaming oak: the night came, but he did not return, and the soul of Lorma is sad. -- What detains thee, Hunter of Cona? for thou didst promise to return. -- Has the deer been distant far, and do the dark winds sigh round thee on the heath? I am in the land of strangers, where is my friend, but Aldo? Come from thy echoing hills, O my best beloved!

Her eyes are turned towards the gate, and she listens to the rustling blast. She thinks it is Aldo's tread, and joy rises in her face: -- but sorrow returns again, like a thin cloud on the moon. -- And thou wilt not return, my love? Let me behold the face of the hill. The moon is in the east. Calm and bright is the breast of the lake! When shall I behold his dogs returning from the chase? When shall I hear his voice loud and distant on the wind? Come from thy echoing hills, Hunter of Woody Cona!

His thin ghost appeared on a rock, like the watery beams of the moon, when it rushes from between two clouds, and the midnight shower is on the field. -- She followed the empty form over the heath, for she knew that her hero fell. -- I heard her approaching cries on the wind, like the mournful voice of the breeze, when it sighs on the grass of the cave.

She came, she found her hero: her voice was heard no more: silent she rolled her sad eyes; she was pale as a watery cloud, that rises from the lake to the beam of the moon.

Few were her days on Cona: she sunk into the tomb: Fingal commanded his bards, and they sung over the death of Lorma. The daughters of Morven mourned her for one day in the year, when the dark winds of autumn returned.(27*)

In the agreeable pictures of the golden age, handed down from remote antiquity, we may discover the opinion. that was generally entertained of the situation and manners of shepherds. Hence that particular species of poetry, which is now appropriated by fashion, to describe the pleasures of rural retirement, accompanied with innocence and simplicity, and with the indulgence of all the tender passions. There is good reason to believe, that these representations of the pastoral life were not inconsistent with the real condition of shepherds, and that the poets, who were the first historians, have only embellished the traditions of early times. In Arcadia, in Sicily, and in some parts of Italy, where the climate was favourable to the rearing of cattle, or where the inhabitants were but little exposed to the depredations of their neighbours, it is probable that the refinement natural to the pastoral state was carried to a great height. This refinement was the more likely to become the subject of exaggeration and poetical embellishment; as, from a view of the progressive improvements in society, it was contrasted, on the one hand, with the barbarous manners of mere savages; and, on the other, with the opposite style of behaviour in polished nations, who, being constantly engaged in the pursuit of gain, and immersed in the cares of business, have contracted habits of industry, avarice, and selfishness.

Nondum caesa suis, peregrinum ut viseret orbem,
Montibus, in liquidas pinus descenderat undas:

Nullaque mortales, praeter sua, littora norant.
Nondum praecipites cingebant oppida fossae:
Non tuba directi, non aeris cornua flexi,
Non galeae, non ensis erant. Sine militis usu
Mollia securae peragebant otia mentes.
Ipsa quoque immunis, rastrisque intacta, nec ullis
Saucia vomeribus, per se dabat omnia tellus;
Contentique cibus, nullo cogente, creatis,
Arbutos foetus, montanaque fraga legebant;
Cornaque, et in duris haerentia mora rubetis;
Et quae deciderant patula Jovis arbore glandes:
Ver erat eternum, placidique tepentibus auris
Mulcebant zephyri, natos sine semine flores.

Section IV

The consequences of the introduction of agriculture, with respect to the intercourse of the sexes

The passions which relate to the commerce of the sexes may be still raised to a greater height, when men are acquainted with the cultivation of the ground, and have made some progress in the different branches of husbandry.

The improvement of agriculture, which in most parts of the world has been posterior to the art of taming and rearing cattle, is productive of very important alterations in the state of society; more especially with respect to the subject of our present inquiry. Although this employment requires greater industry and labour than is necessary among men who have only the care of herds and flock; yet by producing plenty of vegetable as well as of animal food, it multiplies the comforts and conveniences of life, and therefore excites in mankind a stronger desire of obtaining those pleasures to which they are prompted by their natural appetites. It also obliges men to fix their residence in the neighbourhood of that spot where their labour is chiefly to be employed, and thereby gives rise to property in land, the most valuable and permanent species of wealth; by the unequal distribution of which a greater disproportion is made in the fortune and rank of individuals, and the causes of their dissension and jealousy are, of course, extended.

In the heroic times of Greece, we may, in some measure, discern the effect of these circumstances upon the character and manners of the people.

The inhabitants of that country were then divided into clans or tribes, who, having for the most part begun the practice of agriculture, had quitted the wandering life of shepherds, and established a number of separate independent villages. As those little societies maintained a constant rivalship with each other, and were frequently engaged in actual hostilities, they were far from being in circumstances to encourage a familiar correspondence; and when in particular cases a formal visit had produced an interview between them, it was often attended with such consequences as might be expected from the restraints to which they were usually subjected. A man of wealth and distinction, having conceived a violent passion for the wife or the daughter of a neighbouring prince, was disposed to encounter every danger in order to gratify his desires; and, after seducing the lady, or carrying her away by force, he was generally involved in a war with her relations, and with such as chose to assist them in vindicating the honour of their family. Disorders of this kind were for a considerable time the source of the chief

animosities among the different states of Greece, as well as between them and the inhabitants of Asia Minor; and the rape of Io, of Europa, of Medea, and of Helen, are mentioned as the ground of successive quarrels, which in the end were productive of the most distinguished military enterprise that is recorded in the history of those periods.

But notwithstanding these events, from which it appears that the passions of sex had often a considerable influence upon the conduct of the people, there is no reason to imagine that the Greeks, in those times, had entirely shaken off their ancient barbarous manners, or in their ideas with respect to the women, had attained any high degree of delicacy.

In the Iliad, the wife of Menelaus is considered as of little more value than the treasure which had been stolen along with her. The restitution of the lady and of that treasure is always mentioned in the same breath, and seems to be regarded as a full reparation of the injury which Menelaus had sustained: and though it was known that Helen had made a voluntary elopement with Paris, yet her husband neither discovers any resentment upon that account, nor seems unwilling to receive her again into favour.

Even the wife of Ulysses, whose virtue in refusing the suitors is highly celebrated in the Odyssey, is supposed to derive her principal merit from preserving to her husband's family the dowery which she had brought along with her, and which, it seems, upon her second marriage, must have been restored to her father Icarius.

And though Telemachus is always represented as a pious and dutiful son, we find him reproving his mother in a manner which shows he had no very high notion of her dignity, or of the respect which belonged to her sex.

your widowed hours, apart, with female toil,
And various labours of the loom, beguile;
There rule, from palace cares remote and free;
That care to man belongs, and most to me.(28*)

Penelope, so far from being offended at this language, appears to consider it as a mark of uncommon prudence and judgment in so young a person.

Mature beyond his years, the queen admires
His sage reply, and with her train retires.

In all parts of the world, where the advancement of agriculture has introduced the appropriation of landed estates, it will be found that the manners of the inhabitants are such, as indicate considerable improvements in the commerce of the sexes.

But the acquisition of property in land, the jealousy arising from the distinction of ranks, and the animosities which are apt to be produced by the neighbourhood of great independent families, appear to have been attended with the most remarkable consequences in those barbarous nations, who, about the fifth century, invaded the Roman empire, and afterwards settled in the different provinces which they had conquered.

As those nations were small, and as they acquired an extensive territory, the different tribes or families of which they were composed spread themselves over the country, and were permitted to occupy very large estates. Particular chieftains or heads of families became great and powerful in proportion to their wealth, which enabled them to support a numerous train of retainers and followers. A great number of these were united

under a sovereign; for the different parts of a Roman province, having a dependence upon one another, fell naturally into the hands of the same military leader, and were erected into one kingdom. But, in a rude age, unaccustomed to subordination, the monarch could have little authority over such wide dominions. The opulent proprietors of land, disdainng submission to regular government, lived in the constant exercise of predatory incursions upon their neighbours; and every separate family, being in a great measure left without protection from the public, was under the necessity of providing for its own defence. The disorders arising from private wars between different families of the same kingdom, were not effectually repressed for many centuries; during which time the same causes continued to operate in forming the character and manners of the people, and gave rise to a set of custom and institutions of which we have no example in any other age or country.

The high notions of military honour, and the romantic love and gallantry, by which the modern nations of Europe have been so much distinguished, were equally derived from those particular circumstances.

As war was the principal employment of those nations, so it was carried on in a manner somewhat peculiar to themselves. Their military enterprises were less frequently undertaken against a foreign enemy than against the inhabitants of a neighbouring district; and on these latter occasions, the chief warriors of either party, were, from the smallness of their numbers, known to each other, and distinguished by the respective degrees of strength or valour which they possessed. The members of different families, who had long been at variance, were therefore animated with a strong personal animosity; and as, in the time of an engagement, they were disposed to single out one another, a battle was frequently nothing more than a number of separate duels between combatants inspired with mutual jealousy, and contending for superiority in military prowess. As the individuals of different parties were inflamed by opposition, those of the same party, conscious of acting under the particular observation of all their companions, were excited to vie with each other in the performance of such exploits as might procure admiration and applause. In this situation they not only contracted habits which rendered them cool and intrepid in danger, but at the same time acquired a remarkable generosity of sentiment in the exercise of their mutual hostilities. Persons, who aspired to superior rank and influence, fought merely to obtain a reputation in arms, and affected to look upon every other consideration as mean and ignoble. Having this object in view, they thought it disgraceful to assault an enemy when unprepared for his defence, or without putting him upon his guard by a previous challenge; and they disdainng to practise unfair means in order to gain a victory, or to use it with insolence and barbarity. These notions of honour were productive of certain rules and maxims, by which the gentry were directed in their whole manner of fighting, and from which they never deviated without bringing an indelible stain upon their character.

The ideas of personal dignity, which were thus raised to so high a pitch among neighbouring families, were incompatible with any regular distribution of justice. Men of wealth and distinction were unwilling to apply to a magistrate in order to procure redress for the injuries or affronts which they sustained; because this would have amounted to a confusion that they were unable to assert their character and rank, by taking vengeance upon the offender. If a law-suit had arisen in matters

of property, it commonly happened in the progress of the dispute, that one of the parties gave such offence to the other, as occasioned their deciding the difference by the sword. The judge, who found himself incapable of preventing this determination, endeavoured to render it less hurtful to society, by discouraging the friends of either party from interfering in the quarrel. With this view, he assumed the privilege of regulating the forms, and even became a spectator of the combat; which in that age, no less prone to superstition than intoxicated with the love of military glory, was considered as an immediate appeal to the judgment of heaven. These judicial combats, though they did not introduce the custom of duelling, had certainly a tendency to render it more universal, and to settle a variety of observances with which it came to be attended.

The diversions of a people have always a relation to their general character and manners. It was therefore to be expected that such warlike nations would be extremely addicted to martial exercises, and that the members of different tribes or families, when not engaged in actual hostilities, would be accustomed to challenge one another to a trial of their strength, activity, or military skill. Hence the origin of jousts and tournaments; those images of war, which were frequently exhibited by men of rank and which tended still farther to improve those nice punctilios of behaviour that were commonly practised by the military people in every serious contest.

From this prevailing spirit of the times, the art of war became the study of everyone who was desirous of maintaining the character of a gentleman. The youth were early initiated in the profession of arms, and served a sort of apprenticeship under persons of distinguished eminence. The young squire became in reality the servant of that leader to whom he had attached himself, and whose virtues were set before him as a model for imitation. He was taught to perform with ease and dexterity those exercises which were either ornamental or useful; and, at the same time, he endeavoured to acquire those talents and accomplishments which were thought suitable to his profession. He was taught to look upon it as his duty to check the insolent, to restrain the oppressor, to protect the weak and defenceless; to behave with frankness and humanity even to an enemy, with modesty and politeness to all. According to the proficiency which he had made, he was honoured with new titles and marks of distinction, till at length he arrived at the dignity of knighthood; a dignity which even the greatest potentates were ambitious of acquiring, as it was supposed to ascertain the most complete military education, and the attainment of such qualifications as were then universally admired and respected.

The same ambition, in persons of an exalted military rank, which gave rise to the institution of chivalry, was afterwards productive of the different orders of knighthood, by which, from a variety of similar establishments in the several kingdoms of Europe, a subdivision was made in the degrees of honour conferred upon individuals.

The situation of mankind in those periods had also a manifest tendency to heighten and improve the passion between the sexes. It was not to be expected that those opulent chiefs, who maintained a constant opposition to each other, would allow any sort of familiarity to take place between the members of their respective families. Retired in their own castles, and surrounded with their numerous vassals, they looked upon their neighbours either as inferior to them in rank, or as enemies. They behaved to each other with that ceremonious civility which the laws of

chivalry required; but, at the same time, with that reserve and caution which a regard to their own safety made it necessary for them to observe. The young knight, as he marched to the tournament, saw at a distance the daughter of the chieftain by whom the show was exhibited; and it was even with difficulty that he could obtain access to her, in order to declare the sentiments with which she had inspired him. He was entertained by her relations with that cold respect which demonstrated that their dignity was alarmed by his aspiring to contract an alliance with them. The lady herself was taught to assume the pride of her family, and to think that no person was worthy of her affection who did not possess an exalted rank and character. To have given way to a sudden inclination would have disgraced her for ever in the opinion of all her kindred; and it was only by a long course of attention, and of the most respectful service, that the lover could hope for any favour from his mistress.(29*)

The barbarous state of the country at that time, and the injuries to which the inhabitants, especially those of the weaker sex, were frequently exposed, gave ample scope for the display of military talents; and the knight, who had nothing to do at home, was encouraged to wander from place to place, and from one court to another, in quest of adventures; in which he endeavoured to advance his reputation in arm, and to recommend himself to the fair of whom he was enamoured, by fighting with every person who was so inconsiderate as to dispute her unrivalled beauty, virtue, or personal accomplishments. Thus, while his thoughts were constantly fixed upon the same object, and while his imagination, inflamed by absence and repeated disappointments, was employed in heightening all those charms by which his desires were continually excited, his passion was at length wrought up to the highest pitch, and uniting with the love of same, became the ruling principle, which gave a particular turn and direction to all his sentiments and opinions.

As there were many prizes in the same situation, they were naturally inspired with similar sentiments. Rivals to one another in military glory, they were often competitors, as it is expressed by Milton, 'to win her grace whom all commend'; and the same emulation which disposed them to aim at pre-eminence in the one respect, excited them with no less eagerness to dispute the preference in the other. Their dispositions and manner of thinking became fashionable, and were gradually diffused by the force of education and example. To be in love was looked upon as one of the necessary qualifications of a knight; and he was no less ambitious of showing his constancy and fidelity to his mistress, than of displaying his military virtues. He assumed the title of her slave, or servant. By this he distinguished himself in every combat; and his success was supposed to redound to her honour, no less than to his own. If she had bestowed upon him a present to be worn in the field of battle in token of her regard, it was considered as a pledge of victory, and as laying upon him the strongest obligation to render himself worthy of the favour.

The sincere and faithful passion, which commonly occupied the heart of every warrior, and which he professed upon all occasions, was naturally productive of the utmost purity of manners, and of great respect and veneration for the female sex. The delicacy of sentiment which prevailed, had a tendency to divert the attention from sensual pleasure, and created a general abhorrence of debauchery. Persons who felt a strong propensity to magnify and exalt the object of their own wishes, were easily led to make allowance for the same disposition in their neighbours; and such individuals as made a point of defending the reputation

and dignity of that particular lady to whom they were devoted, became extremely cautious, lest by any insinuation or impropriety of behaviour, they should hurt the character of another, and be exposed to the just resentment of those by whom she was protected. A woman who deviated so far from the established maxim of the age as to violate the laws of chastity, was indeed deserted by every body, and was universally condemned and insulted.(30*) But those who adhered to the strict rules of virtue, and maintained an unblemished reputation, were treated like beings of a superior order. The love of God and of the ladies was one of the first lessons inculcated upon every young person who was initiated into the military profession. He was instructed with care in all those forms of behaviour which, according to the received notions of gallantry and politeness, were settled with the most frivolous exactness. He was frequently put under the tuition of some matron of rank and distinction, who in this particular directed his education, and to whom he was under a necessity of revealing all his sentiments, thoughts, and actions. An oath was imposed upon him, by which he became bound to indicate the honour of the ladies, as well as to defend them from every species of injustice; and the uncourteous knight who behaved to them with rudeness, or who ventured to injure and insult them, became the object of general indignation and vengeance, and was treated as the common enemy of all those who were actuated by the true and genuine principles of chivalry.

The sentiments of military honour, and the love and gallantry so universally diffused among those nations, which were displayed in all the amusements and diversions of the people, had necessarily a remarkable influence upon the genius and taste of their literary compositions. Men were pleased with a recital of what they admired in real life; and the first poetical historians endeavoured to embellish those events which had struck their imagination, and appeared the most worthy of being preserved.

Such was the employment of the bards, who about the eleventh century are said, along with their minstrels, to have attended the festivals and entertainments of princes, and to have sung, with the accompaniment of musical instruments, a variety of small poetical pieces of their own composition, describing the heroic sentiments, as well as the love and gallantry of the times.

They were succeeded by the writers of romance, who related a longer and more connected series of adventures, in which were exhibited the most extravagant instances of valour and generosity, of patience and fortitude, of respect to the ladies, of disinterested love, and inviolable fidelity; subjects the most capable of warming the imagination, and of producing the most sublime and refined descriptions; but which were often disgraced by the unskilfulness of the author, and by that excessive propensity to exaggeration, and turn for the marvellous, which prevailed in those ages of darkness and superstition. These performances, however, with all their faults, may be regarded as striking monuments of the Gothic taste and genius, to which there is nothing similar in the writings of antiquity, and at the same time as useful records, that contain some of the outlines of the history, together with a faithful picture of the manners and customs of those remarkable periods.

This observation is in some measure applicable to the Epic poetry which followed, and which, with little more correctness, but with the graces of versification, described the same heroic and tender sentiments, though tinged by the peculiar genius and character of different writers.

The romance of Charlemain and his twelve peers, ascribed to

archbishop Turpin, a cotemporary of that monarch, but which is supposed to be a work of the eleventh century, furnished materials for the Morgante, the Orlando Innamorato, and the Orlando Furioso. The last of these poem, which entirely eclipsed the reputation of the two former, whatever may be its merit to an Italian, in easiness and harmony of expression, is a bundle of incoherent adventures, discovering neither unity of design, nor any selection of such objects as are fitted to excite admiration. The Gierusalemme Liberata, to the system of enchantment, and romantic exploits which modern times had introduced, has united the regularity of the ancient Greek and Roman poets; and though the author's talents for the pathetic seem inferior to his powers of description, the whole structure of his admirable poem is sufficient to show the advantages, in point of sublimity, derived from the manners and institutions of chivalry. The fabulous legends of Prince Arthur, and his knights of the round table, suggested the groundwork of Spenser's Fairy Queen; but the writer, instead of improving upon the Gothic model, has thought proper to cover it with a veil of allegory; which is too dark to have much beauty of its own; and which, notwithstanding the strength of imagery frequently displayed, destroys the appearance of reality, necessary, in works of imagination, to interest the affections.

When the improvement of public shows had given rise to dramatic performances, the same sort of manners was adopted in those entertainments; and the first tragedies, unless when founded upon religious subjects, represented love as the grand spring and mover of every action, the source of all those hopes and fears with which the principal persons were successively agitated, and of that distress and misery in which they were finally involved. This is the more remarkable, because, from the rigid morals of that age, women were not permitted to act in those representations; and therefore the parts allotted to them, which were performed by men, were usually so conducted by the poet as to bear a very small proportion to the rest of the piece.

The first deviation from this general taste of composition in works of entertainment may be discovered in Italy, where the revival of letters was early attended with some relaxation of the Gothic institutions and manners.

The advancement of the Italian states in commerce and manufactures so early as the thirteenth century, had produced a degree of opulence and luxury, and was followed, soon after, by the cultivation of the fine arts, and the improvement of taste and science. The principal towns of Italy came thus to be filled with tradesmen and merchants, whose unwarlike dispositions, conformable to their manner of life, were readily communicated to those who had intercourse with them. To this we may add the influence of the clergy, who resorted in great numbers to Rome, as the fountain of ecclesiastical preferment, and who, embracing different views and principles from those of the military profession, were enabled to propagatate their opinions and sentiments among the greater part of the inhabitants.

The decay of the military spirit among the Italians was manifest from their disuse of duelling, the most refined method of executing private revenge, and from their substituting in place of it the more artful but cowardly practice of poisoning. Their taste of writing was in like manner varied according to this alteration of their circumstances; and the people began to relish those ludicrous descriptions of low life and of licentious manners which we meet with in the tales of Boccace, and many other writers, entirely repugnant to the gravity and decorum of

former times, and which appear to have taken their origin from the monks, in consequence of such dispositions and habits as their constrained and unnatural situation had a tendency to produce. This kind of composition, however, appears to have been the peculiar growth of Italy; and those authors who attempted to introduce it into other countries, as was done by Chaucer in England, are only servile imitators, or rather mere translators of the Italians.

In the other countries of Europe, the manners introduced by chivalry were more firmly rooted, and acquiring stability from custom, may still be observed to have a good deal of influence upon the taste and sentiments even of the present age. When a change of circumstances, more than the inimitable ridicule of Cervantes, had contributed to explode the ancient romances, they were succeeded by those serious novels which, in France and England, are still the favourite entertainment, and which represent, in a more moderate degree, the sentiments of military honour, as well as the love and gallantry which prevailed in the writings of a former period. The fashion of those times has also remained with us in our theatrical compositions; and scarce any author, till very lately, seems to have thought that a tragedy without a love-plot could be attended with success.

The great respect and veneration for the ladies, which prevailed in a former period, has still a considerable influence upon our behaviour towards them, and has occasioned their being treated with a degree of politeness, delicacy, and attention, that was unknown to the Greeks and Romans, and perhaps to all the nations of antiquity. This has given an air of refinement to the intercourse of the sexes, which contributes to heighten the elegant pleasures of society, and may therefore be considered as a valuable improvement, arising from the extravagance of Gothic institutions and manners.

Section V

Changes in the condition of women, arising from the improvement of useful arts and manufactures

One of the most remarkable differences between man and other animals consists in that wonderful capacity for the improvement of his faculties with which he is endowed. Never satisfied with any particular attainment, he is continually impelled by his desires from the pursuit of one object to that of another; and his activity is called forth in the prosecution of the several arts which render his situation more easy and agreeable. This progress however is slow and gradual; at the same time that, from the uniformity of the human constitution, it is accompanied with similar appearances in different parts of the world. When agriculture has created abundance of provisions, people extend their views to other circumstances of smaller importance. They endeavour to be clothed and lodged, as well as maintained, in a more comfortable manner; and they engage in such occupations as are calculated for these useful purposes. By the application of their labour to a variety of objects, commodities of different kinds are produced. These are exchanged for one another, according to the demand of different individuals; and thus manufactures, together with commerce, are at length introduced into a country.

These improvements are the source of very important changes in the state of society, and particularly in relation to the women. The advancement of people in manufactures and commerce has

a natural tendency to remove those circumstances which prevented the free intercourse of the sexes, and contributed to heighten and inflame their passions. From the cultivation of the arts of peace, the different members of society are more and more united, and have occasion to enter into a greater variety of transactions for their mutual benefit. As they become more civilized, they perceive the advantages of establishing a regular government; and different tribes who lived in a state of independence, are restrained from injuring one another, and reduced under subjection to the laws. Their former animosities, the cause of so much disturbance, are no longer cherished by fresh provocation, and at length are buried in oblivion. Being no longer withheld by mutual fear and jealousy, they are led by degrees to contract an acquaintance, and to carry on a more intimate correspondence. The men and women of different families are permitted to converse with more ease and freedom, and meet with less opposition to the indulgence of their inclinations.

But while the fair sex become less frequently the objects of those romantic and extravagant passions, which in some measure arise from the disorders of society, they are more universally regarded upon account of their useful or agreeable talents.

When men begin to disuse their ancient barbarous practices, when their attention is not wholly engrossed by the pursuit of military reputation, when they have made some progress in arts, and have attained to a proportional degree of refinement, they are necessarily led to set a value upon those female accomplishments and virtues which have so much influence upon every species of improvement, and which contribute in so many different ways to multiply the comforts of life. In this situation, the women become, neither the slaves, nor the idols of the other sex, but the friends and companions. The wife obtains that rank and station which appears most agreeable to reason, being suited to her character and talents. Loaded by nature with the first and most immediate concern in rearing and maintaining the children, she is endowed with such dispositions as fit her for the discharge of this important duty, and is at the same time particularly qualified for all such employments as require skill and dexterity more than strength, which are so necessary in the interior management of the family. Possessed of peculiar delicacy, and sensibility, whether derived from original constitution, or from her way of life, she is capable of securing the esteem and affection of her husband, by dividing his cares, by sharing his joys, and by soothing his misfortunes.

The regard, which is thus shown to the useful talents and accomplishments of the women, cannot fail to operate in directing their education, and in forming their manners. They learn to suit their behaviour to the circumstances in which they are placed, and to that particular standard of propriety and excellence which is set before them. Being respected upon account of their diligence and proficiency in the various branches of domestic economy, they naturally endeavour to improve and extend those valuable qualifications. They are taught to apply with assiduity to those occupations which fall under their province, and to look upon idleness as the greatest blemish in the female character. They are instructed betimes in whatever will qualify them for the duties of their station, and is thought conducive to the ornament of private life. Engaged in these solid pursuits, they are less apt to be distinguished by such brilliant accomplishments as make a figure in the circle of gaiety and amusement. Accustomed to live in retirement, and to keep company with their nearest relations and friends, they are inspired with all that modesty

and diffidence which is natural to persons unacquainted with promiscuous conversation; and their affections are neither dissipated by pleasure, nor corrupted by the vicious custom of the world. As their attention is principally bestowed upon the members of their own family, they are led in a particular manner to improve those feelings of the heart which are excited by these tender connections, and they are trained up in the practice of all domestic virtues.

The celebrated character, drawn by Solomon, of the virtuous woman, is highly expressive of those ideas and sentiments, which are commonly entertained by a people advancing in commerce and in the arts of life.

She seeketh wool and flax, and worketh willingly with her hands. She is like the merchant ships, she bringeth her food from afar.

She riseth also while it is yet night, and giveth meat to her household, and a portion to her maidens.

She considereth a field and buyeth it: with the fruit of her hands she planteth a vineyard.

She perceiveth that her merchandise is good: her candle goeth not out by night.

She layeth her hands to the spindle, and her hands hold the distaff.

She stretcheth out her hand to the poor; yea, she reacheth forth her hands to the needy.

She is not afraid of the snow for her household: for all her household are cloathed with scarlet.

She maketh herself coverings of tapestry, her cloathing is silk and purple.

Her husband is known in the gates, when he sitteth among the elders of the land.

She maketh fine linen, and selleth it, and delivereth girdles unto the merchant.

Strength and honour are her cloathing, and she shall rejoice in time to come.

She openeth her mouth with wisdom, and in her tongue is the law of kindness.

She looketh well to the ways of her household, and eateth not the bread of idleness.(31*)

In many of the Greek states, during their most flourishing periods, it appears, that the women were viewed nearly in the same light, and that their education was chiefly calculated to improve their industry and talents, so as to render them useful members of society. Their attention seems to have been engrossed by the care of their own families, and by those smaller branches of manufacture which they were qualified to exercise. They were usually lodged in a remote apartment of the house, and were seldom visited by any person except their near relations. Their modesty and reserve, and their notions of a behaviour suited to the female character, were such as might be expected from their retired manner of life. They never appeared abroad without being covered with a veil, and were not allowed to be present at any public entertainment. 'As for you, women,' says Pericles, in one of the orations in Thucydides, 'it ought to be the constant aim of your sex to avoid being talked of by the public; and it is your highest commendation that you should never be the objects either of applause or censure.'(32*)

Lysias, in one of his orations, has introduced a widow, the

mother of several children, who considers her appearing in public as one of the most desperate measures to which she could be driven by her misfortunes. She prays and entreats her son-in-law to call together her relations and friends, that she might inform them of her situation. 'I have,' says she, 'never before been accustomed to speak in the presence of men; but I am compelled by my sufferings to complain of the injuries I have met with.'(33*)

In another oration, composed by the same author, a citizen, accused of murdering his wife's gallant, gives the following simple narrative of his domestic economy.

When I first entered into the married state, Athenians! I endeavoured to observe a medium between the harsh severity of some husbands, and the easy fondness of others. My wife, though treated with kindness, was watched with attention. As a husband, I rendered her situation agreeable; but as a woman, she was left neither the entire mistress of my fortune, nor of her own actions. When she became a mother, this new endearment softened and overcame the prudent caution of my former conduct, and engaged me to repose in her an unlimited confidence. During a short time, Athenians! I had no occasion to repent of this alteration: she proved a most excellent wife; and, highly circumspect in her private behaviour, she managed my affairs with the utmost diligence and frugality. But since the death of my mother, she has been the cause of all my calamities. Then she first got abroad to attend the funeral, and being observed by Eratosthenes, was soon after seduced by him. This he effected by means of our female slave, whom he watched going to market, and whom, by fair promises and flattery, he drew over to his designs.

It is necessary you should be informed, Athenians! that my house consists of two floors; the floor above is laid out in a similar manner to that below; this lodges the men, that above is destined for the women. Upon the birth of our son, my wife suckled him herself; and to relieve her from the fatigue of going below stairs as often as it was necessary to bathe him, I yielded up the ground floor to the women, and kept above stairs myself. She still continued, however, to sleep with me during the night; and when the child was peevish, and fell a-crying, she frequently went below stairs, and offered it the breast. This practice was long continued without any suspicion on my part, who, simple man that I was! regarded my spouse as a prodigy of virtue.(34*)

Solon is said to have made regulations for preventing the women from violating those decorums which were esteemed essential to their character. He appointed that no matron should go from home with more than three garments, nor a larger quantity of provisions than could be purchased for an obolus. He also provided, that when any matron went abroad, she should always have an attendant, and a lighted torch carried before her.

At Athens, a man was not permitted to approach the apartment of his step-mother, or her children, though living in the same house; which is given, by Mr Hume, as the reason why, by the Athenian laws, one might marry his half-sister by the father; for as these relations had no more intercourse than the men and women of different families, there was no greater danger of any criminal correspondence between them.

It is probable, that the recluse situation of the Grecian women, which was adapted to the circumstances of the people upon their first advancement in arts, was afterwards maintained from an inviolable respect to their ancient institutions. The

democratical form of government, which came to be established in most parts of Greece, had, at the same time, a tendency to occupy the people in the management of public affairs, and to engage them in those pursuits of ambition, from which the women were naturally excluded. It must however be admitted that, while such a state of manners might be conducive to the more solid enjoyments of life, it undoubtedly prevented the two sexes from improving the arts of conversation, and from giving a polish to the expression of their thoughts and sentiments. Hence it is, that the Greek, notwithstanding their learning and good sense, were remarkably deficient in delicacy and politeness, and were so little judges of propriety in wit and humour, as to relish the low ribaldry of an Aristophanes, at a period when they were entertained with the sublime eloquence of a Demosthenes, and with the pathetic compositions of a Euripides and a Sophocles.

The military character in ancient Greece, considered with respect to politeness, and compared with the same character in modern times, seems to afford a good illustration of what has been observed. Soldiers, as they are men of the world, have usually such manners as are formed by company and conversation. But in ancient Greece they were no less remarkable for rusticity and ill-manners, than in the modern nations of Europe they are distinguished by politeness and good-breeding; for Menander, the comic poet, says, that he can hardly conceive such a character as that of a polite soldier to be formed even by the power of the Deity.

When the Romans, towards the middle of the Commonwealth, had become in some degree civilized, it is probable that the condition of their women was nearly the same with that of the Greek in the period abovementioned. But it appears that, at Rome, the circumstances of the people underwent very rapid changes in this particular. By the conquest of many opulent nations, great wealth was suddenly imported into the capital of the empire; which corrupted the ancient manners of the inhabitants, and produced a great revolution in their taste and sentiments.

In the modern nations of Europe, we may also observe that the introduction of arts, and of regular government, had an immediate influence upon the relative condition and behaviour of the sexes. When the disorders incident to the Gothic system had subsided, the women began to be valued upon account of their useful talents and accomplishments; and their consideration and rank, making allowance for some remains of that romantic spirit which had prevailed in a former period, came to be chiefly determined by the importance of those departments which they occupied, in carrying on the business, and maintaining the intercourse of society. The manners introduced by such views of the female character are still in some measure preserved, in those European countries which have been least affected by the late rapid advances of luxury and refinement.

Section VI

The effects of great opulence, and the culture of the elegant arts, upon the relative condition of the sexes

The progressive improvements of a country are still attended with farther variations in the sentiments and manners of the inhabitants.

The first attention of a people is directed to the acquisition of the mere necessaries of life, and to the exercise of those occupations which are most immediately requisite for

subsistence. According as they are successful in these pursuits, they feel a gradual increase of their wants, and are excited with fresh vigour and activity to search for the means of supplying them. The advancement of the more useful arts is followed by the cultivation of those which are subservient to pleasure and entertainment. Mankind, in proportion to the progress they have made in multiplying the conveniences of their situation, become more refined in their taste, and luxurious in their manner of living. Exempted from labour, and placed in great affluence, they endeavour to improve their enjoyments, and become addicted to all those amusements and diversions which give an exercise to their minds, and relieve them from languor and weariness, the effects of idleness and dissipation. In such a state, the pleasures which nature has grafted upon the love between the sexes, become the source of an elegant correspondence, and are likely to have a general influence upon the commerce of society. Women of condition come to be more universally admired and courted upon account of the agreeable qualities which they possess, and upon account of the amusement which their conversation affords. They are encouraged to quit that retirement which was formerly esteemed so suitable to their character, to enlarge the sphere of their acquaintance, and to appear in mixed company, and in public meetings of pleasure. They lay aside the spindle and the distaff, and engage in other employments more agreeable to the fashion. As they are introduced more into public life, they are led to cultivate those talents which are adapted to the intercourse of the world, and to distinguish themselves by polite accomplishments that tend to heighten their personal attractions, and to excite those peculiar sentiments and passions of which they are the natural objects.

These improvements, in the state and accomplishments of the women, might be illustrated from a view of the manners in the different nations of Europe. They have been carried to the greatest height in France, and in some parts of Italy, where the fine arts have received the highest cultivation, and where a taste for refined and elegant amusement has been generally diffused. The same improvements have made their way into England and Germany; though the attention of the people to the more necessary and useful arts, and their slow advancement in those which are subservient to entertainment, has, in these countries, prevented the intercourse of the sexes from being equally extended. Even in Spain, where, from the defects of administration, or from whatever causes, the arts have for a long time been almost entirely neglected, the same effects of refinement are at length beginning to appear, by the admission of the women to that freedom which they have in the other countries of Europe.

Thus we may observe, that in refined and polished nations there is the same free communication between the sexes as in the ages of rudeness and barbarism. In the latter, women enjoy the most unbounded liberty, because it is thought of no consequence what use they shall make of it. In the former, they are entitled to the same freedom, upon account of those agreeable qualities which they possess, and the rank and dignity which they hold as members of society.

It should seem, however, that there are certain limits beyond which it is impossible to push the real improvements arising from wealth and opulence. In a simple age, the free intercourse of the sexes is attended with no bad consequences; but in opulent and luxurious nations, it gives rise to licentious and dissolute manners, inconsistent with good order, and with the general

interest of society. The love of pleasure, when carried to excess, is apt to weaken and destroy those passions which it endeavours to gratify, and to pervert those appetites which nature has bestowed upon mankind for the most beneficial purposes. The natural tendency, therefore, of great luxury and dissipation is to diminish the rank and dignity of the women, by preventing all refinement in their connection with the other sex, and rendering them only subservient to the purposes of animal enjoyment.

Prima peregrinos obscena pecunia mores
Intulit; et turpi fregerunt secula luxû
Divitiae molles. Quid enim Venus ebria curat?

The voluptuousness of the Eastern nations, arising from a degree of advancement in the arts joined, perhaps, to the effect of their climate, and the facility with which they are able to procure subsistence, has introduced the practice of polygamy; by which the women are reduced into a state of slavery and confinement, and a great proportion of the inhabitants are employed in such offices as render them incapable of contributing, either to the population, or to the useful improvements of the country.(35*)

The excessive opulence of Rome, about the end of the commonwealth, and after the establishment of the despotism, gave rise to a degree of debauchery of which we have no example in any other European nation. This did not introduce polygamy, which was repugnant to the regular and well established police of a former period; though Julius Caesar is said to have prepared a law by which the emperor should be allowed to have as many wives as he thought fit. But the luxury of the people, being restrained in this way, came to be the more indulged in every other; and the common prostitution of the women was carried to a height that must have been extremely unfavourable to the multiplication of the species; while the liberty of divorce was so much extended and abused, that, among persons of condition, marriage became a very slight and transient connection.(36*)

The frequency of divorce, among the Romans, was attended with bad consequences, which were felt in every part of their domestic economy. As the husband and wife had a separation constantly in view, they could repose little confidence in each other, but were continually occupied by separate considerations of interest. In such a situation, they were not likely to form a strong attachment, or to bestow much attention to the joint concerns of their family. So far otherwise, the practice of stealing from each other, in expectation of a divorce, became so general that it was not branded with the name of theft, but, like other fashionable vices, received a softening appellation.(37*)

The bad agreement between married persons, together with the common infidelity of the wife, had a natural tendency to alienate the affections of a father from his children, and led him, in many cases, not only to neglect their education, but even to deprive them of their paternal inheritance. This appears to have been one great cause of that propensity, discovered by the people, to convey their estates by will; which, from the many statutes that were made, and the equitable decisions of judges that were given, in order to rectify the abuse, has rendered that branch of the Roman law, relating to testaments, more extensive and complicated than any other. The frequency of such deeds, to the prejudice of the heirs at law, created swarms of those legacy hunters,(38*) whose trade, as we learn from Horace, afforded the

most infallible means of growing rich; and the same circumstance gave also great encouragement to the forgery or falsification of wills, a species of fraud which is much taken notice of by the writers of those times, and which has been improperly regarded as one of the general effects of opulence and luxury.(39*)

In those voluptuous ages of Rome, it should seem that the inhabitants were too much dissipated by pleasure to feel any violent passion for an individual, and the correspondence of the sexes was too undistinguishing to be attended with much delicacy of sentiment. It may accordingly be remarked, that the writers of the Augustan age, who have afforded so many models of composition in other branches, have left no work of imagination, describing the manners of their own countrymen, in which love is supposed to be productive of any tragical, or very serious effects. Neither that part of the Eneid which relates to the death of Dido, nor the love-epistles of Ovid, both of which are founded upon events in a remote age, and in distant countries, can properly be considered as exceptions to what is here alleged. It also merits attention that when the Roman poets have occasion to represent their own sentiments in this particular, the subject of their description, not to mention more regular appetites, is either the love of a concubine, or an intrigue with a married woman. This is not less apparent from the grave and tender elegies of Tibullus and Propertius, than from the gay and more licentious writings of Horace, of Ovid, and of Catullus. The style of those compositions, and the manners from which it was derived, while they degraded the women of virtue, contributed, no doubt, to exalt the character of a kept-mistress. The different situation of modern nations, in this respect, is perhaps the reason why they have no term corresponding to that of *amica* in Latin.

The acquisition of great wealth, and the improvement of the elegant arts, together with the free intercourse of the sexes, have, in some of the modern European nations, had similar consequences to what they produced in ancient Rome, by introducing a strong disposition to pleasure. This is most especially remarkable in France and Italy, the countries in which opulence was first acquired, and in which the improvements of society are supposed to have made the greatest advances. But in these countries, the authority obtained by the clergy after the establishment of the Christian religion, and the notions which they endeavoured to inculcate with regard to abstinence from every sensual gratification, have concurred with the influence of the former usage and laws, not only to exclude polygamy, but in a great measure to prevent the dissolution of marriage by voluntary divorce. Many disorders, therefore, which were felt in the luxurious ages of Rome, have thus been avoided; and in modern Europe, the chief effect of debauchery, beside the encouragement given to common prostitution, has been to turn the attention, from the pursuits of business or ambition, to the amusements of gallantry; or rather to convert these last into a serious occupation.

It is not intended, however, in this discourse, to consider those variations, in the state of women, which arise from the civil or religious government of a people, or from such other causes as are peculiar to the inhabitants of different countries. The revolutions that I have mentioned, in the condition and manners of the sexes, are chiefly derived from the progress of mankind in the common arts of life, and therefore make a part in the general history of society.

NOTES:

1. A late ingenious author imagines that this coldness of constitution is peculiar to the natives of America; and he accounts for it, in a most whimsical manner, from the moisture of the climate, by which the inhabitants of that county are, in his opinion, rendered inferior, both in mind and body, to those of the old world. (*Recherches philosophiques sur les Americains.*) But though it must, perhaps, be admitted that particular climates have some influence upon the passions of sex, yet, in most parts of the world, the character of savages, in this respect, exhibits a remarkable uniformity. (See an account of the Samoiedes, *histoire generale des voyages*, tome 18 pp. 509, 510. -- Of the inhabitants of Kamtschatka, *ibid.* tome 19, liv. 2, chap. 4.)

Even among people somewhat advanced beyond the mere savage life, we frequently meet with traces of a similar temperament.

'The virginity of youth,' says Tacitus of the Germans, 'is late treasured, and puberty therefore inexhaustible; nor for the girls is there any hothouse forcing.

'So their life is one of fenced-in chastity. There is no arena with its seductions, no dinner-tables with their provocations to corrupt them.' Tacitus, *de mor. Germ.* § 20, 19.

The same circumstance is mentioned by Caesar concerning the character of the ancient Gauls. 'Those who retain their chastity longest are held in highest honour by their fellow men; for continence, so they believe, makes a man taller, hardier, more muscular.' Caesar, *de bell. Gall.* lib. 6, § 21.

2. It seems unnecessary to observe, that what is here said with regard to marriage, together with many other Remarks which follow concerning the manners of early nations, can only be applied to those who had lost all knowledge of the original institutions, which; as the sacred scriptures inform us, were communicated to mankind by an extraordinary revelation from heaven.

3. Cicero, *pro Flacco*, Heineccius, *antiq. Roman.*

4. See Brisson, *de vet. rit. nuptiar.*

5. Father Lafitau takes notice of a particular custom among the savages of America, which shows the indifference with which their marriages are usually contracted, and marks, at the same time, the inattention of that people to the gratification of their passions. 'There is an ancient custom, among most of the savage nations, of passing the first year after the contraction of a marriage without consummating it. To propose otherwise before such time has expired would be to offer an insult to the bride, who would take this to mean that one sought this alliance more for sensual gratification than out of esteem for her person. And although the young couple spend their nights together, this is done without prejudice to this ancient usage. The relatives of the bride keep close watch on their part and are careful to maintain a large fire before their sleeping-mat, which continually lights up their doing and which serves to guarantee that nothing occurs contrary to the prescribed order.'

Joseph Lafitau, *moeurs des sauvages Ameriquains.*

In some parts of Great Britain, the common people hold it a point of decorum, that, after the ceremony of marriage, the married persons should sleep together one night without consummation.

6. 'Ten, and even twelve men have wives in common, and especially

brothers, or parents and their children amongst themselves; but if there be any issue by these wives, they are reputed to be the children of those by whom, respectively, each was first espoused when a virgin.' Caesar, de bell. Gall. lib. 5, § 14.

7. Plutarch, in vita Lycurg.

Soon as the sun dispelled the chilly night,
The sounding doors flew wide, and from the tomb
Of dead Hortensius grieving Marcia came.
First joined in wedlock to a greater man
Three children did she bear to grace his home:
Then Cato to Hortensius gave the dame
To be a fruitful mother of his sons
And join their houses in a closer tie.
And now the last sad offices were done
She came with hair dishevelled, beaten breast,
And ashes on her brow, and features worn
With grief; thus only pleasing to the man.
'When youth was in me and maternal power I did thy

bidding,

Cato, and revived A second husband: now in years grown
old

Ne'er to be parted I return to thee.
Renew our former pledges undefiled:
Give back the name of wife:....
Although the times were warlike and the fates
Called to the fray, etc.'
Lucan, Pharsal.

8. 'In the matter of sex there is no prudery, men and women bathing together in the rivers, and wearing skins or short cloaks of reindeer hide which leaves most of the body naked.' Caesar, de bell. Gall. lib. 6, § 21.

9. Voyages for making discoveries in the Southern Hemisphere, vol. 2, chap. 12.

In the same publication, an account of a still more remarkable exhibition, made in that Island, is given as follow: 'A young man, near six feet high, performed the rites of Venus with a little girl about eleven or twelve years of age, before several of our people, and a great number of the natives, without the least sense of its being indecent or improper, but, as appeared, in perfect conformity to the custom of the place. Among the spectators were several women of superior rank, particularly Oberea, who may properly be said to have assisted at the ceremony; for they gave instructions to the girl how to perform her part, which, young as she was, she did not seem to stand in need of.' Ibid.

10. Pope's translation of the Odyssey, bk. 4, l. 58.

11. Ruth, chap. iii, ver. 7, 8, 9.

12. Byron's Narrative.

13. Numbers, chap. xxvii, ver. 1-8.

14. 'The present law still fortunately holds that when a woman having a husband departs this life childless, the husband of the deceased wife may not demand her dowery, which was given for

her.' Leges Burgundior. tit. 1 4, 3.

15. Tacitus, de mor. Germ.

16. Genesis, chap. xxiv, ver. 11, 12.

17. 1 Samuel, chap. xviii, ver. 25.

18. The Commonwealth of England, bk. 3, chap. 8.

19. Husbands have the same power of life and death over their wives as over their children. When the head of a noble family dies his relatives meet, and if there is suspicion of foul play the widow is examined under torture, just as we examine slaves.' Caesar, de bell. Gall. lib. 6, § 18.

20. She was said 'convenire in manum mariti,' and was precisely in the same condition with a 'filia-familias.'

21. The ceremonies of 'coemptio.'

22. Herodot. hist. lib. 1. -- See Goguet's Origin of Laws, etc. vol. 2, book 1. -- Charlevoix Journal historique d'un voyage de l'Amer. Nouveaux voyages aux Indes Orientales, tom. 2, p. 20. -- Mod. Univ. Hist. vol. 6, p. 561

Vestiges of the same practice are also to be found in the writing of the Roman Lawyers.

23. Modern Universal History, vol. 16. -- Capt. Hamilton says, that upon the coast of Malabar a woman is not allowed to have more than twelve husbands.

24. Father Tachard, superior of the French Missionary Jesuits in the East Indies, gives the following account of the inhabitants in the neighbourhood of Calicut. 'In this county,' says he, called Malleami, 'there are castes, as in the rest of India. Most of them observe the same custom; and, in particular, they all entertain a like contempt for the religion and manners of the Europeans. But a circumstance, that perhaps is not found elsewhere, and which I myself could scarce believe, is that among these barbarians, and especially the noble castes, a woman is allowed, by the laws, to have several husbands. Some of these have had ten husbands together, all of whom they look upon as so many slaves that their charms have subjected.' Lettres edifiantes et curieuses, translated by Mr Lockman, vol. 1, p. 168.

25. Genesis, chap. xxix, ver. 18, 19, 20.

26. As this poet was chiefly employed in describing grand and sublime objects, he has seldom had occasion to introduce any images taken from the pastoral life. From the following passages, however, there can be no doubt that, in his time, the people in the West-Highlands of Scotland, as well as upon the neighbouring coast of Ireland, were acquainted with pasturage. 'The deer descend from the hill. No hunter at a distance is seen. No whistling cow-herd is nigh' Carric-thura.

'Let Cuchullin,' said Cairbar, 'divide the herd on the hill. His breast is the seat of justice. Depart, thou light of beauty. I went and divided the herd. One bull of snow remained. I gave that bull to Cairbar. The wrath of Deugala rose.' Fingal, B. II.

I am informed that, in the Erse language, the word used to

denote a man who has nothing, signifies properly one who has no head of cattle; which affords a presumption that, in the countries where this language was spoken, pastorage was nearly coeval with property. It is, at the same time difficult to imagine, that people should possess the art of managing a chariot drawn by horses, without having previously learnt something of the management of herds and flocks: Not to mention, that, in those parts of Britain which were known to the Romans, the pasturing of cattle was understood for ages before the time when Ossian is supposed to have lived.

27. The battle of Lora.

28. Pope's Odyssey, book i, l. 453.

29. Among the Franks, so early as the compilation of the Salique law, it appears that a high degree of reserve was practised between the sexes. M. L'Abbé Velly quotes, from that ancient code, the following article, 'Any man who has shaken hands with a free woman shall be made to pay a penalty, of fifteen gold sous.' And he adds, 'If our century is admittedly more polished than that of our ancient legislators, it is at least neither so respectful nor so reserved.' Histoire de France. tom. 1, p. 134.

30. M. de la Curne de Sainte Palaye has collected some extraordinary instances of that zeal with which those who enjoyed the honour of knighthood endeavoured to expose any lady who had lost her reputation. -- 'Et vous diray encore plus,' says an old author, 'comme j'ay ouy raconter à plusieurs Chevaliers qui virent celluy Messire Geoffroy, qui disoit que quand il chevauchoit par les champs, et il vcoit le chasteau ou manoir de quelque Dame, il demandoit tousjours à qui il estoit; et quand on lui disoit, il est a celle, se le Dame estoit blasmee de son honneur, il se fust plustost detourné d'une demi lieue qu'il ne fust venu jusques devant la porte; et là prenoit ung petit de croye qu'il portoit, et notoit cetter porte, et y faisoit ung signet, et s'en venoit.'

31. Proverbs, chap xxxi, ver. i 3, etc.

32. Thucydides, lib. 2.

33. Lysias, Orat. cont. Diogit.

34. See the oration of Lysias, in defence of Euphiletus, translated by Dr Gillies.

35. What is here said with respect to polygamy is only applicable to that institution as it takes place among opulent and luxurious nations; for in barbarous countries, where it is introduced in a great measure from motives of conveniency, and where it is accompanied with little or no jealousy, it cannot have the same consequences.

36. By the Roman law, about this period, divorces were granted upon any pretence whatever, and might be procured at the desire of either party. At the same time, the manners, which produced this law, disposed the people very frequently to lay hold of the privilege which it gave them; in so much that we read of few Romans of rank who had not been once divorced, if not oftener. To mention only persons of the gravest and most respectable

character: M. Brutus repudiated his wife Claudia, though there was no stain upon her reputation. Cicero put away his wife Terentia, after she had lived with him thirty years, and also his second wife Publilia, whom he had married in his old age. His daughter Tullia was repudiated by Dolabella. Terentia, after she was divorced from Cicero, is said to have had three successive husbands, the first of whom was Cicero's enemy, Sallust the historian. It was formerly mentioned that M. Cato, after his wife Marcia had brought him three children, gave her away to his friend Hortensius. Many of those trifling causes which gave rise to divorce are taken notice of by Valerius Maximus. Seneca declares that some women of illustrious rank were accustomed to reckon their years, not by the number of consuls, but of husbands. [De beneficiis.] As a further proof of the profligacy of that age, it is observed that men were sometimes induced to marry from the prospect merely of enriching themselves by the forfeiture of the wife's dower, when she committed adultery. Valerius Maximus, lib. 6, c. 3.

37. The action for the recovery of such stolen goods was not called *conditio furtiva*, but *actio rerum amotarum*.

38. *Heredipetae*.

39. 'Do thou, O prophet, tell me forthwith how I may amass riches, and heaps of money. In troth I have told you and tell you again. Use your craft to lie at catch for the last wills of old men: and do not, if one or two cunning chaps escape by biting the bait off the hook, either lay aside hope, or quit the art, though disappointed in your aim.' [See the whole of the 5th Satire, B. 2 of Horace.] The *Volpone*, of Johnson, is entirely founded upon this part of ancient manners; but the ridicule of that performance is in a great measure lost, as the original from which it is drawn, and of which it is a faithful copy, has no place in any modern country.

Chapter II

Of the jurisdiction and authority of a father over his children

Section I

The power of a father in early ages

The jurisdiction and authority which, in early times, a father exercised over his children, was of the same nature with that of a husband over his wife. Before the institution of regular government, the strong are permitted to oppress the weak; and in a rude nation, every one is apt to abuse that power which he happens to possess.

After marriage is completely established in a community, the husband, as has been formerly observed, becomes the head of his family, and assumes the direction and government of all its members. It is to be expected, indeed, that in the exercise of this authority, he should have an inclination to promote the welfare and prosperity of his children. The helpless and miserable state in which they are produced, can hardly fail to excite his pity, and to solicit in a peculiar manner the protection of that person from whom they have derived their existence. Being thereby induced to undertake the burden of rearing and maintaining them, he is more warmly engaged in their

behalf in proportion to the efforts which he has made for their benefit, and his affection for them is increased by every new mark of his kindness. While they grow up under his culture and tuition, and begin to lisp the endearing names of a parent, he has the satisfaction of observing their progress towards maturity, and of discovering the seeds of those dispositions and talents, from the future display of which he draws the most flattering expectations. By retailing them afterwards in his family, which is the foundation of a constant intercourse, by procuring their assistance in the labour to which he is subjected, by connecting them with all his plans and views of interest, his attachment is usually continued and strengthened from the same habits and principles which, in other cases, give rise to friendship or acquaintance. As these sentiments are felt in common by the father and mother, it is natural to suppose that their affection for each other will be, in some measure, reflected upon their offspring, and will become an additional motive of attention to the objects of their united care and tenderness.

Such is, probably, the origin of that parental fondness, which has been found so extensive and universal that it is commonly regarded as the effect of an immediate propensity. But how strongly soever a father may be disposed to promote the happiness of his children, this disposition, in the breast of a savage, is often counteracted by a regard to his own preservation, and smothered by the misery with which he is loaded. In many cases he is forced to abandon them entirely, and suffer them to perish by hunger, or be devoured by wild beasts. From his necessitous circumstances, he is sometimes laid under the temptation of selling his children for slaves. Even those whom the father finds it not inconvenient to support, are subjected to a variety of hardships from the natural ferocity of his temper; and if on some occasions they are treated with the utmost indulgence, they are, on others, no less exposed to the sudden and dreadful effects of his anger. As the resentment of a savage is easily kindled, and raised to an excessive pitch; as he behaves like a sovereign in his own family, where he has never been accustomed to bear opposition or control, we need not wonder that, when provoked by unusual disrespect or contradiction, he should be roused and hurried on to commit the most barbarous of all actions, the murder of his own child.

The children, in their early years, are under the necessity of submitting to the severe and arbitrary will of their father. From their inferiority in strength, they are in no condition to dispute his commands; and being incapable of maintaining themselves, they depend entirely upon him for subsistence. To him they must apply for assistance, whenever they are exposed to danger, or threatened with injustice; and looking upon him as the source of all their enjoyments, they have every motive to court his favour and to avoid his displeasure.

The respect and reverence which is paid to the father, upon account of his wisdom and experience, is another circumstance that contributes to support his power and authority.

Among savages, who are strangers to the art of writing, and who have scarcely any method of recording facts, the experience and observation of each individual are almost the only means of procuring knowledge; and the only persons who can attain a superior degree of wisdom and sagacity are those who have lived to a considerable age.

It also merits attention that, in rude and ignorant nations, the least superiority in knowledge and wisdom is the source of

great honour and distinction. The man who understands any operation of nature, unknown to the vulgar, is beheld with superstitious awe and veneration.

As they cannot penetrate into the ways by which he has procured his information, they are disposed to magnify his extraordinary endowments; and they feel an unbounded admiration of that skill and learning which they are unable to comprehend. They suppose that nothing is beyond the compass of his abilities, and apply to him for counsel and direction in every new and difficult emergency. They are apt to imagine that he holds commerce with invisible beings, and to believe that he is capable of seeing into futurity, as well as of altering the course of human events by the wonderful power of his art. Thus, in the dark ages, a slight acquaintance with the heavenly bodies gave rise to the absurd pretensions of judicial astrology'. and a little knowledge of chemistry, or medicine, was supposed to reveal the invaluable secret of rendering ourselves immortal.

As in all barbarous countries old men are distinguished by their great experience and wisdom, they are upon this account universally respected, and commonly attain superior influence and authority.

Among the Greeks, at the siege of Troy, the man who had lived three ages was treated with uncommon deference, and was their principal adviser and director in all important deliberations.

'Dost thou not see, O Gual,' says Morni in one of the poems of Ossian, 'how the steps of my age are honoured? Morni moves forth, and the young meet him with reverence, and turn their eyes, with silent joy, on his course.'(1*)

The Jewish lawgiver, whose system of laws was in many respects accommodated to the circumstances of an early people, has thought proper to enforce the respect due to old age, by making it the subject of a particular precept. 'See that thou rise up before the hoary head, and honour the face of the old man.'(2*)

'I am young,' says the son of Barachel, 'and ye are very old, wherefore I was afraid, and durst not show you mine opinion. I said days should speak, and multitude of years teach wisdom.'(3*)

When any of the Tartar nations have occasion to elect a khan or leader, they regard experience and wisdom more than any other circumstance; and for that reason they commonly prefer the oldest person of the royal family.(4*) It is the same circumstance that, in the infancy of government, has given rise to a senate or council of the elders, which is commonly invested with the chief direction and management of all public affairs.

So inseparably connected are age and authority in early periods, that in the language of rude nations the same word which signifies an old man is generally employed to denote a ruler or magistrate.

Among the Chinese, who, from their little intercourse with strangers, are remarkably attached to their ancient usages, the art of writing, notwithstanding their improvement in manufactures, is still beyond the reach of the vulgar. This people have accordingly preserved that high admiration of the advantages arising from long experience and observation, which we commonly met with in times of ignorance and simplicity. Among them, neither birth, nor riches nor honours, nor dignities, can make a man forget that reverence which is due to grey hairs; and the sovereign himself never fails to respect old age, even in persons of the lowest condition.

The difference in this particular, between the manners of a rude and polished nation may be illustrated from the following

anecdote concerning two Grecian states, which, in point of what is commonly called refinement, were remarkably distinguished from each other.

It happened, at Athens, during a public representation of some play, exhibited in honour of the commonwealth, that an old gentleman came too late for a place suitable to his age and quality. Many of the young gentlemen, who observed the difficulty and confusion he was in, made signs to him that they would accommodate him, if he came where they sat. The good man bustled through the crowd accordingly; but when he came to the seats to which he was invited, the jest was to sit close, and, as he stood out of countenance, expose him to the whole audience. The frolic went round all the Athenian benches. But on those occasions there were also particular places assigned for foreigners: when the good man skulked towards the boxes appointed for the Lacedemonians, that honest people, more virtuous than polite, rose up all to a man, and with the greatest respect received him among them. The Athenians, being suddenly touched with a sense of the Spartan virtue and their own degeneracy, gave a thunder of applause; and the old man cried out, The Athenians understand what is good, but the Lacedemonians practise it.(5*)

We may easily imagine that this admiration and reverence, which is excited by wisdom and knowledge, must in a particular manner affect the conduct of children with respect to their father. The experience of the father must always appear greatly superior to that of his children, and becomes the more remarkable, according as he advances in years, and decays in bodily strength. He is placed in a situation where that experience is constantly displayed to them, and where, being exerted for their preservation and welfare, it is regarded in the most favourable light. From him they learn those contrivances which they make use of in procuring their food, and the various stratagems which they put in practice against their enemies. By him they are instructed in the different branches of their domestic economy, and are directed what measures to pursue in all those difficulties and distresses in which they may be involved. They hear with wonder the exploits he has performed, the precautions he has taken to avoid the evils with which he was surrounded, or the address and dexterity he has employed to extricate himself from those misfortunes which had befallen him; and, from his observation of the past, they treasure up lessons of prudence, by which they may regulate their future behaviour. If ever they depart from his counsel, and follow their own headstrong inclination, they are commonly taught by the event to repent of their folly and rashness, and are struck with new admiration of his uncommon penetration and foresight. They regard him in the light of a superior being, and imagine that the gifts of fortune are at his disposal. They dread his curse, as the cause of every misfortune; and they esteem his blessing of more value than the richest inheritance.

When Phenix, in the Iliad, bewails his misfortune in having no children, he imputes it to the curse of his father, which he had incurred in his youth.

My sire with curses loads my hated head,
And cries, Ye furies! barren be his bed!
Infernal Jove, the vengeful Fiends below,
And ruthless Proserpine confirm'd his vow.(6*)

'And Esau said unto his father, Hast thou but one blessing, my father? Bless me, even me also, O my father! And Esau lift up his voice and wept.'(7*)

To these observations it may be added, that the authority of the father is confirmed and rendered more universal, by the force and influence of custom.

We naturally retain, after we are old, those habits of respect and submission which we received in our youth; and we find it difficult to put ourselves upon a level with those persons whom we have long regarded as greatly our superiors. The slave, who has been bred up in a low situation, does not immediately, upon obtaining his freedom, lay aside those sentiments which he has been accustomed to feel. He retains for some time the idea of his former dependence, and notwithstanding the change of his circumstances, is disposed to continue that respect and reverence which he owed to his master. We find that the legislature, in some countries, has even regarded and enforced these natural sentiments. By the Roman law a freed man was, through the whole of his life, obliged to pay to his patron certain attendance on public occasions, and to show him particular marks of honour and distinction. If ever he failed in the observance of these duties, he was thought unworthy of his liberty, and was again reduced to be the slave of that person to whom he had behaved in so unbecoming a manner.

A son who, in a barbarous age, has been accustomed from his infancy to serve and to obey his father, is in the same manner disposed for the future to continue that service and obedience. Even after he is grown up, and has arrived at his full strength of body, and maturity of judgment, he retains the early impressions of his youth, and remains in a great measure under the yoke of that authority to which he has hitherto submitted. He shrinks at the angry countenance of his father, and trembles at the power of that arm whose severe discipline he has so often experienced, and of whose valour and dexterity he has so often been a witness. He thinks it the highest presumption to dispute the wisdom and propriety of those commands to which he has always listened, as to an oracle, and which he has been taught to regard as the infallible rule of his conduct. He is naturally led to acquiesce in that jurisdiction which he has seen exerted on so many different occasions, and which he finds to be uniformly acknowledged by all the members of the family. In proportion to the rigour with which he is treated, his temper will be more thoroughly subdued, and his habits of implicit submission and obedience will be the stronger. He looks upon his father as invested by heaven with an unlimited power and authority over all his children, and imagines that, whatever hardships they may suffer, their rebelling against him, or resistance to his will, would be the same species of impiety, as to call in question the authority of the Deity, and arraign the severe dispensations with which, in the government of the world, he is sometimes pleased to visit his creatures.

From these dispositions, which commonly prevail among the members of his family, the father can have no difficulty to enforce his orders, wherever compulsion may be necessary. In order to correct the depravity, or to conquer the rebellious disposition of any single child, he can make use of that influence which he possesses over the rest, who will regard the disobedience of their brother with horror and detestation, and be ready to contribute their assistance in punishing his transgression.

In the history of early nations, we meet with a great variety

of facts, to illustrate the nature and extent of that jurisdiction and authority which originally belonged to the father, as the head and governor of his family.

We are informed by Caesar, that among the Gauls the father had the power of life and death over his children; and there is reason to believe, that, in the ancient German nations, his jurisdiction was no less extensive.

By the early laws and customs of Arabia, every head of a family seems, in like manner, to have enjoyed an absolute power over his descendants. When the sons of Jacob proposed to carry their brother Benjamin along with them into Egypt, and their father discovered an unwillingness to part with him, 'Rueben spake unto his father, saying, Slay my two sons, if I bring him not to thee: deliver him into my hand, and I will bring him to thee again.'^(8*) Moses appears to have intended that the father should not, in ordinary cases, be at liberty to take away the life of his children in private; as may be concluded from this particular institution, that a stubborn and rebellious son should be stoned to death before the elders of the city.^(9*) It was further enacted by this legislator, that a man might sell his daughter for a slave or concubine to those of his own nation, though he was not permitted to dispose of her to a stranger.

If a man sell his daughter to be a maid-servant, she shall not go out as the men-servants do.

If she please not her master, who hath betrothed her to himself, then shall he let her be redeemed: to sell her to a strange nation he shall have no power, seeing he hath dealt deceitfully with her.^(10*)

In the empire of Russia, the paternal jurisdiction was formerly understood to be altogether supreme and unlimited. Peter the Great appear to have been so little aware that the customs of his own country might differ from those of other nations, that in his public declaration to his clergy, and to the states civil and military, relative to the trial of his son, he appeals to all the world, and affirms, that, according to all laws human and divine, and, above all, according to those of Russia, a father, even among private persons, has a full and absolute right to judge his children, without appeal, and without taking the advice of any person.

Among the Tartars, nothing can exceed the respect and reverence which the children usually pay to their father. They look upon him as the sovereign lord and master of his family, and consider it as their duty to serve him upon all occasions. In those parts of Tartary which have any intercourse with the great nations of Asia, it is also common for the father to sell his children of both sexes; and from thence the women and eunuchs, in the harems and seraglios, belonging to men of wealth and distinction in those countries, are said to be frequently procured.

Upon the coast of Africa, the power of the father is carried to the most excessive pitch, and exercised with the utmost severity. It is too well known to be denied, that, in order to supply the European market, he often disposes of his own children for slaves; and that the chief part of a man's wealth is supposed to consist of the number of his descendants. Upon the slave-coast, the children are accustomed to throw themselves upon their knees, as often as they come into the presence of their father.

The following account, given by Commodore Byron, may serve in

some measure to show the spirit with which the savages of South America are apt to govern the members of their family.

Here [says he] I must relate a little anecdote of our Christian Cacique. He and his wife had gone off, at some distance from the shore, in their canoe, when she dived for sea-eggs; but not meeting with great success, they returned a good deal out of humour. A little boy of theirs, about three years old, whom they appeared to be doatingly fond of, watching for his father and mother's return, ran into the surf to meet them: the father handed a basket of sea-eggs to the child, which being too heavy for him to carry, he let it fall; upon which the father jumped out of the canoe, and catching the boy up in his arms, dashed him with the utmost violence against the stones. The poor little creature lay motionless and bleeding, and in that condition was taken up by the mother, but died soon after. She appeared inconsolable for some time; but the brute his father shewed little concern about it.(11*)

The exposition of infants, so common in a great part of the nations of antiquity, is a proof that the different heads of families were under no restraint or control in the management of their domestic concerns. This barbarous practice was probably introduced in those rude ages when the father was often incapable of maintaining his children, and from the influence of old usage, was permitted to remain in later times, when the plea of necessity could no longer be urged in its vindication. How shocking soever it may appear to us, the custom of exposing infant children was universal among the ancient inhabitants of Greece, and was never abolished even by such of the Greek states as were most distinguished for their learning and politeness.(12*)

According to the laws and customs of the Romans, the father had anciently an unlimited power of putting his children to death, and of selling them for slaves. While they remained in his family, they were incapable of having any estate of their own, and whatever they acquired, either by their own industry, or by the donations of others, became immediately the property of their father. Though with respect to every other person they were regarded as free, yet with respect to their father they were considered as in a state of absolute slavery and subjection; and they could neither marry, nor enter into any other contract, without his approbation and consent.(13*)

In one respect, the power of a father over his sons appears, in ancient Rome, to have extended even farther than that of a master over his slaves. If upon any occasion a son had been sold by his father, and had afterwards obtained his freedom from the purchaser, he did not thereby become independent, but was again reduced under the paternal dominion. The same consequence followed, if he had been sold and manumitted a second time; and it was only after a third purchase, that the power of his father was altogether dissolved, and that he was permitted to enjoy any real and permanent advantage from the bounty of his master.

This peculiarity is said to have been derived from a statute of Romulus, adopted into the laws of the twelve tables, and affords a sufficient proof that the Romans had anciently no idea of a child living in the family, without being considered as the slave of his father.

In those early ages, when this practice was first introduced, the Roman state was composed of a few clans, or families of barbarians, the members of which had usually a strong attachment

to one another, and were at variance with most of their neighbours. When a son therefore had been banished from his family by the avarice of his father, we may suppose that, as soon as he was at liberty, he would not think of remaining in a foreign tribe, or of submitting to the hardships of procuring his food in a state of solitude, but that he would rather choose to return to his own kindred, and again submit to that jurisdiction, which was more useful from the protection it afforded, than painful from the service and obedience which it required.

It is probable, however, that if in this manner a child had been frequently separated from the company of his relations, he would at length grow weary of returning to a society in which he was the object of so little affection, and in which he was treated with so much contempt. How long he would be disposed to maintain his former connexions, and how often he would be willing to restore that property which his father had abandoned, seems, from the nature of the thing, impossible to ascertain. But whatever might be the conduct of the son, it seems to have been intended by the statute of Romulus, that, after a third sale, the property of the father should be finally extinguished, and that he should never afterwards recover a power which he had exercised with such immoderate severity.

Section II

The influence of the improvement of arts upon the jurisdiction of the father

Such was the power, in early times, possessed by the head of a family. But the gradual advancement of a people in civilized manners, and their subjection to regular government, have a natural tendency to limit and restrain this primitive jurisdiction. When different families are united in a larger society, the several members of which have an intimate correspondence with each other, it may be expected that the exercise of domestic authority will begin to excite the attention of the public. The near relations of a family, who have a concern for the welfare of the children, and who have an opportunity of observing the manner in which they are treated, will naturally interpose by their good offices, and endeavour to screen them from injustice and oppression. The abuses which, on some occasions, are known and represented with all their aggravating circumstances, will excite indignation and resentment, and will at length give rise to such regulations as are necessary for preventing the like disorders for the future.

Those improvements in the state of society, which are the common effects of opulence and refinement, will at the same time dispose the father to use his power with greater moderation. By living in affluence and security, he is more at leisure to exert the social affections, and to cultivate those arts which tend to soften and humanize the temper. Being often engaged in the business and conversation of the world, and finding, in many cases, the necessity of conforming to the humours of those with whom he converses, he becomes less impatient of contradiction, and less apt to give way to the irregular sallies of passion. His parental affection, though not perhaps more violent, becomes at least more steady and uniform; and while it prompts him to undergo the labour that may be requisite in providing for his family, it is not incompatible with that discretion which leads him to bear with the forwardness, the folly and imprudence of his children, and in his behaviour towards them, to avoid equally the

excess of severity and of indulgence.

On the other hand, the progress of arts and manufactures will contribute to undermine and weaken his power, and even to raise the members of his family to a state of freedom and independence.

In those rude and simple periods when men are chiefly employed in hunting and fishing, in pasturing cattle, or in cultivating the ground, the children are commonly brought up in the house of their father; and continuing in his family as long as he lives, they have no occasion to acquire any separate property, but depend entirely for subsistence upon that hereditary estate, of which he is the sole disposer and manager. Their situation, however, in this, as well as in many other respects, is greatly altered by the introduction of commerce and manufactures. In a commercial country, a great part of the inhabitants are employed in such a manner as tends to disperse the members of a family, and often requires that they should live at a distance from one another.

The children, at an early period of life, are obliged to leave their home, in order to be instructed in those trades and professions by which it is proposed they should earn a livelihood, and afterwards to settle in those parts of the country which they find convenient for prosecuting their several employments. By this alteration of circumstances they are emancipated from their father's authority. They are put in a condition to procure a maintenance without having recourse to his bounty, and by their own labour and industry are frequently possessed of opulent fortunes. As they live in separate families of their own, of which they have the entire direction, and are placed at such a distance from their father, that he has no longer an opportunity of observing and controlling their behaviour, it is natural to suppose that their former habits will be gradually laid aside and forgotten.

When we examine the laws and customs of polished nations, they appear to coincide with the foregoing remarks, and leave no room to doubt that, in most countries, the paternal jurisdiction has been reduced within narrower bounds, in proportion to the ordinary improvements of society.

The Romans, who for several centuries were constantly employed in war, and for that reason gave little attention to the arts of peace, discovered more attachment to their barbarous usages than perhaps any other nation that arose to wealth and splendour; and their ancient practice, with respect to the power of the father, was therefore permitted to remain in the most flourishing periods of their government. The alterations in this particular, which were at length found expedient, having, for the most part, occurred in times of light and knowledge, are recorded with some degree of accuracy, and as they mark the progress of a great people in an important branch of policy, may deserve to be particularly considered.

We know nothing with certainty concerning the attempts which, in a very remote period, are supposed to have been made for restraining the exposition of infants. By a law of Romulus, parents are said to have been obliged to maintain their male children, and the eldest female, unless where a child was, by two of the neighbours called for the purpose, declared to be a monster. A regulation of the same nature is mentioned among the laws of the twelve tables; but there is ground to believe that little regard was paid to it; and even under the emperors, the exposing of new-born children, of either sex, appears to have been exceedingly common.

The first effectual regulations in favour of children were

those which bestowed upon them a privilege of acquiring property independent of their father. During the free government of Rome, as war was the chief employment in which a Roman citizen thought proper to engage, and by which he had any opportunity of gaining a fortune, it appeared highly reasonable, that when he hazarded his person in the service of his country, he should be allowed to reap the fruit of his labour, and be entitled to the full enjoyment of whatever he had acquired. With this view, it was enacted by Julius and by Augustus Caesar, that whatever was gained by a son, in the military profession, should be considered as his own estate, and that he should be at liberty to dispose of it at pleasure.(14*)

Some time after, when the practice of the law had also become a lucrative profession, it was further established, that whatever a son acquired in the exercise of this employment, should in like manner become his own property, and should in no respect belong to the father.(15*)

In a later age, when no employment was considered as too mean for the subjects of the Roman empire, the son became proprietor of what he could procure by the practice of the mechanical arts, and of whatever he obtained by donations, or by succession to his mother or material relations; though the usufruct of those acquisitions was, in ordinary cases, bestowed upon the father.(16*)

It is uncertain at what time the Romans first began to limit the father in the power of selling his children for slaves. It appears, that before the reign of the emperor Dioclesian this privilege was entirely abolished, except in a singular case, in which it remained to the latest periods of the empire. To remove the temptation of abandoning newborn children, a permission was given to sell them, but with provision that they might, at any time after, be redeemed from the purchaser, by restoring the price which he had paid.

Exclusive of infants, the power over the life of children was first subjected to any limitation in the reign of Trajan, and of Hadrian his successor, who interposed, in some particular cases, to punish the wanton exercise of paternal authority. In the time of the emperor Severus, the father was not allowed to put his children to death in private, but when they committed a crime of an atrocious nature, was directed to accuse them before a magistrate, to whom he was empowered, in that case, to prescribe the particular punishment which he chose to have inflicted. At length this part of his jurisdiction was finally abolished by the emperor Constantine, who ordained that if a father took away the life of his child he should be deemed guilty of parricide.

These were the principal steps by which the Romans endeavoured to correct this remarkable part of their ancient law. It was natural to begin with the reformation of those particulars in which the greatest abuses were committed, and thence to proceed to others, which, however absurd in appearance, were less severely felt, and less productive of disorder and oppression. It seldom happened that a father, though permitted by law, was so hardened to the feelings of humanity and natural affection, as to be capable of imbruing his hands in the blood of a child whom he had brought up in his family; and accordingly no more than three or four instances of that nature are mentioned in the whole Roman history. He might oftener be tempted to neglect his children immediately after their birth, or be reconciled to the measure of reaping a certain profit at the expense of their freedom. But the part of his prerogative which he would probably exert in the most arbitrary manner, was that which related to the maintenance of

his family, and the management of that property which had been procured by their industry and labour. Thus we find that, beside the early and ineffectual attempts to prevent the neglect of infants, the interpositions of the Roman legislature were directed first to secure the property, afterwards the liberty, and last of all the life and personal safety of the children.(17*)

Upon comparing the manners of different countries, with regard to the subject of our present inquiry, it will be found that where ever polygamy is established, the authority enjoyed by the head of every family is usually carried to a greater height, and is more apt to remain in its full force, notwithstanding the improvements which, in other respects, the people may have attained. By the institution of polygamy, the children belonging to a person of opulent fortune, are commonly rendered so numerous as greatly to diminish the influence of paternal affection: not to mention that the confinement of his wives, and the jealousy, hatred, and dissension, which prevail among them, are productive of such intrigues to supplant or destroy one another, and to promote the interest of their respective children, that the husband, in order to repress these disorders, finds it necessary to preserve a strict discipline in his family, and to hold all its members in extreme subjection. This will suggest a reason for what is observed by Aristotle, that among the Persians, in his time, the power of a father over his children was no less absolute as that of a master over his slaves.

In the empire of China, the same circumstance, together with that aversion which the people discover to every sort of innovation, has also enabled the father to maintain a great part of his original jurisdiction.(18*) The father is said to have there the privilege of selling his children whenever he thinks proper; but if he intends to put them to death, it is necessary that he should bring them before a magistrate, and publicly accuse them. At the same time, whatever be the crime of which they are accused, they are held to be guilty, without any other proof but the bare assertion of the father.(19*)

The custom of exposing infants was not restrained in China till very lately. Father Noel, in a relation presented to the general of the Jesuits in 1703, takes notice, that at Pekin a number of children were usually dropped or exposed every morning in the streets.

As Pekin is excessively populous [continues that pious and Catholic father] and those who have more children than they can maintain do not scruple to drop them in places of public resort, where they either die miserably, or are devoured by beasts; one of our first cares is to send, every morning, catechists into the different parts of that great city, in order to baptize such of those children as are not dead. About twenty or thirty thousand children are exposed yearly, and of these our catechists baptize about three thousand; and had we twenty or thirty catechists, few of the children in question would die unbaptized.(20*)

In those European nations which have made the greatest improvements in commerce and manufactures, great liberty is usually enjoyed by the members of every family; and the children are no farther subjected to the father than seems necessary for their own advantage. When they come to be of age, they have the full enjoyment and disposal of any separate property which they happen to acquire; and even during their father's life, they are in some cases entitled to a fixed provision out of the family

estate.

It can hardly be doubted that these regulations, which tend to moderate the excessive and arbitrary power assumed by the head of a family, are supported by every consideration of justice and utility. The opinion of Sir Robert Filmer, who founds the doctrine of passive obedience to a monarch, upon the unlimited submission which children owe to their father, seems, at this day, unworthy of the serious refutation which it has met with, and could only have gained reputation when men were just beginning to reflect upon the first principles of government. To say that a king ought to enjoy absolute power because a father has enjoyed it, is to defend one system of oppression by the example of another.

The interest of those who are governed is the chief circumstance which ought to regulate the powers committed to a father, as well as those committed to a civil magistrate; and whenever the prerogative of either is further extended than is requisite for this great end, it immediately degenerates into usurpation, and is to be regarded as a violation of the natural rights of mankind.

The tendency, however, of a commercial age is rather towards the opposite extreme, and may occasion some apprehension that the members of a family will be raised to greater independence than is consistent with good order, and with a proper domestic subordination. As, in every country, the laws enforced by the magistrate are in a great measure confined to the rules of justice, it is evident that further precautions are necessary to guard the morals of the inhabitants, and that, for this purpose, the authority of parents ought to be such as may enable them to direct the education of their children, to restrain the irregularities of youth, and to instil those principles which will render them useful members of society.

NOTES:

1. Latham.
2. Leviticus, chap. xix, ver. 32.
3. Job, chap. xxxii.
4. Histoire generale des voyages.
5. Notwithstanding that old men are commonly so much respected among savages, they are sometimes put to death when so far advanced in years as to have lost the use of their faculties. This shows, that the estimation in which they are held does not proceed from a principle of humanity, but from a regard to the useful knowledge they are supposed to possess.
6. Pope's translation of the Iliad, book 9, l. 582.
7. Genesis, chap. xxvii, ver. 38.
8. Genesis, chap. xlii, ver. 37.
9. Deuteronomy, chap. xxi, ver. 18.
10. Exodus, chap. xxi, ver. 7.
11. Narrative of the honourable John Byron.

12. Aelian mentions the Thebans alone as having made a law forbidding the exposition of infants under a capital punishment, and ordaining, that if the parents were indigent, their children, upon application to the magistrate, should be maintained and brought up as slaves. Aelian, var. hist. lib. 2, cap. 7.

13. Dionysius of Halicarnassus, lib. 11, l. 11. Dig. de lib. et postum. § 3. Inst. per quas person. ciuq. [cuiq.] adquir. 1. ult. Cod. de impub. et al. subst. 1. 4. Dig. de judic. § 6. Inst. de inut. stip.

Upon the same principle a father might claim his son from any person, by the ordinary action upon property, lib. 1. § 2. Dig. de rei vind. If a son had been stolen from his father, the 'actio furti' was given against the thief, l. 38. Dig. de furt. When children were sold by their father, the form of conveyance was the same which was used in the transference of that valuable property which was called 'res mancipi', Cai. Inst. 1. 6, 3.

14. It was called 'peculium castrense.'

15. Peculium quasi castrense.

16. The subject so acquired was called peculium adventitium. Constantine made the first regulations concerning it, which were extended by his successors, especially by the emperor Justinian. Vid. Tit. Cod. de bon. matern. -- Tit. de bon. quae lib.

17. Aristot. Ethic: lib. 6. cap. 10.

18. Though in China a man is not allowed to have more wives than one, yet he may have any number of concubines; which, in the point under consideration, must have nearly the same effect. Le Compté's memoirs of China.

19. Ibid.

20. Travels of the Jesuits, compiled from their letters, translated by Lockman, vol. 1, p. 448.

Chapter III

The authority of a Chief over the members of a tribe or village

Section I

The origins of a chief, and the degrees of influence which he is enabled to acquire

Having considered the primitive state of a family during the life of the father, we may now examine the changes which happen in their situation, upon the death of this original governor, and the different species of authority to which they are then commonly subjected.

When the members of a family become too numerous to be all maintained and lodged in the same house, some of them are under the necessity of leaving it, and providing themselves with a new habitation. The sons, having arrived at the age of manhood, and being disposed to marry, are led by degrees to have a separate residence, where they may live in a more comfortable manner. They build their huts very near one to another, and each of them forms

a distinct family; of which he assumes the direction, and which he endeavours to supply with the means of subsistence. Thus the original society is gradually enlarged into a village or tribe; and according as it is placed in circumstances which favour population, and render its condition prosperous and flourishing, it becomes proportionably extensive, and is subdivided into a greater multiplicity of branches.

From the situation of this early community, it is natural to suppose that an uncommon degree of attachment will subsist between all the different persons of which it is composed. As the ordinary life of a savage renders him hardy and robust, so he is a stranger to all those considerations of utility, by which, in a polished nation, men are commonly induced to restrain their appetites, and to abstain from violating the possessions of each other. Different clans or tribes of barbarians are therefore disposed to rob and plunder one another, as often as they have an opportunity of doing it with success; and the reciprocal inroads and hostilities in which they are engaged become the source of continual animosities and quarrels, which are prosecuted with a degree of fury and rancour suited to the temper and dispositions of the people. Thus the members of every single clan are frequently at variance with all their neighbours around them. This makes it necessary that they should be constantly upon their guard, in order to repel the numerous attack to which they are exposed, and to avoid that barbarous treatment, which they have reason to expect, were they ever to fall under the power of their enemies. As they are divided from the rest of the world, so they are linked together by a sense of their common danger, and by a regard to their common interest. They are united in all their pastimes and amusements, as well as in their serious occupations; and when they go out upon a military enterprise, they are no less prompted to show their friendship for one another, than to gratify their common passions of enmity and resentment. As they have been brought up together from their infancy, and have little intercourse with those of a different community, their affections are raised to a greater height, in proportion to the narrowness of that circle to which they are confined. As the uniformity of their life supplies them with few occurrences, and as they have no opportunity of acquiring any great variety of knowledge, their thoughts are the more fixed upon those particular objects which have once excited their attention; they retain more steadily whatever impressions they have received, and become the more devoted to those entertainments and practices with which they have been acquainted.

Hence it is, that a savage is never without difficulty prevailed upon to abandon his family and friends, and to relinquish the sight of those objects to which he has been long familiar. To be banished from them is accounted the greatest of all misfortunes. His cottage, his fields, the faces and conversation of his kindred and companions, recur incessantly to his memory, and prevent him from relishing any situation where these are wanting. He clings to those well-known objects, and dwells upon all those favourite enjoyments which he has lost. The poorer the country in which he has lived, the more wretched the manner of life to which he has been accustomed, the loss of it appears to him the more insupportable. That very poverty and wretchedness, which contracted the sphere of his amusements, is the chief circumstance that confirms his attachment to those few gratifications which it afforded, and renders him the more a slave to those particular habits which he has acquired. Not all the allurements of European luxury could bribe a Hottentot to

resign that coarse manner of life which has become habitual to him; and we may remark, that the 'maladie du pays,' which has been supposed peculiar to the inhabitants of Switzerland, is more or less felt by the inhabitants of all countries, according as they approach nearer to the ages of rudeness and simplicity.(1*)

Those tribes that inhabit the more uncultivated parts of the earth being almost continually at war with their neighbours, and finding it necessary to be always in a posture of defence, have constant occasion for a leader to conduct them in their various military enterprises.

Wherever a number of people meet together in order to execute any measures of common concern, it is convenient that some person should be appointed to direct their proceedings, and prevent them from running into confusion. It accordingly appears to be a regulation, uniformly adopted in all countries, that every public assembly should have a president, invested with a degree of authority suitable to the nature of the business committed to their care. But in no case is a regulation of this kind so necessary as in the conduct of a military expedition. There is no situation in which a body of men are so apt to run into disorder, as in war; where it is impossible that they should co-operate, and preserve the least regularity, unless they are united under a single person, empowered to direct their movements, and to superintend and control their several operations.

The members of a family having been usually conducted by the father in all their excursions of moment, are naturally disposed, even when their society becomes larger, to continue in that course of action to which they have been accustomed; and after they are deprived of this common parent, to fall under the guidance of some other person, who appears next to him in rank, and has obtained the second place in their esteem and confidence.

Superiority in strength, courage, and other personal accomplishments, is the first circumstance by which any single person is raised to be the leader of a tribe, and by which he is enabled to maintain his authority.

In that rude period, when men live by hunting and fishing, they have no opportunity of acquiring any considerable property; and there are no distinctions in the rank of individuals, but those which arise from their personal qualities, either of mind or body.

The strongest man in a village, the man who excels in running, in wrestling, or in handling those weapons which are made use of in war, is, in every contest, possessed of an evident advantage, which cannot fail to render him conspicuous, and to command respect and deference. In their games and exercises, being generally victorious, he gains an ascendancy over his companions, which disposes them to yield him pre-eminence, and to rest fully satisfied of his superior abilities. When they go out to battle, he is placed at their head, and permitted to occupy that station where his behaviour is most likely to be distinguished and applauded. His exploits and feats of activity are regarded by his followers with pleasure and admiration; and he becomes their boast and champion in every strife or competition with their neighbours. The more they have been accustomed to follow his banner, they contract a stronger attachment to his person, are more afraid of incurring his displeasure, and discover more readiness to execute those measures which he think proper to suggest. Instead of being mortified by his greatness, they imagine that it reflects honour upon the society to which he belongs, and are even disposed to magnify his prowess with that fond partiality which they

entertain in favour of themselves.

In many savage tribes the captain of an expedition is commonly chosen from the number of wounds he has received in battle. The Indians of Chili are said, in the choice of a leader to regard only his superior strength, and to determine this point according to the burden which he is able to carry.(2*)

Montaigne gives an account of three West Indian savages, who came to Rouen when Charles IX was there.

The king [says he] discoursed a long time with them. They were shown our manner of living, our pomp, and the several beauties of that great city. Some time after, a gentleman asked what it was that struck them most among the various objects they had seen. They answered, three things. First, They thought it very strange that so many tall men, wearing beards, and standing round the king (these in all probability were his Swiss guards) should submit voluntarily to a child; and that they did not rather choose to be governed by one of themselves.(3*)

But when a people have begun to make improvements in their manner of fighting, they are soon led to introduce a variety of stratagem, in order to deceive their enemy, and are often no less indebted to the art and address which they employ, than to the strength or courage which they have occasion to exert. Thus, military skill and conduct are raised to higher degrees of estimation; and the experience of a Nestor, or the cunning of a Ulysses, being found more useful than the brutal force of an Ajax, is frequently the source of greater influence and authority.

This, as has been formerly observed, is the foundation of that respect and reverence which among early nations is commonly paid to old men. From this cause also it happens, that the leader of a barbarous tribe is often a person somewhat advanced in years, who retaining still his bodily strength, has had time to acquire experience in the art of war, and to obtain a distinguished reputation by his achievements.

The effect of these circumstances, to raise and support the authority of a leader or chief, is sufficiently obvious, and is fully illustrated, not only from the uniform history of mankind in a barbarous state, but also from a variety of particulars which may be observed in the intercourse of polished society.

And the people and princes of Gilead said one to another, What man is he that will begin to fight against the children of Ammon? He shall be head over all the inhabitants of Gilead.

Now Jephthah the Gileadite was a mighty man of valour, and he was the son of an harlot, and Gilead begat Jephthah.

And Gilead's wife bare him sons; and his wife's sons grew up, and they thrust out Jephthah, and said unto him, Thou shalt not inherit in our father's house; for thou art the son of a strange woman.

Then Jephthah fled from his brethren, and dwelt in the land of Tob; and there were gathered vain men to Jephthah, and went out with him.

And it came to pass, in process of time, that the children of Ammon made war against Israel.

And it was so, that when the children of Ammon made war against Israel, the elders of Gilead went to fetch Jephthah out of the land of Tob.

And they said unto Jephthah, Come, and be our captain, that we may fight with the children of Ammon.

And Jephthah said unto the elders of Gilead, Did ye not hate me, and expel me out of my father's house? and why are ye come unto me now, when ve are in distress?

And the elders of Gilead said unto Jephthah, Therefore we turn to thee now, that thou mayest go with us, and fight against the children of Ammon, and be our head over all the inhabitants of Gilead.

And Jephthah said unto the elders of Gilead, if ye bring me home again to fight against the children of Ammon, and the Lord deliver them before me, shall I be your head?

And the elders of Gilead said unto Jephthah, The Lord be witness between us, if we do not so, according to thy words.

Then Jephthah went with the elders of Gilead; and the people made him head and captain over them: and Jephthah uttered all his words before the Lord in Mizpeh.(4*)

When Saul was afterwards appointed king over the Jewish nation, we find that the prophet Samuel recommends him to the people, merely upon account of his superior stature, and the advantages of his person.

And when he stood among the people, he was higher than any of the people from his shoulders and upward.

And Samuel said to all the people, See ye him whom the Lord hath chosen, that there is none like him among all the people? And all the people shouted, and said, God save the king.(5*)

In like manner, when the family of this prince was deprived of the crown, the minds of the people were prepared for that revolution by the opinion which they entertained of the superior valour and military accomplishments of his successor.

And it came to pass, when David was returned from the slaughter of the Phillistine, that the women came out of all the cities of Israel, singing and dancing, to meet king Saul, with tabrets, with joy, and with instruments of music.

And the women answered one another as they played, and said, Saul hath slain his thousands, and David his ten thousands.(6*)

After mankind have fallen upon the expedient of taming and pasturing cattle, in order to render their situation more comfortable, there arises another source of influence and authority which was formerly unknown to them. In their herds and flocks they frequently enjoy considerable wealth, which is distributed in various proportions, according to the industry or good fortune of different individuals; and those who are poor become dependent upon the rich, who are capable of relieving their necessities, and affording them subsistence. As the preeminence and superior abilities of the chief are naturally exerted in the acquisition of that wealth which is then introduced, he becomes of course the richest man in the society. and his influence is rendered proportionably more extensive. According to the estate which he has accumulated, he is exalted to a higher rank, lives in greater magnificence, and keeps a more numerous train of servants and retainers, who, in return for that maintenance and protection which they receive from him, are accustomed in all cases to support his power and dignity.(7*)

The authority derived from wealth, is not only greater than that which arises from mere personal accomplishments, but also more stable and permanent. Extraordinary endowments, either of mind or body, can operate only during the life of the possessor,

and are seldom continued for any length of time in the same family. But a man usually transmits his fortune to his posterity, and along with it all the means of creating dependence which he enjoyed. Thus the son, who inherits the estate of his father, is enabled to maintain an equal rank, at the same time that he preserves all the influence acquired by the former proprietor, which is daily augmented by the power of habit, and becomes more considerable as it passes from one generation to another.

Hence that regard to genealogy and descent which we often meet with among those who have remained long in a pastoral state. From the simplicity of their manners, they are not apt to squander or alienate their possessions; and the representative of an ancient family is naturally disposed to be ostentatious of a circumstance which contributes so much to increase his power and authority. All the Tartars, of whatever country or religion, have an exact knowledge of the tribe from which they are descended, and are at great pains to ascertain the several branches into which it divided.

For the same reason the dignity of the chief, which in a former period was frequently elective, is, among shepherds, more commonly transmitted from father to son by hereditary succession. As the chief possesses the largest estate, so he represents the most powerful family in the tribe; a family from which all the rest are vain of being descended, and the superiority of which they have been uniformly accustomed to acknowledge. He enjoys not only that rank and consequence which is derived from his own opulence, but seem entitled to the continuance of that respect and submission which has been paid to his ancestors; and it rarely happens that any other person, though of superior abilities, is capable of supplanting him, or of diverting the course of that influence which has flowed so long in the same channel.

The acquisition of wealth in herds and flocks, does not immediately give rise to the idea of property in land. The different families of a tribe are accustomed to feed their cattle promiscuously, and have no separate possession or enjoyment of the ground employed for that purpose. Having exhausted one field of pasture, they proceed to another; and when at length they find it convenient to move their tents, and change the place of their residence, it is of no consequence who shall succeed them, and occupy the spot which they have relinquished.

'Is not the whole land before thee?' says Abraham to Lot his kinsman; 'Separate thyself, I pray thee, from me: if thou wilt take the left hand, then I will go to the right; or if thou depart to the right hand, then I will go to the left.'(8*)

The wild Arabs, who inhabit a barren country, are accustomed to change their residence every fortnight, or at least every month. The same wandering life is led by the Tartars; though, from the greater fertility of their soil, their migrations are perhaps less frequent. If people in this situation, during their temporary abode in any one part of a country, should cultivate a piece of ground, this also, like that which is employed in pasture, will naturally be possessed in common. The management of it is regarded as an extraordinary and difficult work, in which it is necessary that they should unite and assist one another; and therefore, as each individual is intitled to the fruit of his own labour, the crop, which has been raised by the joint labour of all, is deemed the property of the whole society.(9*)

Thus among the natives of the island of Borneo, it is

customary, in time of harvest, that every family of a tribe should reap so much grain as is sufficient for their maintenance; and the remainder is laid up by the public, as a provision for any future demand. Similar practices have probably taken place in most countries, when the inhabitants first applied themselves to the cultivation of the earth.

The Suevi [according to Caesar] are by far the greatest and most warlike of the German tribes. They are said to possess an hundred villages; from each of which a thousand armed men are annually led forth to war. The rest of the people remain at home; and cultivate the ground for both. These the following year take arms, and the former, in their turn, remain at home. Thus neither agriculture, nor the knowledge and practice of the military art is neglected. But they have no separate landed possessions belonging to individuals, and are not allowed to reside longer than a year in one place. They make little use of grain; but live chiefly upon milk and the flesh of their cattle, and are much addicted to hunting.(10*)

But the settlement of a village in some particular place, with a view to the further improvement of agriculture, has a tendency to abolish this ancient community of goods, and to produce a separate appropriation of landed estates. When mankind have made some proficiency in the various branches of husbandry, they have no longer occasion to exercise them by the united deliberation and counsel of a whole society. They grow weary of those joint measures, by which they are subjected to continual disputes concerning the distribution and management of their common property, while every one is desirous of employing his labour for his own advantage, and of having a separate possession, which he may enjoy according to his own inclination. Thus, by a sort of tacit agreement, the different families of a village are led to cultivate different portions of land apart from one another, and thereby acquire a right to the respective produce arising from the labour that each of them has bestowed. In order to reap what they have sown, it is necessary that they should have the management of the subject upon which it is produced; so that from having a right to the crop, they appear of course entitled to the exclusive possession of the ground itself. This possession, however, from the imperfect state of early cultivation, is at first continued only from the seed-time to the harvest; and during the rest of the year, the lands of a whole village are used in common for pasturing their cattle. Traces of this ancient community of pasture-grounds, during the winter season, may still be discovered in several parts of Scotland. But after a person has long cultivated the same field, his possession becomes gradually more and more complete; it is continued during the whole year without interruption; and when by his industry and labour he seems justly entitled, not only to the immediate crop that is raised, but to all the future advantages arising from the melioration of the soil.

The additional influence which the captain of a tribe or village is enabled to derive from this alteration of circumstances, may be easily imagined. As the land employed in tillage is at first possessed in common the different branches of husbandry are at first carried on, and even the distribution of the produce is made, under the inspection of their leader who claims the superintendance of all their public concerns.

Among the negroes upon the banks of the river Gambia, the seed-time is a period of much festivity. Those who belong to the

same village unite in cultivating the ground, and the chief appears at their head, armed as if he were going out to battle, and surrounded by a band of musicians, resembling the bards of the Celtic nations, who, by singing and playing upon musical instruments, endeavour to encourage the labourers. The chief frequently joins in the music; and the workmen accompany their labour with a variety of ridiculous gestures and grimaces, according to the different tunes with which they are entertained.

Upon the Gold Coast each individual must obtain the consent of the chief before he has liberty to cultivate so much ground as is necessary for his subsistence. At the same time when a person has been allowed to cultivate a particular spot, it should seem that he has the exclusive privilege of reaping the crop. This may be considered as one step towards the appropriation of land.

When men are disposed to separate and divide their landed possessions, every family, according as it is numerous and powerful, will be in a condition to occupy and appropriate a suitable extent of territory. For this reason the chief, from his superior wealth in cattle, and the number of his domestics, as well as from his dignity and personal abilities, can hardly fail to acquire a much larger estate, than any other member of the community. His retainers must of consequence be increased in proportion to the enlargement of his domain, and as these are either maintained in his family, or live upon his ground in the situation of tenants at will, they depend entirely upon him for subsistence. They become therefore, necessarily subservient to his interest, and may at pleasure be obliged either to labour or to fight upon his account. The number of dependents whom he is thus capable of maintaining will be so much greater, as, from the simplicity of his manners, he has no occasion to purchase many articles of luxury, and almost his whole fortune is consumed in supplying the bare necessities of life.

The estate which is acquired by a chief, after the appropriation of land, is not only more extensive than what he formerly possessed in herds and flocks, but at the same time is less liable to be destroyed or impaired by accidents; so that the authority which is founded upon it becomes more permanent, and is apt to receive a continued accumulation of strength by remaining for ages in the same family.

Section II

The powers with which the chief of a rude tribe is commonly invested

The powers which belong to this early magistrate, who is thus exalted to the head of a rude society, are such as might be expected from the nature of his office, and from the circumstances of the people over whom he is placed.

He is at first the commander of their forces, and has merely the direction of their measures during the time of an engagement. But having acted for some time in this capacity, he finds encouragement to exert his authority on other occasions, and is entrusted with various branches of public administration.

From his peculiar situation, he is more immediately led to attend to the defence of the society, to suggest such precautions as may be necessary for that purpose, and to point out those enterprises which he think it would be expedient for them to undertake. By degrees they are accustomed to follow his opinion, in planning as well as in conducting their several expeditions.

Warmly attached to his person, and zealous to promote his interest, they are disposed to accompany him for his own sake, and to espouse his quarrel upon every occasion. 'The Germans,' says Tacitus, 'esteem it an inviolable duty to defend their chief, to maintain his dignity, and to yield him the glory of all their exploits. The chiefs fight for victory: the attendants only for the chief.' (11*) As the leader of a tribe affords protection and security to all its members, so he expects that they should make a proper return for these good offices by serving him in war. To refuse this service would not only expose them to his resentment, but be regarded as a mark of infidelity or cowardice that would disgrace them for ever in the opinion of all their kindred. When on the other hand, they are willing to fulfil their duty, by appearing in the field as often as they are summoned, and by discharging with honour the trust that is reposed in them, they are admitted to be the friends and companions of the chief; they are entertained at his table, and partake in all his amusements; and after the improvement of agriculture has given rise to the appropriation of land, they obtain the possession of landed estates, proportioned to their merit, and suited to their rank and circumstances.

As the chief is, by his office, engaged in protecting and securing the members of his tribe from the hostile attacks of their neighbours, so he endeavours to prevent those disorders and quarrels which may sometimes arise among themselves, and which tend to weaken and disturb the society. When a dispute or controversy happens among those who belong to different families, he readily interposes by his good offices, in order to bring about a reconciliation between the parties; who at the same time, if they choose to avoid an open rupture, may probably be willing to terminate their difference by referring it to his judgment. To render his decisions effectual he is, at first, under the necessity of employing persuasion and intreaty, and of calling to his assistance the several heads of families in the tribe. When his authority is better established, he ventures to execute his sentences by force; in which, from considerations of expediency, he is naturally supported by every impartial and unprejudiced member of the society. Having been accustomed to determine causes in consequence of a reference, and finding that persons, accused of injustice, are frequently averse to such determination, he is at length induced, when complaints are made, to summon parties before him, and to judge of their differences independent of their consent. Thus he acquires a regular jurisdiction both in civil and criminal cases; in the exercise of which particular officers of court are gradually set apart to enforce his commands: and when lawsuits become numerous, a deputy-judge is appointed, from whom the people may expect more attention to the dispatch of business than the chief is usually inclined to bestow.

Of this gradual progress in the judicial power of a magistrate, from the period when he is merely an arbiter, to that when he is enabled to execute his decrees, and to call parties before him, several vestiges are still to be found even in the laws of polished nations. Among the Romans, the civil judge had no power to determine a law-suit, unless the parties had previously referred the cause to his decision, by a contract which was called *litis-contestatio*. In England, at this day, no criminal trial can proceed, until the culprit, by his pleading, has acknowledged the authority of the court. But while these practices were retained, from a superstitious regard to ancient usage, a ridiculous circuit was made, to avoid the inconveniences

of which they were manifestly productive. At Rome, the plaintiff, after having desired the defendant to come voluntarily into court, was, upon his refusal, permitted to drag him by the throat;(12*) and by the English law, the defendant, who stands mute, is subjected to the *peine fort et dure*, a species of torture intended to overcome the obstinacy of such as are accused of atrocious crimes.

According to the systems of religion which have prevailed in the unenlightened parts of the world, mankind have imagined that the Supreme Being is endowed with passions and sentiments resembling their own, and that he views the extraordinary talents and abilities of their leader with such approbation and esteem as these qualities never fail to excite in themselves. The same person whom they look upon as the first of mortals, is naturally believed to be the peculiar favourite of Heaven, and is therefore regarded as the most capable to intercede in their behalf, to explain the will of the Deity, and to point out the most effectual means to avert his anger, or to procure his favour.

The admiration of a military leader in rude countries, has frequently proceeded so far as to produce a belief of his being sprung from a heavenly original, and to render him the object of that adoration which is due to the Supreme Being.

In some of the American tribes, the chiefs carry the name of the sun, from whom they are supposed to be descended, and whom they are understood to represent upon earth.(13*) The Incas of Peru derived themselves, in like manner, from the sun. In the kingdom of Loango, the prince is worshipped as a god by his subjects. They give him the name or title usually bestowed upon the Deity; and they address him with the utmost solemnity for rain or fruitful seasons.

The superstition of the early Greeks, in this particular, is well known; which was carried to such a height, as enabled almost every family of distinction to count kindred with some one or other of the celestial deities. It is in conformity to this ancient mythology that Racine has put the following beautiful address into the mouth of Phedra.

Noble et brillant auteur d'une triste famille,
Toi, dont ma mère osoit se vanter d'être fille,
Qui peut-être rougis du trouble où tu me vois,
Soleil, je te viens voir pour la dernière fois!

The same principle has disposed men to deify those heroes who have rendered themselves illustrious by their public spirit, and their eminent abilities; to imagine that in another state of existence they retain their former patriotic sentiments, and being possessed of superior power, continue, with unremitting vigilance, to ward off the misfortunes, and to promote the happiness of their people.

When such are the prevailing dispositions of a people, the chief of a barbarous tribe is naturally raised to be their high priest; or if he does not himself exercise that office, he obtains at least the direction and superintendence of their religious concerns. For some time after the building of Rome, the leader of each curia or tribe, is said to have been their chief ecclesiastical officer. A similar police in this respect appears to have been originally established in the cities of Greece, and has probably taken place among the primitive inhabitants of most countries. It may easily be conceived that in ignorant nations, guided by omens and dream, and subject to all the terrors of gross superstition, this branch of power, when added to the

conduct of war, and the distribution of justice, will be an engine of great consequence to the magistrate, for carrying through his measures, and for extending his authority.

As, in conducting the affairs of a community, in the management of what relates to peace or war, and in the administration of justice, various abuses are apt to be committed, and many more may still be apprehended, the people are gradually led, by experience and observation, to introduce particular statutes or laws, in order to correct or ascertain their practice for the future. Even this legislative power, by which all the other branches of government are controlled and directed, is naturally assumed by the chief, after he has acquired considerable influence and authority. When the members of his tribe have become in a great measure dependent upon him with regard to their property, they are in no condition to dispute his commands, or to refuse obedience to those ordinances which he issues at pleasure, in order to model or establish the constitution of the society.

From these observations we may form an idea of that constitution of government which is naturally introduced among the members of a rude tribe or village. Each of the different families of which it is composed is under the jurisdiction of the father, and the whole community is subjected to a chief or leader, who enjoys a degree of influence and authority according to the superior abilities with which he is endowed, or the wealth which he has been enabled to acquire.

The rudest form of this government may be discovered among the Indians of America. As these people subsist, for the most part, by hunting or fishing, they have no means of obtaining so much wealth as will raise any one person greatly above his companions. They are divided into small independent villages, in each of which there is a chief, who is their principal leader in war. He bears the name of that particular tribe over which he presides; and in their public meetings he is known by no other. His authority, though greater in some villages than in others, does not appear in any of them to be very considerable. If he is never disobeyed, it is because he knows how to set bounds to his commands. Every family has a right to name an assistant to the chief; and the several heads of families compose an assembly, or 'council of the elders', which is accustomed to deliberate upon all matters of public importance.(14*)

Each individual is allowed, in ordinary cases, to 'take up the hatchet', as it is called, or make war upon those who have offended him. Enterprises of moment, however, are seldom undertaken without the concurrence of the assembly. Each family has a jurisdiction over its own members. But the members of different families are at liberty to settle their differences in what manner they please; and the chief, or council, interfere only as mediators, or as arbiters; unless upon the commission of those enormous and extraordinary crimes which excite the general indignation, and which, from a sudden impulse of resentment, are instantly punished with severity.(15*)

From the accounts which have been given of the wandering tribes of shepherds in different parts of the world, it would seem that their government is of the same nature, though the power of their leader is further advanced, according to the degrees of wealth which they enjoy. In proportion to the extent of his herds and flocks, the chief is exalted above all the other members of the tribe, and has more influence in directing their military operations, in establishing their forms of judicial procedure, and in regulating the several branches of their public

administration. Thus the captain or leader of a tribe among the Hottentots, who have made but small progress in the pastoral life, and among the wild Arabs, who have seldom acquired considerable property, appears to have little more authority than among the savages of America.(16*) The great riches, on the other hand, which are frequently acquired by those numerous bands of shepherds inhabiting the vast country of Tartary, have rendered the influence of the chief proportionably extensive, and have bestowed upon him an almost unlimited power, which commonly remains in the same family, and is transmitted from father to son like a private inheritance.

The ancient German nations, described by Caesar and Tacitus, may be ranked in a middle situation between these extremes; having probably had more wealth than the Hottentots, or most of the wild Arabs, and less than the greater part of the Tartars. While they remained in their own country, they were not altogether strangers to the cultivation of the ground; but they all led a wandering life, and seem to have had no idea of property in land; a sufficient proof that they drew their subsistence chiefly from their cattle, and regarded agriculture as only a secondary employment. Their chiefs appear to have been either hereditary, or elected from those families who had been longest in the possession of opulent fortunes; but their military expeditions were frequently conducted by such inferior leaders, as happened to offer their service, and could persuade their companions to follow them. In time of peace, justice was administered by the respective chiefs, or leading men, of the different villages.(17*)

But when those barbarians had sallied forth from their native forests, and invaded the provinces of the Roman empire, they were soon led to a great improvement in their circumstances. The countries which they conquered had been cultivated and civilized under the Roman dominion; and the inhabitants, though generally in a declining state, were still acquainted with husbandry and a variety of arts. It was to be expected, therefore, that, while the Gothic invaders, during a long course of bloody wars, defaced the monuments of ancient literature, and wherever they came planted their own barbarous customs, they should, on the other hand, suddenly catch a degree of knowledge from the conquered people; and make a quicker progress in agriculture, and some of the coarser handicrafts connected with it, than they could have done in the natural course of things, had they been left to their own experience and observation. By their repeated victories, different heads of families, or barons, were enabled to seize great landed estates. They also acquired many captives in war, whom they reduced into servitude, and by whom they were put into a condition for managing their extensive possessions.

After the settlement of those nations was completed, the members of every large family came to be composed of two sorts of people; the slaves, acquired for the most part by conquest; and the free men, descended from a common ancestor, and maintained out of his estate. The former were employed chiefly in cultivating their masters' grounds: the latter supported the interest and dignity of their leader, and in their turn were protected by him.

The authority of the baron was extremely absolute over all the members of his family; because they entirely depended upon him for subsistence. He obliged his slaves to labour at pleasure, and allowed them such recompense only as he thought proper. His kindred were under the necessity of following his banner in all his military expeditions. He exercised over both a supreme

jurisdiction, in punishing their offences, as well as in deciding their differences; and he subjected them to such regulations as he judged convenient, for removing disorders, or preventing future disputes.

These barons, though in a great measure independent, were early united in a larger society, under circumstances which gave rise to a very peculiar set of institutions. The effect of that union, whence proceeded the system of feudal government in Europe, will fall to be considered in a subsequent part of this discourse.

NOTES:

1. Mr Kolben relates, that one of the Dutch governors at the Cape of Good Hope brought up a Hottentot according to the fashions and customs of the Europeans, teaching him several languages, and instructing him fully in the principles of the Christian religion, at the same time clothing him handsomely, and treating him in all respects as a person for whom he had an high esteem, and whom he desired for some beneficial and honourable employment. The governor afterwards sent him to Batavia where he was employed under the commissary for some time, till that gentleman died; and then he returned to the Cape of Good Hope. But having paid a visit to the Hottentots of his acquaintance, he threw off all his fine clothes, bundled them up, laid them at the governor's feet and desired he might be allowed to renounce his Christianity, and to live and die in the religion and customs of his ancestors; only requesting that he might be permitted to keep the hanger and collar which he wore, in token of his regard to his benefactor. While the governor was deliberating upon this, scarce believing the fellow to be in earnest, the young Hottentot took the opportunity of running away, and never afterwards came near the Cape, thinking himself happy that he had exchanged his European dress for a sheep-skin, and that he had abandoned the hopes of preferment for the society of his relations and countrymen.

The English East-India Company made the like experiment upon two young Hottentots, but with no better success.

2. 'Whenever they went to war, and a captain had to be elected among them. they took a large beam and put it on their shoulders one by one, and the one who carried it for the longest time was made their commander. Many of them carried it for 4, 5, and 6 hours; but one of them finally carried it for 24 hours; and that one was recognized as their leader.' Voyage d'Olivier de Noort. Recueil de voy. qui ont servi a l'etab. de la comp. Dans les Indes Orient. des Pais Bas.

3. Montaigne's essays, p. 169. Paris 1604, 8vo.

It has been remarked, that all animals which live in herds or flocks are apt to fall under the authority of a single leader of superior strength or courage. Of this a curious instance is mentioned by the author of Commodore Anson's voyage. 'The largest sea-lion,' says he, 'was the master of the flock; and, from the number of females he kept to himself, and his driving off the males, was styled by the seamen the bashaw. As they are of a very lethargic disposition, and are not easily awakened, it is observed, that each herd places some of their males at a distance in the manner of sentinels, who always give the alarm whenever any attempt is made either to molest or approach them, by making a loud grunting noise like a hog, or snorting like a horse in

full vigour. The males had often furious battles with each other, chiefly about the females; and the bashaw just mentioned, who was commonly surrounded by his females, to which no other male dared to approach, had acquired that distinguished pre-eminence by many bloody contests, as was evident from the numerous scars visible in all parts of his body.'

In a herd of deer, the authority of the master-buck, founded upon his superior strength, is not less conspicuous.

4. Judges, chap. x, ver. 18 chap. xi, ver. 1, etc.

5. 1 Samuel, chap. x, ver. 23, 24.

6. 1 Samuel, chap. xviii, ver. 6, 7.

7. The admiration and respect derived from the possession of superior fortune, is very fully beautiful illustrated by the eloquent and ingenious author of the Theory of Moral Sentiments.

8. Genesis, chap. xx, ver. 9. -- We read, however, of Abraham's buying a field for the particular purpose of a burying place, and of his having weighed, as the price, four hundred shekels of silver, current money with the merchant.

9. That land is appropriated by tribes before it becomes the property of individuals, has been observed by Dr Stuart, in his acute dissertation concerning the antiquity of the English constitution.

10. Tacitus, de mor. Germ.

11. Caesar, de bell. Gall. lib. 4, cap. 1.

12. Obtorto collo.

13. This is particularly the case among the Hurons and Natchez. Journal historique d'un voyage de l'Amerique, par Charlevoix, let. 30. Nouveaux voyages aux Indes orientales, tom. 1., p. 42.

14. 'The authority of the Chiefs properly extends only over those members of their tribe whom they look upon as their children.... Their power does not appear to have an absolute character, and they do not seem to have any way of compelling obedience in case of resistance. Nevertheless obedience is rendered them, and they command with authority, [even though] their commands have the force merely of requests, and the obedience rendered them appears entirely voluntary.... Although the Chiefs -- except in a few particular instances -- bear no outward marks of distinction or of superiority, -- so much so that one cannot distinguish them from the people by any honours one needs to render them, -- there is yet no lack of a certain respect paid them. It is, however, on public occasions, above all, that their dignity is exalted. The councils assemble on their orders, the meeting being held in their [the Chiefs'] homes (cabanes) unless there is available a public hall, like our City Halls, specially set aside for council meetings; business is conducted in their name; they preside at all kinds of meeting; they have a considerable part in festive occasions and in the general distributions.... For fear that the Chiefs might usurp too much authority, and try to take on unlimited powers, they are 'bridled' as it were, by the assignment to them of coadjutants (Adjoints) who share with them

the sovereignty over the land; and these are called Agoianders by them.... Next in authority to the Agoianders is the Senate, composed of senior members of the community of Elders, called in their language Agokstenha: the number of these senators is not a fixed one -- any one has the right to enter this council to give it his vote.' [Millar should have continued the quotation to include, 'whenever he has achieved the maturity of years, understanding and knowledge of affairs that would make him deserving of this privilege, etc.']. P. Jos. Fr. Lafitau, *Moeurs des sauvages Ameriquains*, 4to à Paris, 1724, tom. i, pp. 472-475 [4 vol. ed., also Paris, 1724, tom. ii, pp. 173-6].

15. 'Responsibility for dealing with criminal affairs belong immediately to those of the kin-group [cabane] of the guilty parties, with respect to [out of regard for?] the guilty themselves, when anyone has killed a fellow member of his own kin-group. As it is assumed that the right over life and death belong to the parties mutually involved, the village appears not to be concerned with the disorder which has arisen.... The matter takes on an entirely different character, however, when murder has been committed involving a member of another cabane, of another tribe or village, or even more, of a foreign nation; for then this death by violence becomes the concern of the entire community. Everyone takes sides with the deceased, and this contributes, in a manner, toward the restitution of the spirit -- such is their expression -- to the relatives aggrieved by the loss which they have sustained. All are at the same time interested in saving the life of the offender and in protecting his relatives from the vengeance of the others, which would not fail to break out sooner or later if one had failed to make the proper satisfaction prescribed for such cases by their laws and by their customs. There are, however, occasions where the crime is considered so heinous that one is no longer concerned with the protection of the murderer, and the Council, using its supreme authority, takes pains to effect his punishment.' *Ibid.* pp. 486 f., 490, 495 [respectively II, pp. 185 f., 189, 193.] Also, tom. 2, p. 167 [III, pp. 154 f.] [Translations my own. Ed.] See also the view which is given of the state of government among the Americans, by P. Charlevoix, *Journal historique d'un voyage de l'Amerique*, let. 13, 18.

16. 'The Arabian tribes, though they have been for many ages under the Turkish yoke, are justice, or in the succession to rarely interrupted, either in what may concern the course of those few offices and dignities that belong properly to themselves. -- Every Dou-war (i.e. village or encampment) therefore may be looked upon as a little principality, over which it is usual for that particular family, which is of the greatest name, substance, and reputation, to preside. However, this honour does not always lineally descend from father to son; but, as it was among their predecessors the Numidians, when the heir is too young, or subject to any infirmity, then they make choice of the uncle, or some other relation, who, for prudence and wisdom, is judged to be the fittest for that employ. Yet, notwithstanding the despotic power which is lodged in this person, all grievances and disputes are accommodated in as amicable a manner as possible, by calling to his assistance one person or two out of each tent: and as the offender is considered as a brother, the sentence is always given on the favourable side; and even in the most enormous crimes, rarely any other punishment is inflicted than banishment.' *Shaw's Travels*, chap. 4, p. 310.

17. 'They take their kings on the ground of birth, their generals on the basis of courage: the authority of their kings is not unlimited or arbitrary; their generals control them by example rather than command, and by means of admiration which attends upon energy and a conspicuous place in front of the line.' Tacitus, de mor. Germ. § 7.

'On small matters the chiefs consult; on larger questions, the community; but with this limitation, that even the subjects, the decision of which rests with the people, are first handled by the chiefs.... When the crowd is pleased to begin they take their seats carrying arms. Silence is called for by the priests, who thenceforward have power also to coerce: then a king or a chief is listened to, in order of age, birth, glory in war, or eloquence, with the prestige which belongs to their counsel rather than with any prescribed right to command.' Ibid. § 11.

'At this assembly it is also permissible to lay accusations and to bring capital charges. The nature of the death penalty differs according to the offence: traitors and deserters are hung from trees; cowards and poor fighters and notorious evil-livers are plunged into the mud of marshes with a hurdle on their heads.... At the same gatherings are selected chiefs, who administer law through the cantons and villages: each of them has one hundred assessors from the people to be his responsible advisers.' Ibid. § 12.

'On the declaration of war a high command is set up and invested with powers over life and death; but in peace-time there is no central government. Justice is administered and disputes settled by various local chiefs.... When a chieftain formally proclaims his intention of leading a raid, he calls for volunteers: those who approve the project and trust the man himself stand up and promise their support amid loud applause from the whole assembly. Any one who goes back on that promise is considered a deserter and a traitor, and no one ever trusts him again.' Caesar, de bell. Gall. lib. 6, § 23.

Chapter IV

The authority of a Sovereign, and of subordinate officers, over a society composed of different tribes or villages

Section I

The constitution of government arising from the union of different tribes or villages

The improvement of agriculture, as it increases the quantity of provisions, and renders particular tribes more numerous and flourishing, so it obliges them at length to send out colonies to a distance, who occupy new seats wherever they can find a convenient situation, and are formed into separate villages, after the model of those with which they are acquainted. Thus, in proportion as a country is better cultivated, it comes to be inhabited by a greater number of distinct societies, whether derived from the same or from a different original, agreeing in their manners, and resembling each other in their institutions and customs.

These different communities being frequently at war, and being exposed to continual invasions from their neighbours, are in many cases determined, by the consideration of their mutual interest, to unite against their common enemies, and to form a

variety of combinations, which, from the influence of particular circumstances, are more or less permanent. Having found the advantage of joining their forces in one expedition, they are naturally disposed to continue the like association in another, and by degrees are encouraged to enter into a general alliance. The intercourse which people, in such a situation, have maintained in war will not be entirely dissolved even in time of peace; and though the different villages should be originally strangers to each other, yet, having many opportunities of assembling in their military enterprises, they cannot fail to contract an acquaintance, which will become an inducement to their future correspondence. They have frequent opportunities of meeting in their common sports and diversions; the leading men entertain one another with rustic hospitality and magnificence: intermarriages begin to take place between their respective families; and the various connexions of society are gradually multiplied and extended.

An alliance for mutual defence and security is a measure suggested by such obvious views of expediency that it must frequently take place, not only among tribes of husbandmen, but also among those of shepherds, and even of mere savages. Many instances of it are, accordingly, to be found in Tartary, upon the coast of Guinea, in the history of the ancient Germans, and among the Indians of America. But such alliances are not likely to produce a permanent union, until the populousness of a country has been increased by agriculture, and the inhabitants, in consequence of that employment, have taken up a fixed residence in the same neighbourhood.

From a confederacy of this kind, a very simple form of government is commonly established. As every village, or separate community, is subjected to its own leader, their joint measures fall naturally under the direction of all those distinguished personages; whose frequent meeting and deliberation gives rise, in a short time, to a regular council, or senate, invested with a degree of power and authority corresponding to what each of its members has acquired over his own particular domestics and retainers.

The same considerations however which determine the individuals of a single tribe to be guided by a particular person in their smaller expeditions, must recommend a similar expedient in conducting a numerous army, composed of different clans, often disagreeing in their views, and little connected with each other. While every chief has the conduct of his own dependents, it is found convenient that some one leader should be instructed with the supreme command of their united forces; and as that dignity is commonly bestowed upon the person who, by his opulence, is most capable of supporting it, he is frequently enabled to maintain it during life, and even in many cases to render it hereditary. In this manner a great chief, or king, is placed at the head of a nation, and is permitted to assume the inspection and superintendence of what relates to its defence and security.

But, notwithstanding the rank and pre-eminence enjoyed by this primitive sovereign, it may easily be conceived that his authority will not be very considerable. His advancement can hardly fail to excite the jealousy of chiefs unaccustomed to subordination, who will be disposed to take every opportunity of curbing his pretensions, and to allow him no higher prerogatives than are sufficient to answer the purposes for which he was created. His interpositions, in matters of public concern, will depend very much upon times and circumstances, and being directed by no previous rules, will be frequently made in an irregular and

desultory manner. In a day of battle, when placed at the head of his army, he may venture, perhaps, to rule with a high hand, and it may be dangerous for any of his followers to disobey his orders; but upon other occasions his power is usually confined within a narrower compass, and frequently extends no further than to the members of his own clan. After the conclusion of a military enterprise, when the other tribes have retired to their separate places of abode, they are in a great measure withdrawn from his influence, and are placed under the immediate jurisdiction and authority of the respective chiefs by whom they are protected. As it is necessary that these leading men should give their consent to every public measure of importance, they are usually convened for that purpose by the king; who at the same time is accustomed to preside in all their deliberations.

Such, as far as can be collected from the scattered hints delivered by travellers, is the state of government in many rude kingdom, both upon the coast of Africa, or in those parts of Asia, where a number of distinct tribes or villages have been recently and imperfectly united.

In the *Odyssey*, Alcinous, king of the Pheacians, says expressly, 'There are twelve chiefs who share dominion in the kingdom, and I am the thirteenth.'^(1*) He is accordingly obliged to call a council of his nobles, before he can venture to furnish Ulysses with a single ship, in order to transport him to his native country.

In the island of Ithaca, the power of the chiefs, who usually deliberated in council upon the affairs of the nation, is equally conspicuous.

'Twas silence all, at last Aegyptius spoke;
Aegyptius, by his age and sorrows broke: --
Since great Ulysses sought the Phrygian plains,
Within these walls inglorious silence reigns.
Say then, ye Peers! by whose commands we meet?
Why here once more in solemn council sit?
Ye young, ye old, the weighty cause disclose:
Arrives some message of invading foes?
Or say, does high necessity of state
Inspire some patriot, and demand debate?
The present synod speak its author wise;
Assist him, Jove! thou regent of the skies!^(2*)

From the early history of all the Greek states, we have reason to believe that their government was of a similar nature. The country of Attica, in particular, is said to have been peopled by colonies which were brought, under different leaders, from Egypt and some of the neighbouring countries, and which formed a number of distinct tribes or villages, independent of one another. The first association among these little societies happened in the time of Cecrops, the founder of Athens, who became their general, and who made a considerable reformation in their police and manners. They were afterwards more intimately united in the reign of Theseus, when the nobility, or principal inhabitants of the several towns or villages, were persuaded to settle at Athens, and composed a senate, or national council, which exercised an authority over the whole country, and obtained the chief direction of religious matters, together with the privilege of electing magistrates, and of teaching and dispensing the laws.

The resemblance between this and the ancient Roman

constitution is sufficiently obvious. The foundation of that mighty empire was laid by a few tribes of barbarians, originally distinct from one another, who at first inhabited different quarters of the city, and who appear to have lived under the jurisdiction of their respective chiefs.(3*) This was, in all probability, the origin of that connexion between the poor and the rich, which remained in after ages, and which has been commonly ascribed to the policy of Romulus. People of the lower class at Rome were all attached to some particular patron of rank and distinction; and every patrician had a number of clients, who, besides owing him respect and submission, were bound to portion his daughters, to pay his debts, and to ransom his person from captivity; as, on the other hand, they were entitled to his advice and protection. Of these leading men, who had an extensive influence over the populace, was formed the primitive senate, or council of the sovereign; which appears to have had the absolute determination of peace and war; and which, in the first instance, had not only the privilege of deliberating upon all public regulations, but also, upon the death of a king, that of naming a successor to the royal dignity.

It must not be overlooked, however, that in the Roman, as well as in many of the Greek governments, there was originally a considerable mixture of democracy, arising from the peculiar circumstances of the people. The different tribes, or families, united in the formation of Rome, or of the independent cities which arose in Peloponnesus and some of the neighbouring countries, had very little property, either in moveables or in land; and their poverty must have prevented the growth of authority in their respective leaders. The influence of a chief, in each of those petty states, depended, in all probability, upon the personal attachment of his followers, and their admiration of his abilities, more than upon his superiority in wealth; and the power which that influence enabled him to assume was, therefore, far from being absolute. For this reason, under the kingly government of Rome, the authority of the senate, composed of all the chiefs, was not alone sufficient for making general laws, or transacting business where dissension might be apprehended, but its decrees, in such cases, were usually confirmed by an assembly consisting of the whole people. The same practice obtained in Athens and Sparta, and probably in most of the other states of Greece.

The particulars related by Caesar concerning the inhabitants of ancient Gaul may be considered as affording the most authentic evidence of the state of government in any rude country. We learn from this author that the whole of that country was divided into a number of separate states, independent of each other, and differing considerably in the degrees of their power, as well as in the extent of their territories. In the several towns, villages, or families, belonging to each nation, there were certain leading persons, possessed of great influence and authority, by whom their respective followers were governed and protected. The affairs of a whole nation were conducted by a king, or chief magistrate, assisted by a national council; and when different nations were engaged in a common enterprise, they made choice of a general to command their united forces.(4*)

The German nations who about the fifth century, over-ran and subdued the provinces of the Western empire, were in a different situation from any other people with whose history we are acquainted. While they remained in their own country, those nations had made considerable advances in the pastoral state, and had thereby acquired a good deal of wealth in herds and flock. By

their settlement in the Roman provinces, they had an opportunity, as has been already observed, of acquiring large estates in land, which tended to augment the authority of different leaders in proportion to their riches.

The inhabitants of a large tract of country were, at the same time, associated for their mutual defence, and in their common expeditions, were conducted by a great chief, or king, whose rank and dignity, like that of every subordinate leader, was supported by his own private estate. There were two circumstances which rendered the associations made upon this occasion much more extensive than they commonly are among nations equally barbarous.

As each of the nations who settled in the Western empire, though seldom large, was, by the rapid progress of its arm, and by a sudden improvement in agriculture, enabled to occupy a prodigious quantity of land, the different proprietors, among whom that land was divided, were placed at a great distance from one another, and spread over a wide country. But many of these proprietors consisting of kindred or acquaintance, and all of them having been accustomed to act under one commander, they were still inclined, how remote soever their situation, to maintain a correspondence, and to unite in their military enterprises.

The state of the Roman provinces was another circumstance which promoted an extensive association among the conquerors. Each province of the Roman empire constituted, in some measure, a separate government, the several parts of which had all a dependence upon one another. The inhabitants, not to mention their ancient national attachment, had usually a set of laws and customs peculiar to themselves, and were governed by the same officers civil and military. They were accustomed on public occasions to act in concert, and to consider themselves as having a common interest. The capital, which was the seat of the governor, became the centre of government, to which the gentry of the province resorted in expectation of preferment, or with a view of sharing in the pleasures of a court; and from thence, to the most distant parts of the country, innumerable channels of communication were opened, through the principal towns, where trade was carried on, where taxes were levied, or where justice was administered.

The connexions, which had thus subsisted for ages between the several districts of large territory, were not entirely destroyed when it came under the dominion of the barbarians. As the ancient inhabitants were no where extirpated, but either by submitting to servitude, or by entering into various treaties of alliance, were incorporated and blended with the conquerors, the habits of intercourse, and the system of political union which remained with the former, was, in some degree, communicated to the latter. When different tribes, therefore, though strangers to each other, had settled in the same province; they were easily reduced under one sovereign; and the boundaries of a modern kingdom, came frequently, in the western part of Europe, to be nearly of the same extent with the dominions which had been formerly subject to a Roman governor.

In proportion to the number of tribes, or separate families, united in one kingdom, and to the wideness of the country over which they were scattered, the union between them was loose and feeble. Every proprietor of land maintained a sort of independence, and notwithstanding the confederacy of which he was a member, assumed the privilege of engaging in private wars at pleasure. From the violent disposition to theft and rapine which prevailed in that age, neighbouring proprietors, when not occupied in a joint expedition, were tempted to commit

depredations upon each other; and mutual injuries between the same individuals being often repeated, became the source of family quarrels, which were prosecuted with implacable animosity and rancour. There was no sufficient authority in the public for repressing these disorders. If, upon great provocation, the king had been excited to humble and punish an opulent baron, he found in many cases that the whole force of the crown was requisite for that purpose, and by the hazard and difficulty of the attempt, was commonly taught to be cautious, for the future, of involving himself in such disputes.

As individuals therefore, in those times of violence and confusion, were continually exposed to injustice and oppression, and received little or no protection from government, they found it necessary to be constantly attentive to their own safety. It behoved every baron, not only to support his own personal dignity, and to maintain his own rights against the attacks of all his neighbours, but also to protect his retainers and dependents; and he was led, upon that account, to regulate the state of his barony in such a manner, as to preserve the union of all its members, to secure their fidelity and service, and to keep them always in a posture of defence. With this view, when his relations, who had hitherto lived about his house, were gradually permitted to have families of their own, he did not bestow upon them separate estates, which would have rendered them independent; but he assigned them such portions of land as were thought sufficient for their maintenance, to be held upon condition, that whenever they were called upon, they should be ready to serve him in war, and that, in all their controversies, they should submit to his jurisdiction. These grants were made for no limited time, but might be resumed at pleasure; so that though the master was not likely without some extraordinary offence, to deprive his kinsmen of their possessions, yet his power in this respect being indisputable, it could hardly fail to keep them in awe, and to produce an implicit obedience to his commands.

The military tenants, supported in this manner, were denominated vassals; and the land held by any person upon such terms has been called, a fief; though many writers, in order to distinguish it from what afterwards went under the same name, have termed it a benefice.

When the estate of a baron became extensive, the slaves, by whom it was cultivated, were likewise sent to a distance from the house of their master, and were placed in separate families, each of which obtained the management of a particular farm; but that they might, in those disorderly times, be more easily protected by the owner, and might be in a condition to defend and assist one another, a number of them were usually collected together, and composed a little village. Hence they received the appellation of villani, or villains.

The whole of a kingdom was thus divided into a number of baronies, of greater or smaller extent, and regulated nearly in the same manner. The king was at the head of a barony similar in every respect to those of his subjects, though commonly larger, and therefore capable of maintaining a greater number of vassals and dependents. But the land which belonged to the barons, was held in the same independent manner with that which belonged to the king. As each of those warlike chiefs had purchased his demesnes by his own activity and valour, he claimed the absolute enjoyment and disposal of them together with the privilege of transmitting them to his posterity; and as he had not been indebted to the crown for his original possession, neither was he

obliged to secure the continuance of it, by serving the king in war, or by submitting to his jurisdiction. Their property, therefore, was such as has been called allodial, in contradiction to that feudal tenure enjoyed by their respective military tenants.(5*)

These peculiarities, in the state of the kingdoms which were formed upon the ruins of the Roman empire, had a visible effect upon their constitution of government. According to the authority possessed by the barons, each over his own barony, and their independence with respect to each other, and with respect to the king, was their joint power and influence over that great community of which they were members. The supreme powers of government in every kingdom were, therefore, exercised by an assembly composed of all those proprietors, and commonly summoned by the king on every great emergency.

Two meetings of this great council appear to have been regularly held in a year, for the ordinary dispatch of business; the first, after the seed-time, to determine their military operations during the summer; the second, before the harvest, in order to divide the booty. In those meetings it was customary also to rectify abuses by introducing new regulations, and to decide those law-suits which had arisen between independent proprietors of land. Such was the business of the early parliaments in France, of the Cortes in Spain, of the Wittenagemote in England; and in each of the feudal kingdom, we discover evident marks of a national council, constituted in the same manner, and invested with similar privileges.(6*)

These observations may serve to show the general aspect and complexion of that political constitution which results from the first union of rude tribes, or small independent societies. The government resulting from that union is apt to be of a mixed nature, in which there is a nobility distinguished from the people, and a king exalted above the nobles. But though, according to that system, the peculiar situation of different nations may have produced some variety in the powers belonging to these different orders, yet, unless in very poor states, the influence acquired by the nobles has commonly been such as to occasion a remarkable prevalence of aristocracy.

Section II

The natural progress of government in a rude kingdom

The continued union of rude tribes, or small societies, has a tendency to produce a great alteration in the political system of a people. The same circumstances, by which, in a single tribe, a chief is gradually advanced over the different heads of families, contribute, in a kingdom, to exalt the sovereign above the chiefs, and to extend his authority throughout the whole of his dominions.

As the king is placed at the head of the nation, and acts the most conspicuous part in all their public measures, his high rank and station reflect upon him a degree of splendour, which is apt to obscure the lustre of every inferior chief; and the longer he has remained in a situation where he excites the admiration and respect of the people, it is to be supposed that their habits of submission to him will be the more confirmed.

From the opulence, too, of the sovereign, which is generally much greater than that of any other member of the community, as well as from the nature of his office, he has more power to reward and protect his friends, and to punish or depress those

who have become the objects of his resentment or displeasure. The consideration of this must operate powerfully upon individuals, as a motive to court his favour, and, of consequence, to support his interest. It is therefore to be concluded that, from the natural course of things, the immediate followers and dependents of the king will be constantly increasing, and those of every inferior leader will be diminishing in the same proportion.

In a government so constituted as to introduce a continual jealousy between the crown and the nobles, it must frequently happen that the latter, instead of prosecuting a uniform plan for aggrandizing their own order, should be occupied with private quarrels and dissensions among themselves; so that the king, who is ready to improve every conjuncture for extending his power, may often employ and assist the great lords in destroying each other, or take advantage of those occasions when they have been weakened by their continued struggles, and are in no condition to oppose his demands.

According as the real influence and authority of the crown are extended, its prerogatives are gradually augmented. When the king finds that the original chiefs have become in a great measure dependent upon him, he is not solicitous about consulting them in the management of public affairs; and the meetings of the national council, being seldom called, or being attended only by such members as are entirely devoted to the crown, dwindle away from time to time, and are at last laid aside altogether. The judicial power of the heads of different tribes is gradually subjected to similar encroachments; and that jurisdiction, which they at first held in virtue of their own authority, is rendered subordinate to the tribunal of the monarch, who, after having established the right of appeal from their courts to his own court, is led to appoint the judges in each particular district. The power of making laws, as well as that of determining peace and war, and of summoning all his subjects to the field, may come in like manner to be exercised at the discretion of the prince. This progress of government, towards monarchy, though it seem to hold universally, is likely to be accompanied with some diversity of appearances in different countries; and, in particular, is commonly more rapid in a small state than in a large one; in which point of view the ancient Greek and Romans are most remarkably distinguished from the greater part of the feudal kingdoms in Europe.

The Roman and Greek states were originally of small extent, and the people belonging to each of them being, for the most part, collected in one city, were led in a short time to cultivate an acquaintance. The police which was easily established in such a limited territory, put a stop to the divisions so prevalent among neighbouring tribes of barbarians. Those who belonged to different families were soon restrained from injuring one another, and lived in security under the protection of the government. By conversing together almost every day, their ancient prejudices were eradicated; and their animosities, being no longer cherished by reciprocal acts of hostility, were allowed to subside, and left no traces behind. The whole people, being early engaged in violent struggles with the petty states around them, were obliged to hold an intimate correspondence, and acquired an high sense of public interest. In proportion as they were thus incorporated in a larger community, they lost all inferior distinctions. The members of each particular tribe had no reason to maintain their peculiar connexions, or to preserve their primitive attachment to their respective chiefs. The power of the nobility, therefore, which

depended upon those circumstances, was quickly destroyed; and the monarch, who remained at the head of the nation without a rival to counterbalance his influence, had no difficulty in extending his influence over the whole of his dominions.

For this reason, the ancient jurisdiction and authority of the chiefs is not very distinctly marked in the early history of those nations, among whom it was in a great measure destroyed before they were possessed of historical records. At Rome, so early as the reign of Servius Tullius, the practice of convening the people according to their tribes, or *curiae*, was almost entirely laid aside; and the public assemblies were held in such a manner, that every individual was classed according to his wealth.

The great extent, on the other hand, of those modern kingdoms which, upon the downfall of the Roman empire, were erected in the western part of Europe, was formerly mentioned; and the political consequences, which appear to have been immediately derived from that circumstance, were likewise taken notice of. The numerous tribes, or separate families, that were associated under a sovereign, far from being collected in a single town, were spread over a large territory, and living at a distance from each other, were for a long time prevented from having much intercourse, or from acquiring the habits of polished society. Strangers to regular government, and little restrained by the authority of the public magistrate, they were devoted to their several chiefs, by whom they were encouraged to rob and plunder their neighbours, and protected from the punishment due to their offences. Mutual depredations became the source of perpetual animosity and discord among neighbouring barons, who, from jealousy, from an interference of interest, or from resentment of injuries, were, for the most part, either engaged in actual hostilities, or lying in wait for a favourable opportunity to oppress and destroy one another. Thus every kingdom was composed of a great variety of parts, loosely combined together, and for several centuries may be regarded as a collection of small independent societies, rather than as one great political community. The slow advances which were afterwards made by the people towards a more complete union, appear to have been productive of that feudal subordination which has been the subject of so much investigation and controversy.

In those times of license and disorder, the proprietors of small estates were necessarily exposed to many hardships and calamities. Surrounded by wealthier and more powerful neighbours, by whom they were invaded from every quarter, and held in constant terror, they could seldom indulge the hope of maintaining their possessions, or of transmitting them to their posterity. Conscious therefore of their weakness, they endeavoured to provide for their future safety, by soliciting the aid of some opulent chief, who appeared most capable of defending them; and, in order to obtain that protection which he afforded to his ancient retainers or vassals, they were obliged to render themselves equally subservient to his interest; to relinquish their pretensions to independence, to acknowledge him as their leader, and to yield him that homage and fealty which belonged to a feudal superior.

The nature of these important transactions, the solemnities with which they were accompanied, and the views and motives from which they were usually concluded, are sufficiently explained from the copies or forms of those deeds which have been collected and handed down to us. The vassal promised in a solemn manner to submit to the jurisdiction of the superior, to reside within his

domain, and to serve him in war, whether he should be engaged in prosecuting his own quarrels, or in the common cause of the nation. The superior, on the other hand, engaged to exert all his power and influence, in protecting the vassal, in defending his possessions, or in avenging his death, in case he should be assassinated. In consequence of these mutual engagements, the vassal, by certain symbols expressive of the agreement, resigned his property, of which he again received the investiture from the hands of the superior.(7*)

It is probable, however, that the extension of particular baronies, by the voluntary submission of allodial proprietors, contributed to ascertain the right of the vassal, and to limit that property with which the superior was originally invested. The ancient military tenants, who were the kindred and relations of the superior, and who had received their lands as a pure gratuity, never thought of demanding to be secured in the future possession; and while they continued to support the interest of the family, which they looked upon as inseparable from their own interest, they had no apprehension that they should ever be deprived of their estates. Thus, according to the more accurate ideas of later times, they were merely tenants at will; though from the affection of their master, and from their inviolable fidelity to him, they were commonly permitted to enjoy their lands during life; and in ordinary cases the same indulgence was even shown to their posterity.

But it was not to be expected that those who submitted to a foreign superior, and who gave up their allodial property as an equivalent for the protection which was promised them, would repose so much confidence in a person with whom they had no natural connexion, or be willing to hold their lands by the same precarious tenure. They endeavoured, by express stipulations, to prevent the arbitrary conduct of the master; and, according as they found themselves in a condition to insist for more favourable terms, they obtained a grant of their estates, for a certain limited time, for life, or to their heirs. By these grants the right of property, instead of being totally vested in the superior, came to be, in some measure, divided between him and his vassals.

When a superior had entered into such transactions with his new retainers, he could not well refuse a similar security to such of his ancient vassals as, from any casual suspicion, thought proper to demand it; so that from the influence of example, joined to uninterrupted possession in a series of heirs, the same privileges were, either by an express bargain, or by a sort of tacit agreement, communicated, at length, to all his military tenants.

This alteration gave rise to what were called the incidents of the feudal tenures. The ancient military tenants, who were the kindred of the superior, might be removed by him at pleasure, or subjected to what burdens he thought proper to impose upon them; and there was no occasion to specify the services that might be required of them, or the grounds upon which they might forfeit their possessions. But when the vassal had obtained a permanent right to his estate, it became necessary to ascertain the extent of the obligations which he came under, and the penalty to which he was subjected upon his neglecting to fulfil them; so that, from the nature of the feudal connexion, he in some cases incurred a forfeiture, or total loss of the fief, and in others was liable for the payment of certain duties, which produced an occasional profit to the superior.

1. Thus when the vassal died without heirs; when he violated

his duty by the commission of a crime, or by neglecting to perform the usual service; in either of these cases his lands returned to the superior. The emolument arising from this forfeiture, or termination of the fief, was called an escheat.

2. When a person was admitted to hold a fief, he engaged by an oath to fulfil the duties of homage and fealty to the superior. Even after fief became hereditary, this ceremony was repeated upon every transmission of the feudal right by succession; so that while the heir of a vassal neglected to renew the engagement, he was not intitled to obtain possession, and the superior, in the mean time, drew the rent of the lands. Hence the incident of non-entry.

3. Though the heir of a vassal might claim a renewal of the feudal investiture, this was understood to be granted in consideration of his performing military service. When by his nonage, therefore, the heir was incapable of fulfilling that condition, the superior himself retained the possession of the lands; at the same time that he was accustomed, in that case, to protect and maintain his future vassal. This produced the incident of wardship.

4. Upon the death of a vassal, it was usual for the representative of his family to make a present to the superior, in order to obtain a ready admittance into the possession of the lands. When fiefs became hereditary, it was still found expedient to procure by means of a bribe, what could not easily be extorted by force; and the original arbitrary payment was converted into a regular duty, under the name of relief.

5. From the original nature of the feudal grants, the vassal could have no title to sell, or give away to any other person, the lands which he held merely as a tenant, in consideration of the service which he was bound to perform. But when fiefs had been granted to heirs, and when of consequence the right of the vassal approached somewhat nearer to that of property, it became customary to compound with the superior for the privilege of alienating the estate, upon payment of a sum of money. This gave rise to a perquisite, called the fine of alienation.

6. From the disorders which prevailed in the feudal times, when different families were so frequently at war, it was of great consequence that the vassals should not contract an alliance with the enemy of their Liege Lord; which might have a tendency to corrupt their fidelity. When fiefs therefore came to be granted for life, or to heirs, it was still held a sufficient ground of forfeiture that the vassal married without the superior's consent. This forfeiture was afterwards converted into a pecuniary penalty, called the incident of marriage.

7. According to the usual policy of the feudal nations, the superior levied no taxes from his retainers, but was maintained from the rent of his own estate. In particular cases however, when his ordinary revenue was insufficient, his vassals were accustomed to supply him by a voluntary contribution. When fiefs were precarious, what was given on those occasions depended upon the will of the superior, who might even seize upon the whole estate of his tenants. But when the vassal had obtained a more permanent right, it became necessary to settle the cases when those contributions were to be made, as well as the quantity that might be demanded; and in this manner, aid or benevolence came to be enumerated among the duties payable to a superior.

The conversion of allodial into feudal property, by a voluntary resignation, as it proceeded from the general manners and situation of the people, continued to be a frequent practice, while those manners and that situation remained. The smaller

barons were thus, at different times, subjected to their opulent neighbours; the number of independent proprietors was gradually diminished; their estates were united and blended together in one barony; and large districts were brought under the dominion of a few great lords, who daily extended their influence and authority, by increasing the number of their vassals.

These changes, by exalting a small part of the nobility over the great body of the people, had, for some time, a tendency to abridge, instead of enlarging the power of the crown, and to render the government more aristocratical. Whenever an independent proprietor had resigned his allodial property, and agreed to hold his land by a feudal tenure, he was no longer entitled to a voice in the national assembly, but was bound to follow the direction of the person to whom he had become liable in homage and fealty. This appears to be the reason of what is observed in France, that the national assembly was originally much more numerous than it came to be afterwards, when its constituent members were all persons of high rank and great opulence.^(8*) It would seem also that in England, under the later princes of the Saxon line, the great affairs of the nation were transacted in a meeting composed of a few great barons; and we discover no marks of those numerous assemblies which are taken notice of in a former period.^(9*)

But the same circumstances, by which the estates of different small proprietors were united in one barony, contributed afterwards to incorporate these larger districts, and to unite all the inhabitants of a kingdom in the same feudal dependency. As the barons were diminished in number, and increased in power and opulence, they became more immediate rivals to each other. In their different quarrels, which were prosecuted with various success, the weaker party was often obliged to have recourse to the king, who alone was able to screen him from the fury of his enemy; and, in order to procure that succour and protection which his situation required, he became willing to surrender his property, and to hold his estate upon condition of his yielding that obedience, and performing that service, which a superior was accustomed to demand from his vassals. From the various disputes which arose, and the accidental combinations that were formed among the great families, the nobles were all, in their turns, reduced to difficulties from which they were forced to extricate themselves by the like compliances; and the sovereign, who laid hold of every opportunity to extend his influence, established his superiority over the barons by the same means which they themselves had formerly employed for subjecting the proprietors of smaller estates.

Thus, by degrees, the feudal system was completed in most of the countries of Europe. The whole of a kingdom came to be united in one great fief, of which the king was the superior, or lord paramount, having in some measure the property of all the land within his dominions. The great barons became his immediate vassals, and, according to the tenure by which they held their estates, were subject to his jurisdiction, and liable to him in services of the same nature with those which they exacted from their own retainers or inferior military tenants. The precise period when this revolution was finally accomplished, as in most other gradual changes which happen in a country, is involved in doubt and uncertainty. From a comparison of the opinions of different authors who have written upon this subject, and of the facts which they bring in support of their several conjectures, it appears most reasonable to conclude, that in France the great barons continued their allodial possessions during the kings of

the first and second race, and about the beginning of the Capetian line were, for the most part, reduced into a state of feudal subjection to the monarch.(10*)

In England it would seem that, in like manner, the nobles maintained their independence during the time of the Saxon princes, and were reduced to be the vassals of the crown in the reign of William the Conqueror.(11*)

This opinion is confirmed by observing the changes which, from those two periods, began to take place in the government of these kingdoms. From the reign of Hugh Capet, the dominions of France, appear more firmly united; they were no longer split upon the death of the sovereign, and shared among his children; the monarch was from this period capable of acting with more vigour, and continued to extend his prerogative till the reign of Lewis XI, who exercised the power of imposing taxes, as well as of making laws independent of the convention of estates. The same progress, though with some accidental interruptions may be traced in England, from the Norman conquest to the accession of the Tudor family, under which the powers and prerogatives of the crown were exalted to a height that seemed equally incompatible with the rights of the nobility and the freedom of the people.

The authors, who have written upon the feudal law, seem to have generally considered that system as peculiar to the modern nations of Europe; and from what has been observed above, it appears evident that the circumstances of the Gothic nations, who settled in the western provinces of Rome, rendered such a set of regulations more especially useful for the defence and security of the people. It is highly probable that, from those parts of Europe where the feudal law was first established, it was in some degree communicated, by the intercourse of the inhabitants and the force of example, to some of the neighbouring countries. But it merits particular attention that the same sort of policy, though not brought to the same perfection as in Europe, is to be found in many distant parts of the world, where it never could be derived from imitation; and perhaps there is reason to think that similar institutions, by which small bodies of men are incorporated in larger societies under a single leader, and afterwards linked together in one great community, have been suggested in every extensive kingdom, founded upon the original association of many rude tribes or families.

The kingdom of Congo, upon the southern coast of Africa, is divided into many large districts or provinces, the inhabitants of which appear to have made some progress in agriculture. Each of these districts comprehends a multitude of small lordships, which are said to have been formerly independent, but which are now united together, and reduced under a single chief or governor, who exercises absolute authority over them. The great lords, or governors of provinces, are in like manner dependent upon the king, and owe him the payment of certain annual duties. This monarch is understood to have an unlimited power over the goods of all his subjects; he is the proprietor of all the lands in the kingdom, which return to the crown upon the death of the possessors; and, according to the arbitrary will of the prince, are either continued in the same, or bestowed upon a different family. All the inhabitants are bound to appear in the field whenever they are required by the sovereign who is able in a short time to raise a prodigious army upon any sudden emergency. Every governor has a judicial power in his own district, and from his sentences there lies an appeal to the king, who is the supreme judge of the nation. Similar accounts are given of the constitution in the neighbouring kingdoms of Angola, Loango, and

Benin.

The same form of government may be discovered in several parts of the East Indies, where many great lords, who have acquired extensive dominions, are often reduced into a sort of feudal dependence upon a single person.

Among the natives of Indostan, there are a great number of families who have been immemorially trained up to arms, and who enjoy a superior rank to most of the other inhabitants. They form a militia capable of enduring much hardship, and wanting nothing to make good soldiers but order and discipline. These hereditary warriors are subject to the authority of chiefs, or Rajahs, from whom they receive lands, upon condition of their performing military service. It would seem that those different families were originally independent of each other. By degrees however many of the poorer sort have become subordinate to their opulent neighbours, and are obliged to serve them in war in order to obtain a livelihood. In like manner the leaders of more wealthy families have been gradually subdued by a certain Rajah, who mounted the throne, and whose influence became more and more extensive. This in all probability gave rise to the political constitution at present established in that country. The Rajahs, or nobility, are now for the most part retained by the Great Mogul in a situation resembling that of the crown vassals in Europe. At the same time there are some of those chiefs who still maintain an independency even in the heart of the empire. In the reign of Aureng-zebe, there were about an hundred, dispersed over the whole country, several of whom were capable of bringing into the field 25,000 horse, better troops than those of the monarch.

In the kingdom of Pegu, which was formerly an independent monarchy, the king is said to have been the sole heir of all the landed estates of his subjects. The nobility or chiefs had lands and towns assigned them, which they held of the crown, upon condition of their maintaining a certain number of troops in time of peace, and bringing them into the field in case of a war. Besides these military services, they were also bound to the performance of several kinds of work, which the sovereign rigorously exacted from them, in token of their subjection. This country is now annexed to the kingdom of Ava, in which, as well as in that of Laos and of Siam, the same regulations appear to be established.

Travellers who make observations on the Malais [says the judicious M. Le Poivre] are astonished to find, in the centre of Asia, under the scorching climate of the line, the laws, the manners, the customs, and the prejudices of the ancient inhabitants of the north of Europe. The Malais are governed by feudal laws, that capricious system, conceived for the defence of the liberty of a few against the tyranny of one, while the multitude is subjected to slavery and oppression.

A chief, who has the title of king, or sultan, issues his commands to his great vassals, who obey when they think proper. These have inferiour vassals, who often act in the same manner with regard to them. A small part of the nation live independent, under the title of Oramçay, or noble, and sell their services to those who pay them best; while the body of the nation is composed of slaves, and lives in perpetual servitude.

With these laws, the Malais are restless, fond of navigation, war, plunder, emigrations, colonies, desperate enterprises, adventures, and gallantry. They talk incessantly of their honour, and their bravery, while they are universally regarded, by those with whom they have intercourse, as the most treacherous

ferocious people on the face of the globe; and yet, what appeared to me extremely singular, they speak the softest language of Asia. What the Count de Forbin has said, in his Memoirs, is exactly true, and is the reigning characteristic of all the Malay nations. More attached to the absurd laws of their pretended honour, than to those of justice or humanity, you always observe, that among them, the strong oppress the weak: their treaties of peace and friendship never subsisting beyond that self-interest by which they were induced to make them. They are almost always armed, and either at war among themselves, or employed in pillaging their neighbours.(12*)

The remains of this feudal policy are also to be found in Turkey. The Zaims and Timariots, in the Turkish empire, are a species of vassals, who possess landed estates upon condition of their upholding a certain number of soldiers for the service of the grand seignior. The Zaims have lands of greater value than the Timariots, and are obliged to maintain a greater number of soldiers. The estates of both, are, in some cases, held during pleasure, and in others hereditary. It was computed, in the last century, that the whole militia maintained in this manner, throughout the Turkish empire, amounted to an hundred thousand men.

In the history of the ancient Persians, during the wars which they carried on with the Roman emperors, we may also discover some traces of a similar constitution of government; for it is observed that this nation had no mercenary troops, but that the whole people might be called out to war by the king, and upon the conclusion of every expedition, were accustomed to return, with their booty, to their several places of residence.

When a great and polished nation begins to relapse into its primitive rudeness and barbarism, the dominions which belong to it are in danger of falling asunder; and the same institutions may become necessary for preventing the different parts of the kingdom from being separated, which had been formerly employed in order to unite the several members of an extensive society. This was the case among the Romans in the later periods of the empire. When the provinces became in a great measure independent, and the government was no longer able to protect them from the repeated invasions of the barbarians, the inhabitants were obliged to shelter themselves under the dominion of particular great men in their neighbourhood, whom the emperor put in possession of large estates, upon condition of their maintaining a proper armed force to defend the country. Thus, in different provinces, there arose a number of chiefs, or leaders, who enjoyed estates in land, as a consideration for the military service which they performed to the sovereign. The Abbé Du Bos has thence been led to imagine that the feudal policy of the German nations was copied from those regulations already established in the countries which they subdued. But it ought to be considered, that the growth and decay of society have, in some respects, a resemblance to each other; which independent of imitation, is naturally productive of similar manners and custom.

NOTES:

1. Odyss. lib. 8, v. 390.
2. Pope's Odyss. book 2, l. 19.
3. See the account which is given of the forum originis, by the

author of the historical law-tracts Kames; whose acute and original genius has been employed in uniting law with philosophy, and in extending the views of a gainful profession to the liberal pursuits of rational entertainment. Historical law-tracts, chap. of courts.

4. 'In every Gallic tribe, in every subdivision of the tribe, and almost, one might say, in every household, there are rival factions controlled by men who are popularly supposed to be most influential with the group, and who therefore enjoy the last word in determining all questions of policy. This ancient practice seems to have originated in a desire to give the common folk protection against powerful individuals; for no leader will tolerate the oppression or defrauding of his supporters: if he does, his authority is gone. The same principle holds good for Gaul as a whole; for all the tribes are grouped in two factions or parties.' Caesar, de bell. Gall. lib. 6, §11. See *Treasurie of auncient and moderne Times*, pub, 1619.

5. Different authors have entertained very different opinions concerning the primitive state of landed property, and the origin of feudal tenures, in the modern nations of Europe. The antiquaries who first turned their attention to researches on this subject, those of France in particular, living under an absolute monarchy, appear to have been strongly prepossessed by the form of government established in their own times, and their conjectures, with regard to the early state of the feudal institutions, were for a long time almost implicitly followed by later writers. They suppose that, when any of the German nations settled in a Roman province, the king seized upon all the conquered lands: that, retaining in his own possession what was sufficient to maintain the dignity of the crown, he distributed the remainder among the principal officers of his army, to be held precariously upon condition of their attending him in war. and that these officers afterwards bestowed part of their estates upon their dependents or followers, under similar conditions of military service.

This account seems liable to great objections. First, it may be asked how the king came to possess so much power as would enable him, at once, to acquire the entire property of the conquered lands? For it must be remembered that the conquest extended over the ancient inhabitants of the county, not over his own followers; and with respect to these last, the accounts given by Caesar and Tacitus of the German nations represent their princes as possessing a very limited authority.

2dly, Upon the supposition that all the conquered lands were originally held of the king during pleasure, his authority, immediately upon the settlement of these nations, must have been rendered altogether despotical. If the king had a power of dispossessing all his subjects of their landed estates, he must have been more absolute than any monarch at present upon the face of the earth. But the early history of the modern European nations gives an account of their government very different from this, and informs us that the nobility of each kingdom enjoyed great independence, and a degree of opulence, in many cases, little inferior to that of the monarch.

The idea that the king became originally proprietor of all the conquered lands seem now, upon a fuller examination of facts, to be in a great measure relinquished; and several writers of late have made it at least extremely probable that the land in the conquered provinces was at first occupied, according to

circumstances, by different individuals, or distributed by lot among the warriors of each victorious tribe; and that each possessor became the full proprietor of that portion of land which had fallen to his share. See *Le droit publique de France, éclairci par les monumens de l'antiquité*. Par M. Bouquet. See also *Observations sur l'histoire de France*. Par M. L'Abbé de Mably.

It is true that, in the Modern kingdom of Europe, the proprietors of lands were early understood to be under an obligation of going out to war as often as the public interest required it. But this was a duty which they owed to the community as citizens, not to the kings as vassals; and their attendance was required, not by an order of the monarch, but in consequence of a determination of the national assembly, of which they themselves were the constituent members.

6. In France, under the Merovingian kings, all deeds of any importance, issuing from the crown, usually contained some such expression as these: *Una cum nostris optimatibus pertractavimus. De consensufidelium nostrorum. In nostra et procerum nostrorum praesentia*. Obser. par M. de Mably. And there is good reason to believe that what is called the Salique Law was laid before the national assembly and received their approbation. *'Dictaverunt Salicam legem Proceres ipsius gentis, qui tunc temporis apud eam erant rectores.'* Praef. leg. Sal. See *lettres historiques sur les fonctions essentielles du parlement*. Boulainvilliers, let. sur le parl. de France.

7. *Fidelis Deo propitio ille, ad nostram veniens praesentiam suggestit nobis, eo quod propter simplicitatem suam, Causas suas minime possit prosequi, vel admallare, clementiae regni nostri petiit, ut illustris vir ille omnes causas suas in vice ipsius, tam in pago, quam in palatio nostro admallandum prosequendumque recipere deberet, quod in praesenti per fistucam eas eidem visus est commendasse. Propterea jubemus, ut dum taliter utriusque decrevit voluntas, memoratus ille vir omnes causas lui, ubicumque prosequi vel admallare deberet, ut unicuique pro ipso, vel hominibus suis, reputatis conditionibus, et directum faciat, et ab aliis similiter in veritate recipiat. Sic tamen quamdiu amborum decrevit voluntas.* Formul. Marculfi 21. -- Vid. Ibid. Formul. 13. See also *L'Esprit de Loix*, liv. 31, chap. 8.

8. 'All the Franks continued without discrimination to have the right of entrance [into the national assembly]; but subsequently, their number having increased, and the distinction between Gauls and Franks having become gradually erased, each canton assembled separately; and scarcely any but those who held a certain rank in the state were admitted to the general assembly any more.' Let. hist. sur les parl.

9. In early times the Wittenagemote is called 'infinite fidelium multitudo.'

10. Many of the French antiquaries and historians have believed that the feudal system was completed under their kings of the first race. (See Mezeray, *hist. de France*. -- Loyseau, *traité des seigneuries*. -- Salvaing, *de l'usage des fiefs*. --) Others have supposed that military tenures were unknown during this early period, and were introduced, either about the time of Charlemagne, or towards the end of the second race of kings, or about the time of Hugh Capet. (See Boulainvilliers, *lettres sur*

les parlemens de France. -- Chantereau de Fevre, traité des fiefs. -- Henault, abr. de l'hist. de France. -- Bouquet, droit publique de France, etc.) These various opinions appear to have arisen from a different view of the facts relating to the subject; and here, as in most other disputes, the truth probably lies in a middle between the opposite extremes. To those authors who observed that, soon after the settlement of the Franks in Gaul, the king and the great lords had a considerable number of vassals dependent upon them for protection, and liable in military service, it seemed a natural inference that the whole land in the country was held by military tenure. Those on the contrary who discovered that, under the kings of the first and second race, the great lords were in possession of allodial estates, and who observed, that, after the reign of Hugh Capet, many of the perquisites incident to the feudal tenures were established, thought they had reason from thence to conclude that the feudal system was not introduced before this period.

11. From similar circumstances it has been a subject of controversy, whether the feudal system took place in England under the government of the Saxon monarchs, or whether it was not first introduced in the reign of William the Conqueror. See Wright's Introduction to the law of tenures, chap. 2. and the authorities quoted by him upon both sides of the question.

Sir Henry Spelman having said in his Glossary, v. feodum, that fiefs were brought into England by William the Conqueror, and the judges of Ireland, in their argument in the case of defective titles, having pointed out that opinion as erroneous, this industrious antiquary was thence excited to write a treatise upon the subject, in which he explains his meaning to be nothing more but that in England, fiefs were not rendered hereditary before the Norman conquest. Thus, after having stated the question, in the beginning of his treatise, he goes on as follows: 'A FEUD is said to be usufructus quidam rei immobilis sub conditione fidei. But this definition is of too large extent for such kind of feuds as our question must consist upon: for it includeth two members of species greatly differing the one from the other; the one temporary and revocable (as those at will or for years, life or lives); the other hereditary and perpetual. As for temporary feuds, which (like wild fig-trees) could yield none of the feudal fruits of wardship, marriage, relief, etc. unto their lords, they belong nothing unto our argument.' -- And a little after he adds, 'But this kind of feud (we speak of) and no other, is that only whereof our law taketh notice, though time hath somewhat varied it from the first institution, by drawing the property of the soil from the lord unto the tenant. And I both conceive and affirm under correction, That this our kind of feuds being perpetual and hereditary, and subject to wardship, marriage, and relief, and other feudal services were not in use among our Saxons, nor our law of tenures (whereon they depend) once known unto them.' (Spelman's treat. on feuds and tenures by knight-service, chap. 1. The same author, in another part of his treatise, proceeds to shew that, in England among the Saxons, the estates of the nobility were denominated Boc-land, and were held in full property, but that Folc-land, or the land of the lower people, was held under condition of customary services, at the will of their lord the Thane. Ibid. chap. 5.

It is hoped the above remark will appear not improper; because the authority of Spelman upon this point, has been considered as of much weight; and also because some writers appear to have mistaken his opinion by consulting the passage in

his glossary, without attending to the subsequent treatise, published among his posthumous works by Dr Gibson.

12. Les voyages d'une Philosophe.

Chapter V

The changes produced in the government of a people by their progress in Arts, and in polished Manners

Section I

Circumstances, in polished nation, which tend to increase the power of the sovereign

The advancement of a people in the arts of life, is attended with various alterations in the state of individuals, and in the whole constitution of their government.

Mankind, in a rude age, are commonly in readiness to go out to war, as often as their circumstances require it. From their extreme idleness, a military expedition is seldom inconvenient for them; while the prospect of enriching themselves with plunder, and of procuring distinction by their valour, renders it always agreeable. The members of every clan are no less eager to follow their chief, and to revenge his quarrel, than he is desirous of their assistance. They look upon it as a privilege, rather than a burden, to attend upon him, and to share in the danger, as well as in the glory and profit of all his undertakings. By the numberless acts of hostility in which they are engaged, they are trained to the use of arms, and acquire experience in the military art, so far as it is then understood. Thus, without any trouble or expense, a powerful militia is constantly maintained, which, upon the slightest notice, can always be brought into the field, and employed in the defence of the country.

When Caesar made war upon the Helvetii they were able to muster against him no less than ninety-two thousand fighting men, amounting to a fourth part of all the inhabitants.

Hence those prodigious swarms which issued, at different times, from the ill cultivated regions of the north, and over-ran the several provinces of the Roman empire. Hence too, the poor but superstitious princes of Europe were enabled to muster such numerous forces under the banner of the cross, in order to attack the opulent nations of the east, and to deliver the holy sepulchre from the hands of the infidels.

The same observation will, in some measure, account for those immense armies which we read of in the early periods of history; or at least may incline us to consider the exaggerated relations of ancient authors, upon that subject, as not entirely destitute of real foundation.

These dispositions, arising from the frequent disorders incident to a rude society, are of course laid aside when good order and tranquillity begin to be established. When the government acquires so much authority as to protect individuals from oppression, and to put an end to the private wars which subsisted between different families, the people, who have no other military enterprises but those which are carried on in the public cause of the nation, become gradually less accustomed to fighting, and their martial ardour is proportionably abated.

The improvement of arts and manufactures, by introducing luxury, contributes yet more to enervate the minds of men, who,

according as they enjoy more ease and pleasure at home, feel greater aversion to the hardships and dangers of a military life, and put a lower value upon that sort of reputation which it affords. The increase of industry, at the same time, creates a number of lucrative employments which require a constant attention, and gives rise to a variety of tradesmen and artificers, who cannot afford to leave their business for the transient and uncertain advantages to be derived from the pillage of their enemies.

In these circumstances the bulk of a people become at length unable or unwilling to serve in war, and when summoned to appear in the field, according to the ancient usage, are induced to offer a sum of money instead of their personal attendance. A composition of this kind is readily accepted by the sovereign or chief magistrate, as it enables him to hire soldiers among those who have no better employment, or who have contracted a liking to that particular occupation. The forces which he has raised in this manner receiving constant pay, and having no other means of procuring a livelihood, are entirely under the direction of their leader, and are willing to remain in his service as long as he chooses to retain them. From this alteration of circumstances, he has an opportunity of establishing a proper subordination in the army, and according as it becomes fitter for action, and, in all its motions, capable of being guided and regulated with greater facility, he is encouraged to enter upon more difficult enterprises, as well as to meditate more distant schemes of ambition. His wars, which were formerly concluded in a few weeks, are now gradually protracted to a greater length of time, and occasioning a greater variety of operations, are productive of suitable improvements in the military art.

After a numerous body of troops have been levied at considerable expense, and have been prepared for war by a long course of discipline and experience, it appears highly expedient to the sovereign that, even in time of peace, some part of them, at least, should be kept in pay, to be in readiness whenever their service is required. Thus, the introduction of mercenary forces is soon followed by that of a regular standing army. The business of a soldier becomes a distinct profession, which is appropriated to a separate order of men; while the rest of the inhabitants, being devoted to their several employments, become wholly unaccustomed to arms; and the preservation of their lives and fortunes, is totally devolved upon those whom they are at the charge of maintaining for that purpose.

This important revolution, with respect to the means of national defence, appears to have taken place in all the civilized and opulent nations of antiquity. In all the Greek states, even in that of Sparta, we find that the military service of the free citizens came, from a change of manners, to be regarded as burdensome, and the practice of employing mercenary troops was introduced. The Romans too, before the end of the republic, had found it necessary to maintain a regular standing army in each of their distant provinces.

In the modern nations of Europe, the disuse of the feudal militia was an immediate consequence of the progress of the people in arts and manufactures; after which the different sovereigns were forced to hire soldiers upon particular occasions, and at last to maintain a regular body of troops for the defence of their dominions. In France, during the reign of Lewis XIII, and in Germany, about the same period, the military system began to be established upon that footing, which it has since acquired in all the countries of Europe.

The tendency of a standing mercenary army to increase the power and prerogative of the crown, which has been the subject of much declamation, is sufficiently obvious. As the army is immediately under the conduct of the monarch; as the individuals of which it is composed depend entirely upon him for preferment; as, by forming a separate order of men they are apt to become indifferent about the rights of their fellow-citizens; it may be expected that, in most cases, they will be disposed to pay an implicit obedience to his commands, and that the same force which is maintained to suppress insurrections, and to repel invasions, may often be employed to subvert and destroy the liberties of the people.

The same improvements in society, which give rise to the maintenance of standing forces, are usually attended with similar changes in the manner of distributing justice. It has been already observed that, in a large community, which has made but little progress in the arts, every chief or baron is the judge over his own tribe, and the king, with the assistance of his great council, exercises a jurisdiction over the members of different tribes or baronies. From the small number of law-suits which occur in the ages of poverty and rudeness, and from the rapidity with which they are usually determined among a warlike and ignorant people, the office of a judge demands little attention, and occasions no great interruption to those pursuits in which a man of rank and distinction is commonly engaged. The sovereign and the nobility, therefore, in such a situation, may continue to hold this office, though, in their several courts, they should appoint a deputy-judge to assist them in discharging the duties of it. But when the increase of opulence has given encouragement to a variety of tedious litigation, they become unwilling to bestow the necessary time in hearing causes, and are therefore induced to devolve the whole business upon inferior judges, who acquire by degrees the several branches of the judicial power, and are obliged to hold regular courts for the benefit of the inhabitants. Thus the exercise of jurisdiction becomes a separate employment, and is committed to an order of men, who require a particular education to qualify them for the duties of their office, and who, in return for their service, must therefore be enabled to earn a livelihood by their profession.

A provision for the maintenance of judges is apt, from the natural course of things, to grow out of their employment; as, in order to procure an indemnification for their attendance, they have an opportunity of exacting fees from the parties who come before them. This is analagous to what happens with respect to every sort of manufacture, in which an artificer is commonly paid by those who employ him. We find, accordingly, that this was the early practice in all the feudal courts of Europe, and that the perquisites drawn by the judges, in different tribunals, yielded a considerable revenue both to the king and the nobles. It is likely that similar customs, in this respect, have been adopted in most parts of the world, by nations in the same period of their advancement. The impropriety, however, of giving a permission to these exactions, which tend to influence the decisions of a judge, to render him active in stirring up law-suits, and in multiplying the form of his procedure, in order to increase his perquisites; these pernicious consequences with which it is inseparably connected, could not fail to attract the notice of a polished people, and at length produced the more perfect plan of providing for the maintenance of judges by the appointment of a fixed salary in place of their former precarious

emoluments.

It cannot be doubted that these establishments, of such mighty importance, and of so extensive a nature, must be the source of great expense to the public. In those early periods, when the inhabitants of a country are in a condition to defend themselves, and when their internal disputes are decided by judges who claim no reward for their interpositions, or at least no reward from government, few regulations are necessary with respect to the public revenue. The king is enabled to maintain his family, and to support his dignity, by the rents of his own estate; and, in ordinary cases, he has no farther demand. But when the disuse of the ancient militia has been succeeded by the practice of hiring troops, these original funds are no longer sufficient; and other resources must be provided in order to supply the deficiency. By the happy disposition of human events, the very circumstance that occasions this difficulty appears also to suggest the means of removing it. When the bulk of a people become unwilling to serve in war, they are naturally disposed to offer a composition in order to be excused from that ancient personal service which, from long custom, it is thought they are bound to perform. Compositions of this nature are levied at first, in consequence of an agreement with each individual: to avoid the trouble arising from a multiplicity of separate transactions, they are afterwards paid in common by the inhabitants of particular districts, and at length give rise to a general assessment, the first considerable taxation that is commonly introduced into a country.

If this tax could always be laid upon the people in proportion to their circumstances, it might easily be augmented in such a manner as to defray all the expenses of government. But the difficulty of ascertaining the wealth of individuals makes it impossible to push the assessment to a great height, without being guilty of oppression, and renders it proper that other methods of raising money should be employed to answer the increasing demands of the society. In return for the protection which is given to merchants in carrying their goods from one country to another, it is apprehended that some recompence is due to the government, and that certain duties may be levied upon the exportation and importation of commodities. The security enjoyed by tradesmen and manufacturers, from the care and vigilance of the magistrate, is held also to lay a foundation for similar exactions upon the retail of goods, and upon the inland trade of a nation. Thus the payment of customs, and of what, in a large sense, may be called excise, is introduced and gradually extended.

It is not proposed to enter into a comparison of these different taxes, or to consider the several advantages and disadvantages of each. Their general effects in altering the political constitution of a state are more immediately the object of the present enquiry. With respect to this point, it merits attention that, as the sovereign claims a principal share at least, in the nomination of public officers, as he commonly obtains the chief direction in collecting and disposing of the revenue which is raised upon their account, he is enabled thereby to give subsistence to a great number of persons, who, in times of faction and disorder, will naturally adhere to his party, and whose interest, in ordinary cases, will be employed to support and to extend his authority. These circumstances contribute to strengthen the hands of the monarch, to undermine and destroy every opposite power, and to increase the general bias towards the absolute dominion of a single person.

Section II

Other circumstances, which contribute to advance the privileges of the people

After viewing those effects of opulence and the progress of arts which favour the interest of the crown, let us turn our attention to other circumstances, proceeding from the same source, that have an opposite tendency, and are manifestly conducive to a popular form of government.

In that early period of agriculture when manufactures are unknown, persons who have no landed estate are usually incapable of procuring subsistence otherwise than by serving some opulent neighbour, by whom they are employed, according to their qualifications, either in military service, or in the several branches of husbandry. Men of great fortune find that the entertaining a multitude of servants, for either of these purposes, is highly conducive both to their dignity and their personal security; and in a rude age, when people are strangers to luxury, and are maintained from the simple productions of the earth, the number of retainers who may be supported upon any particular estate is proportionably great.

In this situation, persons of low rank, have no opportunity of acquiring an affluent fortune, or of raising themselves to superior stations; and remaining for ages in a state of dependence, they naturally contract such dispositions and habits as are suited to their circumstances. They acquire a sacred veneration for the person of their master, and are taught to pay an unbounded submission to his authority. They are proud of that servile obedience by which they seem to exalt his dignity, and consider it as their duty to sacrifice their lives and their possessions in order to promote his interest, or even to gratify his capricious humour.

But when the arts begin to be cultivated in a country, the labouring part of the inhabitants are enabled to procure subsistence in a different manner. They are led to make proficiency in particular trades and professions; and, instead of becoming servants to any body, they often find it more profitable to work at their own charges, and to vend the product of their labour. As in this situation their gain depends upon a variety of customers, they have little to fear from the displeasure of any single person; and, according to the good quality and cheapness of the commodity which they have to dispose of, they may commonly be assured of success in their business.

The farther a nation advances in opulence and refinement, it has occasion to employ a greater number of merchants, of tradesmen and artificers; and as the lower people, in general, become thereby more independent in their circumstances, they begin to exert those sentiments of liberty which are natural to the mind of man, and which necessity alone is able to subdue. In proportion as they have less need of the favour and patronage of the great, they are at less pains to procure it; and their application is more uniformly directed to acquire those talents which are useful in the exercise of their employments. The impressions which they received in their former state of servitude are therefore gradually obliterated, and give place to habits of a different nature. The long attention and perseverance, by which they become expert and skilful in their business, render them ignorant of those decorum and of that politeness which arises from the intercourse of society; and that

vanity which was formerly discovered in magnifying the power of a chief, is now equally displayed in sullen indifference, or in contemptuous and insolent behaviour to persons of superior rank and station.

While, from these causes, people of low rank are gradually advancing towards a state of independence, the influence derived from wealth is diminished in the same proportion. From the improvement of arts and manufactures, the ancient simplicity of manners is in a great measure destroyed; and the proprietor of a landed estate, instead of consuming its produce in hiring retainers, is obliged to employ a great part of it in purchasing those comforts and conveniences which have become objects of attention, and which are thought suitable to his condition. Thus while fewer persons are under the necessity of depending upon him, he is daily rendered less capable of maintaining dependents; till at last his domestics and servants are reduced to such as are merely subservient to luxury and pageantry, but are of no use in supporting his authority.

From the usual effects of luxury and refinement, it may at the same time be expected that old families will often be reduced to poverty and beggary. In a refined and luxurious nation those who are born to great affluence, and who have been bred to no business, are excited, with mutual emulation, to surpass one another in the elegance and refinement of their living. According as they have the means of indulging themselves in pleasure, they become more addicted to the pursuit of it, and are sunk in a degree of indolence and dissipation which renders them incapable of any active employment. Thus the expense of the landed gentleman is apt to be continually increasing, without any proportional addition to his income. His estate therefore, being more and more incumbered with debts, is at length alienated, and brought into the possession of the frugal and industrious merchant, who, by success in trade, has been enabled to buy it, and who is desirous of obtaining that rank and consequence which landed property is capable of bestowing. The posterity, however, of this new proprietor, having adopted the manners of the landed gentry, are again led, in a few generations, to squander their estate, with a heedless extravagance equal to the parsimony and activity by which it was acquired.

This fluctuation of property, so observable in all commercial countries, and which no prohibitions are capable of preventing, must necessarily weaken the authority of those who are placed in the higher ranks of life. Persons who have lately attained to riches, have no opportunity of establishing that train of dependence which is maintained by those who have remained for ages at the head of a great estate. The hereditary influence of family is thus, in a great measure, destroyed; and the consideration derived from wealth is often limited to what the possessor can acquire during his own life. Even this too, for the reasons formerly mentioned, is greatly diminished. A man of great fortune having dismissed his retainers, and spending a great part of his income in the purchase of commodities produced by tradesmen and manufacturers, has no ground to expect that many persons will be willing either to fight for him, or to run any great hazard for promoting his interest. Whatever profit he means to obtain from the labour and assistance of others, he must give a full equivalent for it. He must buy those personal services which are no longer to be performed either from attachment or from peculiar connexions. Money, therefore, becomes more and more the only means of procuring honours and dignities; and the sordid pursuits of avarice are made subservient to the nobler purposes

of ambition.

It cannot be doubted that these circumstances have a tendency to introduce a democratical government. As persons of inferior rank are placed in a situation which, in point of subsistence, renders them little dependent upon their superiors; as no one order of men continues in the exclusive possession of opulence; and as every man who is industrious may entertain the hope of gaining a fortune; it is to be expected that the prerogatives of the monarch and of the ancient nobility will be gradually undermined, that the privileges of the people will be extended in the same proportion, and that power, the usual attendant of wealth, will be in some measure diffused over all the members of the community.

Section III

Result of the opposition between these different principles

So widely different are the effects of opulence and refinement, which, at the same time that they furnish the king with a standing army, the great engine of tyranny and oppression, have also a tendency to inspire the people with notions of liberty and independence. It may thence be expected that a conflict will arise between these two opposite parties, in which a variety of accidents may contribute to cast the balance upon either side.

With respect to the issue of such a contest, it may be remarked that, in a small state, the people have been commonly successful in their efforts to establish a free constitution. When a state consists only of a small territory, and the bulk of the inhabitants live in one city, they have frequently occasion to converse together, and to communicate their sentiments upon every subject of importance. Their attention therefore is roused by every instance of oppression in the government; and as they easily take the alarm, so they are capable of quickly uniting their forces in order to demand redress of their grievances. By repeated experiments they become sensible of their strength, and are enabled by degrees to enlarge their privileges, and to assume a greater share of the public administration.

In large and extensive nations, the struggles between the sovereign and his people are, on the contrary, more likely to terminate in favour of despotism. In a wide country, the encroachments of the government are frequently over-looked; and, even when the indignation of the people has been roused by flagrant injustice, they find it difficult to combine in uniform and vigorous measures for the defence of their rights. It is also difficult, in a great nation, to bring out the militia with that quickness which is requisite in case of a sudden invasion; and it becomes necessary, even before the country has been much civilized, to maintain such a body of mercenaries as is capable of supporting the regal authority.

It is farther to be considered that the revenue of the monarch is commonly a more powerful engine of authority in a great nation than in a small one. The influence of a sovereign seems to depend, not so much upon his absolute wealth, as upon the proportion which it bears to that of the other members of the community. So far as the estate of the king does not exceed that of the richest of his subjects, it is no more than sufficient to supply the ordinary expense of living, in a manner suitable to the splendour and dignity of the crown; and it is only the

surplus of that estate which can be directly applied to the purposes of creating dependence. In this view the public revenue of the king will be productive of greater influence according to the extent and populousness of the country in which it is raised. Suppose in a country, like that of ancient Attica, containing about twenty thousand inhabitants, the people were, by assessment or otherwise, to pay at the rate of twenty shillings each person, this would produce only twenty thousand pounds; a revenue that would probably not exalt the chief magistrate above many private citizens. But in a kingdom, containing ten millions of people, the taxes, being paid in the same proportion, would in all probability render the estate of the monarch superior to the united wealth of many hundreds of the most opulent individuals. In these two cases therefore, the disproportion of the armies maintained in each kingdom should be greater than that of their respective revenues; and if in the one, the king was enabled to maintain two hundred and fifty thousand men, he would in the other, be incapable of supporting the expense of five hundred. It is obvious, however, that even five hundred regular and well disciplined troops will not strike the same terror into twenty thousand people, that will be created, by an army of two hundred and fifty thousand, over a nation composed often millions.

Most of the ancient republics, with which we are acquainted, appear to have owed their liberty to the narrowness of their territories. From the small number of people, and from the close intercourse among all the individuals in the same community, they imbibed a spirit of freedom even before they had made considerable progress in arts; and they found means to repress or abolish the power of their petty princes, before their effeminacy or industry had introduced the practice of maintaining mercenary troops.

The same observation is applicable to the modern states of Italy, who, after the decay of the western empire, began to flourish in trade, and among whom a republican form of government was early established.

In France, on the other hand, the introduction of a great mercenary army, during the administration of Cardinal Richelieu, which was necessary for the defence of the country, enabled the monarch to establish a despotic power. In the beginning of the reign of Lewis XIII was called the last convention of the states general which has ever been held in that country: and the monarch has, from that period, been accustomed to exercise almost all the different powers of government. Similar effects have arisen from the establishment of standing forces in most of the great kingdoms of Europe.

The fortunate situation of Great Britain, after the accession of James I, gave her little to fear from any foreign invasion, and superseded the necessity of maintaining a standing army, when the service of the feudal militia had gone into disuse. The weakness and bigotry of her monarchs, at that period, prevented them from employing the only expedient capable of securing an absolute authority. Charles I saw the power exercised, about his time, by the other princes of Europe; but he did not discover the means by which it was obtained. He seem to have been so much convinced of his divine indefeasible right as, at first, to think that no force was necessary, and afterwards, that every sort of duplicity was excuseable, in support of it. When at the point of a rupture with his parliament, he had no military force upon which he could depend; and he was therefore obliged to yield to the growing power of the commons.

The boldness and dexterity, joined to the want of public

spirit, and the perfidy of Oliver Cromwell, rendered abortive the measures of that party, of which he obtained the direction; but the blood that had been shed, and the repeated efforts that were made by the people in defence of their privileges, cherished and spread the love of liberty, and at last produced a popular government, after the best model, perhaps, which is practicable in an extensive country.

Many writers appear to take pleasure in remarking that, as the love of liberty is natural to man, it is to be found in the greatest perfection among barbarians, and is apt to be impaired according as people make progress in civilization and in the arts of life. That mankind, in the state of mere savages, are in great measure unacquainted with government, and unaccustomed to any sort of constraint, is sufficiently evident. But their independence, in that case, is owing to the wretchedness of their circumstances, which afford nothing that can tempt any one man to become subject to another. The moment they have quitted this primitive situation, and, by endeavouring to supply their natural wants, have been led to accumulate property, they are presented with very different motives of action, and acquire a new set of habits and principles. In those rude ages when the inhabitants of the earth are divided into tribes of shepherds, or of husbandmen, the usual distribution of property renders the bulk of the people dependent upon a few chiefs, to whom fidelity and submission becomes the principal point of honour, and makes a distinguishing part of the national character. The ancient Germans, whose high notions of freedom have been the subject of many a well-turned period, were accustomed, as we learn from Tacitus, to stake their persons upon the issue of a game of hazard, and after an unlucky turn of fortune, to yield themselves up to a voluntary servitude. Where-ever men of inferior condition are enabled to live in affluence by their own industry, and, in procuring their livelihood, have little occasion to court the favour of their superiors, there we may expect that ideas of liberty will be universally diffused. This happy arrangement of things, is naturally produced by commerce and manufactures; but it would be as vain to look for it in the uncultivated parts of the world, as to look for the independent spirit of an English waggoner, among persons of low rank in the highlands of Scotland.

Chapter VI

The authority of a Master over his Servants

Section I

The condition of servants in the primitive ages of the world

In the foregoing chapters we have surveyed the principal distinctions of rank which occur among the free inhabitants of a country, and have endeavoured to mark the progress of society, with regard to the power of the husband, the father, and the civil magistrate. It may now be proper to consider the state of the servants, and to observe the degrees of authority which the laws and custom of different nations have bestowed upon the master.

From the situation of mankind in rude and barbarous countries, we may easily conceive in what manner any one person is, at first, reduced to be the servant of another. Before the manners of men are civilized, and a regular government has been established, persons of small fortune are subject to great

inconveniencies from the disorder and violence of the times, and are frequently obliged to solicit the assistance and protection of some powerful neighbour, by whom they are entertained in the station of vassals or military dependents. But those who, from their idleness, have acquired nothing, or who, by accident, have been deprived of their possessions, are necessarily exposed to much more severe calamities. They have no room or encouragement for the exercise of those beneficial trades and professions, the effects of luxury and refinement, by which, in a polished nation, a multitude of people are enabled to live in a comfortable manner. In many cases, therefore, they are under the necessity of serving some opulent person, who, upon account of their labour, is willing to maintain them; and as they are entirely dependent upon him for their subsistence, they are engaged, according to his circumstances, and according to the qualifications they possess, in all the mean and servile occupations which may be requisite for the convenience and support of his family.

In early ages, when neighbouring tribes or nations are almost continually engaged in mutual hostilities, it frequently happens that one of the parties, is totally reduced under the power of another. The use that is made of a victory, upon these occasions, is such as might be expected from a fierce and barbarous people, who have too little experience or reflection to discover the utility of carrying on the trade of war with some degree of humanity. The vanquished are often put to death, in order to gratify a spirit of revenge; or, if they are spared, it is only from the consideration that their future labour and service will be of more advantage to the conqueror. As in those times every individual goes out to battle at his own charges, so he claims a proportional share of the profits arising from the expedition; and of consequence obtains the absolute disposal of the captives whom he has procured by his valour, or who, in a division of the booty, are bestowed upon him as the reward of his merit.

This ancient acquisition of servants by captivity gave rise, in subsequent periods, to another method of acquiring them, by the sentence of a judge. In the primitive state of society, the public was not invested with sufficient power to punish the crimes that were committed; and when a difference arose between individuals, the injured Party had frequently no other way of procuring redress than by making war upon the offender, and reducing him into captivity. In more civilized ages, when the magistrate was enabled to restrain these disorders, he sometimes afforded the same redress by his own authority, and assigned the labour and service of the criminal as an indemnification to the sufferer for the loss he had sustained.

By these three methods, by captivity, by the voluntary submission of the indigent, or by the sentence of a judge, many are reduced into a state of unlimited subjection, and become the servants of those who are opulent and prosperous. It may be questioned, in such a case, how far a person is intitled to make use of that power which fortune has put into his hands. It is difficult to ascertain the degree of authority which, from the principles of justice and humanity, we are, in any situation, permitted to assume over our fellow-creatures. But the fact admits of no question, that people have commonly been disposed to use their power in such a manner as appears most conducive to their interest, and most agreeable to their predominant passions. It is natural to suppose that the master would let no bounds to his prerogative over those unhappy persons who, from their circumstances, were under the necessity of yielding an implicit obedience to his commands. He forced them to labour as much, and

gave them as little in return for it as possible. When he found them negligent of their employment, he bestowed upon them such correction as he thought proper'. and, actuated by the boisterous dispositions of a savage, he was in some cases provoked to chastise them with a degree of severity, by which they might even be deprived of their life. When he had no use for their work, or when a good opportunity was presented, he endeavoured by a sale to dispose of them to the highest advantage. When he chose to increase the number of his servants, he sometimes encouraged and directed their multiplication; and the same authority which he exercised over the parents was extended to their offspring, whom he had been at the trouble of rearing, and who were equally dependent upon him for their subsistence.

To be a servant, therefore, in those primitive times, was almost universally the same thing as to be a slave. The master assumed an unlimited jurisdiction over his servants, and the privilege of selling them at pleasure. He gave them no wages beside their maintenance; and he allowed them to have no property, but claimed to his own use whatever, by their labour or by any other means, they happened to acquire.

Thus the practice of domestic slavery appears to have been early established among the nations of antiquity; among the Egyptians, the Phoenicians, the Jews, the Babylonians, the Persians, the Greek, and the Romans.

The same practice obtains at present among all those tribes of barbarians, in different parts of the world, with which we have any correspondence.

There are indeed but few slaves among the greater part of the savages of America; because, from the situation of that people, they have no opportunity of accumulating wealth for maintaining any number of servants. As, in ordinary cases, they find it burdensome to give subsistence to an enemy whom they have subdued, they are accustomed to indulge their natural ferocity by putting him to death, even in cold blood. If ever they behave with humanity to their captives, it is only when being greatly reduced by the calamities of war, or by uncommon accidents, they are under the immediate necessity of recruiting their strength; and as this rarely happens, the persons whose lives have been thus preserved, are not distinguished from the children of the family into which they are brought, but are formally adopted into the place of the deceased relations, whose loss they are intended to supply.(1*)

The Tartars, on the other hand, who have great possessions in herds and flocks, find no difficulty in supporting a number of domestics. For this reason they commonly preserve their captives, with a view of reaping the benefit that may arise from their labour; and the servitude established among that people disposes them to treat their enemies with a degree of moderation, which otherwise could hardly be expected from their fierce and barbarous dispositions.

The same observation may be extended to the negroes upon the coast of Guinea, who, from their intercourse with the nations of Europe, derive yet greater advantages from sparing the lives of their enemies. At the same time it cannot be doubted, that, as the encounters of those barbarians have upon this account become less bloody, their wars have been rendered more frequent. From the great demand for slaves to supply the European market, they have the same motives to seize the person of their neighbours, which may excite the inhabitants of other countries to rob one another of their property.

Section II

The usual effects of opulence and civilized manners, with regard to the treatment of servants

These institutions and customs are such as might be expected from the limited experience, as well as from the rude manners of an early age. By reducing his servants into a state of slavery, the master appears, at first sight, to reap the highest advantage from their future labour and service. But when a people become civilized, and when they have made considerable progress in commerce and manufactures, one would imagine they should entertain more liberal views, and be influenced by more extensive considerations of utility.

A slave, who receives no wages in return for his labour, can never be supposed to exert much vigour or activity in the exercise of any employment. He obtains a livelihood at any rate; and by his utmost assiduity he is able to procure no more. As he works merely in consequence of the terror in which he is held, it may be imagined that he will be idle as often as he can with impunity. This circumstance may easily be overlooked in a country where the inhabitants are strangers to improvement. But when the arts begin to flourish, when the wonderful effects of industry and skill in cheapening commodities, and in bringing them to perfection, become more and more conspicuous, it must be evident that little profit can be drawn from the labour of a slave, who has neither been encouraged to acquire that dexterity, nor those habits of application, which are essentially requisite in the finer and more difficult branches of manufacture.

This may be illustrated from the price of labour in our West-India islands, where it will not be doubted that the inhabitants are at great pains to prevent the idleness of their slaves. In Jamaica, the yearly labour of a field-negro, when he is upheld to the master, is rated at no more than nine pounds, currency of that island. When a negro has been instructed in the trade of a carpenter, the value of his yearly labour will amount at the utmost to thirty-six pounds; whereas a free man is capable of earning seventy pounds yearly in the very same employment.(2*)

It is further to be observed, that, in a polished nation, the acquisition of slaves is commonly much more expensive than among a simple and barbarous people.

After a regular government has been established, the inhabitants of a country are restrained from plundering one another; and, under the authority of the magistrate, individuals of the lowest rank are sufficiently secured from oppression and injustice. In proportion to the improvement of commerce and manufactures, the demand for labour is increased, and greater encouragement is given to industry. The poor have more resources for procuring a livelihood, by such employments as are productive of little subjection or dependence. By degrees, therefore, people of inferior condition are freed from the necessity of becoming slaves in order to obtain subsistence; and the ancient agreement by which a free person resigned his liberty, and was reduced under the power of a master, being rendered more and more unusual, is at length regarded as inconsistent with the natural rights of a citizen.

Thus among the Romans, during the commonwealth, and even under the emperors, no free citizen was allowed, by contract, to become the slave of another.(3*) It was consistent with the refined laws of that people, which rescinded those unequal contracts where one party had gained an undue advantage, or even

obtained an unreasonable profit at the expense of the other, to declare that a bargain by which a man surrendered all his rights to a master, and consequently received nothing in return, should have no support or encouragement from the civil magistrate.

As men begin to experience the happy effects of cultivating the arts of peace, and are less frequently employed in acts of hostility, they have less occasion to acquire any number of slaves by captivity. The influence of civilization upon the temper and dispositions of a people has at the same time a tendency to produce a total revolution in the manner of conducting their military operations. That ancient institution, by which every one who is able to bear arms is required to appear in the field at his own charges, becomes too heavy a burden upon those who are enervated with pleasure, or engaged in lucrative professions; and the custom of employing mercenary troops in defence of the country is therefore gradually established. As an army of this kind is maintained by the government; as the soldiers receive constant pay, which is understood to be a full equivalent for their service; they appear to have no title to the extraordinary emoluments arising from the spoil of the enemy; and therefore the captives, though reduced into servitude, are no longer held as belonging to those particular persons by whom they have been subdued, but to the public, at whose expense and hazard the war is supported.(4*)

We may take notice of a similar change in the acquisition of slaves by the sentence of a judge. In rude times, the chief aim of punishment was to gratify the resentment of the private party; and if a person accused of a crime had been found guilty, he was, for that reason, frequently delivered up as a slave to the plaintiff. But upon greater improvement of manners, the interpositions of the magistrate came to be influenced more by considerations of general utility; and as the crimes of individuals were principally considered in the light of offences against the society, it was agreeable to this idea that a criminal should become the slave of the public, and should either be employed in public works, or disposed of in the manner most advantageous to the revenue of the community.

The inhabitants of a civilized country, being thus in a great measure deprived of the primitive modes of acquisition, are obliged to acquire the bulk of their slaves, either by a purchase from their poorer and more barbarous neighbours, or by propagating and rearing from the original stock which they possess. In such a situation, therefore, when we compute the expense attending the labour of a slave, not only the charge of his maintenance, but also the money laid out in the first acquisition, together with all the hazard to which his life is exposed, must necessarily be taken into the account.

When these circumstances are duly considered, it will be found that the work of a slave, who receives nothing but a bare subsistence, is really dearer than that of a free man, to whom constant wages are given in proportion to his industry.

Unhappily, men have seldom been in a condition to examine this point with proper attention, and with sufficient impartiality. The practice of slavery being introduced in an early age, is afterwards regarded with that blind prepossession which is commonly acquired in favour of ancient usages: its inconveniences are overlooked, and every innovation, with respect to it, is considered as a dangerous measure. The possession of power is too agreeable to be easily relinquished. Few people will venture upon a new experiment; and, amidst the general prejudices of a country, fewer still are capable of making it with fairness.

We find, accordingly, that this institution, however inconsistent with the rights of humanity, however pernicious and contrary to the true interest of the master, has generally remained in those countries where it was once established, and has been handed down from one generation to another, during all the successive improvements of society, in knowledge, arts, and manufactures.

The advancement of a nation, in these particulars, is even frequently attended with greater severity in the treatment of the slaves. The simplicity of early ages admits of little distinction between the master and his servants, in their employments or manner of living; and though, from the impetuosity and violence of his temper, they may, on some occasions, be subjected to hardships, he enjoys no great superiority over them, in their dress, their lodging, or ordinary entertainment. By the introduction of wealth and luxury, this equality is gradually destroyed. The various refinements which tend to multiply the comforts and conveniences of life; whatever contributes to ease, to pleasure, to ostentation, or to amusement, is in a great measure appropriated to the rich and the free, while those who remain in a state of servitude are retained in their primitive indigence. The slaves are no longer accustomed to sit at the same table with their master. They must look upon him as a being of superior order, whom they are seldom permitted to approach, and with whom they have hardly any thing in common; who beholds with indifference the toil and drudgery to which they are subjected, and from whom they can with difficulty procure a scanty subsistence.

*Ipse dominus dives operis, et laboris expers,
Quodcunque homini accidit libère, posse retur:
Aequom esse putat: non reputat laboris quid sit:
Nec, aequom anne iniquom imperet, cogitabit.(5*)*

What a painful and humbling comparison, what mortifying reflections does this afford to those wretches who are reduced into a state of bondage! reflections which cannot fail to sour their temper, to inspire them with malevolent dispositions, and to produce an untoward and stubborn behaviour; for it is impossible that man, by any system of management, should be so inured to oppression as, like a beast of burden, to submit entirely to the yoke, and not, on some occasions, to feel and testify resentment against the oppressor. A more severe discipline is thus rendered necessary, to conquer the obstinacy of persons, unwilling to labour in their employments. Besides, from the number of slaves which are usually maintained in a wealthy and luxurious nation, they become formidable to the state; and it is requisite that they should be strictly watched, and kept in the utmost subjection, in order to prevent those desperate attempts to which they are frequently instigated in revenge of their sufferings. This is at least the pretence for that shocking barbarity to which the negroes in our colonies are frequently exposed, and which is exhibited even by persons of the weaker sex, in an age distinguished for humanity and politeness.

The prodigious wealth acquired by the Romans towards the end of the commonwealth, and after the establishment of despotism, gave rise to a degree of cruelty and oppression, in the management of their slaves, which had been unknown in former times.

*Hic frangit ferulas, rubet ille flagellis,
Hic scutica: sunt quae tortoribus annua praestent.*

Verberat, atque obiter faciem linit, audit amicas,
Aut latum pictae vestis considerat aurum,
Et caedit, longi relegit transversa diurni
Et caedit, donec lassus caedentibus, exi
Intonet horrendum, jam cognitione peracta:
Praefectura domus Sicula non mitior aula.(6*)

It was to be expected, however, that particular enormities of this kind would at length excite the attention of the public, and would be in some measure restrained by the gradual progress of government. Although the institution of slavery was permitted to remain, regulations came to be made, by which the master was prevented from such wanton exercise of his power as must have been highly prejudicial to his interest, and could only be regarded as an absurd abuse of his property.

In the Jewish law, we meet with some regulations for this purpose at an early period.

If a man smite his servant, or his maid, with a rod, and he die under his hand, he shall surely be punished.

Notwithstanding, if he continue a day or two, he shall not be punished: for he is his money.

And if a man smite the eye of his servant, or the eye of his maid, that it perish; he shall let him go free for his eye's sake.

And if he smite out his man-servant's tooth, or his maid-servant's tooth; he shall let him go free for his tooth's sake.(7*)

At Athens, the slaves who had been barbarously treated by their master were allowed to fly for sanctuary to the temple of Theseus, and to commence a suit at law against their master, who, if their complaint appeared well founded, was laid under the necessity of selling them.

Various equitable laws, upon this subject, were made by the Roman emperors. At Rome, the absolute power of the master was first subjected to any limitation in the reign of Augustus, who appointed that the Praefectus urbi should afford redress to such of the slaves as had been treated with immoderate severity. In the reign of the emperor Claudius, it was enacted, that if a master abandoned the care of his slaves during their sickness, he should forfeit the property of them; and that if he put them to death, he should be held guilty of homicide. Soon after, the inhuman practice of obliging the slaves to fight with wild beasts, which was carried to a prodigious height, and which appears to have afforded a favourite entertainment to men of all ranks, was in some measure restrained. Other statutes were afterwards made, in the reigns of Adrian, or Antoninus Pius, and of Constantine, by which it was finally established, that the master who killed his own slave, by design, and not from the accidental excess of chastisement, should suffer the ordinary punishment of murder.

Section III

Causes of the freedom acquired by the labouring people in the modern nations of Europe

By what happy concurrence of events has the practice of slavery been so generally abolished in Europe? By what powerful motives were our forefathers induced to deviate from the maims of

other nations, and to abandon a custom so generally retained in other parts of the world?

The northern barbarians, who laid the foundation of the present European states, are said to have possessed a number of slaves, obtained either by captivity or by voluntary submission, and over whom the master enjoyed an unlimited authority.(8*)

When these nations invaded the Roman empire, and settled in the different provinces, they were enabled by their repeated victories to procure an immense number of captives, whom they reduced into servitude, and by whose assistance they occupied landed estates of proportionable extent. From the simple manner of living to which those barbarians had been accustomed, their domestic business was usually performed by the members of each family; and their servants, for the most part, were employed in cultivating their lands.

It appears that, upon the settlement of these invaders in the Roman empire, no immediate change was produced in their notions with respect to slavery, and that the slaves which they gradually acquired by the success of their arms were, at first, in the same condition with those which they had anciently possessed. The master exercised an unlimited power of chastising them, and might even put them to death with impunity. They were liable to be alienated, or impledged by the master at pleasure, and were incapable, either of marrying, or of entering into any other contract, without his consent. They were so much his property, that he might claim them from every possessor, by the ordinary action which was given for the recovery of his goods; and in consequence of this, it was held they could have no civil rights; so that whatever was acquired by their labour belonged to the master, from whom they usually received nothing but a precarious subsistence. In a public capacity, the people of this class were viewed in a light no less humiliating; they enjoyed none of the privileges of a citizen, and were seldom permitted to give evidence against a free man in a court of justice.(9*)

The situation, however, of these bond-men, and the nature of the employment in which they were usually engaged, had a tendency to procure them a variety of privileges from their master, by which, in a course of ages, their condition was rendered more comfortable, and they were advanced to higher degrees of consideration and rank.

As the peasants belonging to a single person could not be conveniently maintained in his house, so in order to cultivate his lands to advantage, it was necessary that they should be sent to a distance, and have a fixed residence in different parts of his estate. Separate habitations were therefore assigned them; and particular farms were committed to the care of individuals, who from their residing in the neighbourhood of one another, and forming small villages or hamlets, received the appellation of 'villains'.

It may easily be imagined that, in those circumstances, the proprietor of a large estate could not oversee the behaviour of his servants, living in separate families, and scattered over the wide extent of his demesnes; and it was in vain to think of compelling them to labour by endeavouring to chastise them upon account of their idleness. A very little experience would show that no efforts of that kind could be effectual; and that the only means of exciting the industry of the peasants would be to offer them a reward for the work which they performed. Thus, beside the ordinary maintenance allotted to the slaves, they frequently obtained a small gratuity, which, by custom, was gradually converted into a regular hire; and, being allowed the

enjoyment and disposal of that subject, they were at length understood to be capable of having separate property.

After the master came to reside at a distance from the bulk of his servants, and had embraced the salutary policy of bribing them, instead of using compulsion, in order to render them active in their employment, he was less apt to be provoked by their negligence; and as he had seldom occasion to treat them with severity, the ancient dominion which he exercised over their lives was at length entirely lost by disuse.

When a slave had been for a long time engaged in a particular farm, and had become acquainted with that particular culture which it required, he was so much the better qualified to continue in the management of it for the future; and it was contrary to the interest of the master that he should be removed to another place, or employed in labour of a different kind. By degrees, therefore, the peasants were regarded as belonging to the stock upon the ground, and came to be uniformly disposed of as a part of the estate which they had been accustomed to cultivate.

As these changes were gradual, it is difficult to ascertain the precise period at which they were completed. The continual disorders which prevailed in the western part of Europe, for ages after it was first over-run by the German nations, prevented for a long time the progress of arts among the new inhabitants. It was about the twelfth century that a spirit of improvement, in several European countries, became somewhat conspicuous; and it may be considered as a mark of that improvement, with respect to agriculture, that about this time, the villains had obtained considerable privileges; that the master's power over their life was then understood to be extinguished; that the chastisement to which they had been formerly subjected was become more moderate; and that they were generally permitted to acquire separate property.(10*)

The effect of the foregoing circumstances is even observable in the history of the Greek and Romans, among whom the peasants were raised to a better condition than the rest of their slaves. They were indeed bound to serve the proprietor during life, and might have been sold along with the ground upon which they were employed; but their persons were not subject to the absolute jurisdiction of their master; they had the privilege of marrying without his consent; they received wages in return for their labour, and were understood to have a full right of property in whatever goods their industry had enabled them to accumulate.

It should seem, however, that the limited territory possessed by these ancient nations prevented the farther extension of the privileges bestowed upon their peasants: seven acres were originally the utmost extent of landed property which a Roman citizen was permitted to enjoy; a portion which he was able to cultivate with his own hands, or with no other assistance but that of his own family; and there is reason to believe that, for several centuries, no individual acquired such an estate as gave occasion to his retaining many servants for the management of it, or could render the inspection and government of those whom he employed a matter of great trouble or difficulty.(11*)

But after the wide and populous countries under the Roman dominion were subdued and laid waste by the small tribes of the Germans, very extensive landed estates, together with an adequate number of slaves, were immediately acquired by particular persons. As the people retained their primitive simplicity of manners, and were in a great measure strangers to commerce, these large possessions remained for ages without being dismembered.

And thus, during all the successive improvements of agriculture, the proprietor of an estate, embarrassed with the multitude of his villains, was obliged to repose a confidence in them, and came by degrees to discover more clearly the utility of exciting them to industry by the prospect of their own private advantage.

The same motives, by which the master was induced to reward his slaves for their labour, deterred him afterwards to increase his bounty in proportion to the work which they performed. Having no opportunity of looking narrowly into their management, he was commonly led to estimate their diligence according to their success; and therefore, when they brought him a good crop, he made an addition to their wages, at the same time that he allowed them to expect a suitable compensation for their future labour and economy. This at length gave rise to an express stipulation, that their profits should depend upon the fertility of their different farm, and that, in all cases, they should be permitted to retain a certain share of the produce, in consideration of their labour.

An expedient so obvious and well calculated for promoting the industry of the peasants, could hardly fail to be generally embraced in all the countries of Europe, as soon as the inhabitants became attentive to the improvement of their estates. The remains of this practice are still to be found in Scotland, where, in some cases, the landlord is accustomed to stock the farm, and the tenant pays him a rent in kind, consisting of a certain proportion of the fruits.(12*)

By this alteration, the villains entered into a sort of co-partnership with their master; and having always a prospect of gain, according to the vigour or talents which they exerted, they were enabled to earn a more comfortable subsistence, and were even gradually raised to affluence. The acquisition of wealth paved the way to a farther extension of their privileges. Those who had obtained something considerable found themselves in a condition to stock their own farms, and to offer a fixed rent to the master, upon condition of their being allowed to retain the surplus for their own emolument. An agreement of this kind, so advantageous to both parties, was concluded without any difficulty. As the tenant secured to himself the whole profit arising from his industry, the landlord was freed from the hazard of accidental losses, and obtained not only a certain, but frequently an additional revenue from his lands.

Thus, by degrees, the ancient villanage came to be entirely abolished. The peasants, who cultivated their farms at their own charges, and at their own hazard, were of course emancipated from the authority of their master, and could no longer be regarded as in the condition of servants. Their personal subjection was at an end. It was of no consequence to the landlord how they conducted themselves; and, provided they punctually paid his rent, nothing farther could be required of them. There was no reason to insist that they should remain in the farm longer than they pleased; for the profits it afforded made them, commonly, not more willing to leave it than the proprietor was to put them away. When agriculture became so beneficial a trade, when the state of those who followed that profession had been rendered so comfortable, no person had any difficulty to procure a sufficient number of tenants to labour his estate. It was, on the contrary, sometimes difficult for the farmer to obtain land sufficient for the exercise of his employment; and, after he had been at pains to improve the soil, he was in danger of being dispossessed by the proprietor, before he was indemnified for the trouble and expense which he had sustained. This made it necessary to stipulate that

he should be allowed to remain for a certain time in the possession, and gave rise to leases, for a term of years, and even sometimes for life, or for a longer period, according to the circumstances or inclination of the parties.

The modern nations of Europe continued for a long time to be almost entirely unacquainted with manufactures; and, as they had no other slaves but those which were employed in agriculture, the privileges acquired by the villains had therefore a tendency to produce a total extinction of servitude. By degrees, however, as the people began to improve their circumstances, and to multiply the comforts and conveniences of life, their attention was more and more diverted to other employments. At the same time that the villains were engaged in cultivating the ground, they were also bound to perform any other services which the master thought proper to require, and were often called to assist him in the practice of those few mechanical arts which were then understood. Particular persons acquiring a singular dexterity in these occupations, were distinguished upon that account, and came to be more frequently employed than their neighbours. In proportion to the liberty which they enjoyed as peasants, they were enabled with more advantage to prosecute this collateral business; and while they received a reward for the crop which they produced upon their farms, they were not restrained from working, for hire, in that peculiar trade or profession which they were qualified to exercise. As the progress of luxury and refinement multiplied these occupations, and rendered the profits which they afforded superior in many cases to those which were derived from agriculture, individuals were gradually led to quit the latter employment, and to attach themselves entirely to the former. In that state of the country, the children of farmers were frequently bred to manufactures; and a number of tradesmen and artificers, having arisen in different villages, were advanced to consideration and esteem, in proportion as their assistance became more essentially necessary in supplying the wants of mankind. According to the wealth which this new order of men had accumulated, they purchased immunities from their master; and, by permitting him to levy tolls and duties upon their commerce, they were enabled to secure his patronage and protection. Thus the privileges acquired by the peasants appear to have given rise to domestic freedom, which was communicated to the trading part of the inhabitants; while the employment of the latter became, on the other hand, the source of great opulence, and contributed, as has been formerly observed, to raise the people of inferior rank to political independence.

Other circumstances may be mentioned, which, in a subordinate manner, have, perhaps contributed something to this remarkable change of European manners.

The establishment of Christianity has been supposed by many to be the principal circumstance which rooted out the practice of slavery so universally permitted and encouraged among all the heathen nations. There is no doubt that the spirit of this religion, which considers all mankind as children of the same Father, and as all equally the objects of his paternal care and affection, should inspire them with compassion for the miseries of each other, and should teach the opulent and the proud to consider those who are depressed with labour and penury as creatures of the same species, to treat them with mildness and humanity, and to soften the rigours to which their severe and unequal fortune has unavoidably subjected them. But it does not seem to have been the intention of Christianity to alter the civil rights of mankind, or to abolish those distinctions of rank

which were already established. There is no precept of the gospel by which the authority of the master is in any respect restrained or limited; but, on the contrary, there are several passages from which it may be inferred that slaves, even after they had embraced the Christian religion, were not absolved from any part of the duties formerly incumbent upon them.(13*)

We accordingly find that slavery remained all over Europe for several centuries after Christianity became the established religion: not to mention that this institution is still retained in Russia, in Poland, in Hungary, and in several parts of Germany; and that it is at present admitted, without limitation, in the colonies which belong to the European nations, whether in Asia, Africa, or America. The Quakers of Pennsylvania, are the first body of men in those countries, who have discovered any scruples upon that account, and who seem to have thought that the abolition of this practice is a duty they owe to religion and humanity.

It has likewise been imagined that the state of the clergy, their great influence and ambition, together with that opposition between the civil and ecclesiastical powers, which subsisted for a long time in most of the nations of Europe were favourable to the lower ranks of men, and contributed to limit and destroy the ancient practice of villanage. The learning, the ideas of policy, and, above all, the peaceable manners of ecclesiastics, naturally produced an aversion to the disorders incident to the feudal governments, and disposed them to shelter the weak and defenceless from the tyranny of their superiors.

In those dark and superstitious ages, the church was, at the same time, most successful in establishing her authority over the lowest and most ignorant of the people, and was therefore led, in a particular manner, to exert her power and abilities in protecting that order of men by which she was most firmly supported. As dying persons were frequently inclined to make considerable donations for pious uses, it was more immediately for the interest of churchmen, that people of inferior condition should be rendered capable of acquiring property, and should have the free disposal of what they had acquired.

The progress of ecclesiastical rapacity seems at length to have produced a custom that villains, who obtained their liberty by the influence of the clergy, should reward their benefactors; and that the manumission should, for this reason, be confirmed by the church. In these circumstances, the ministers of religion did not fail to recommend the manumission of slaves, as an action highly proper to atone for the offences of a sinner. and ecclesiastical censures were, in some cases, inflicted upon the master, when he refused to allow his villains the liberty of alienating their goods by a testament. So much does this appear to have been an object of attention, that a bull was published by Pope Alexander III exhorting the Christian world to a general emancipation of the villains.

It was not, however, to be expected that, from such interested views, the clergy would be disposed to strike at the root of servitude, or to employ their casuistry in overthrowing an institution upon which so great a part of their own property depended. Like physicians, they were far from thinking it necessary to swallow that medicine which they had prescribed to the people; and while they appeared so extremely liberal with regard to the estates of the laity, they held a very different conduct with relation to the villains in their own possession. These being appropriated to pious uses, and being only held in usufruct, were not to be alienated by the present incumbent. Thus

we meet with many ecclesiastical regulations, both in France and Germany, by which it is provided that no bishop, or priest, shall manumit a slave in the patrimony of the church, without purchasing two others of equal value to be put in his place.(14*)

The state of the civil government, in most of the countries of Europe, may be regarded as another circumstance which had some influence in abolishing domestic slavery. From the aristocratical constitution established in these kingdoms, the sovereign was engaged in long and violent struggles with his barons; and being often incapable of carrying his measures by direct force, he was obliged to employ every artifice that his situation would admit, in order to humble his rivals, and reduce them under subjection. For this purpose he frequently exerted his authority in protecting the villains from the tyranny of the master; and thus endeavoured to undermine the power of the nobles, by withdrawing the submission of their immediate dependents.

While the monarch was, upon this account, endeavouring to protect the villains possessed by his barons, and to raise them to such a condition as might render them less dependent upon their masters, he found means of deriving some revenue from the people of that class, upon pretence of confirming, by royal authority, the privileges that were bestowed upon them. Other reasons, in the mean time, induced the sovereign to give particular encouragement to the bond-men upon his own demesnes; as these, under the shelter of the crown, had been enabled to acquire a degree of opulence, not only by their advances in agriculture, but also by their application to trade and manufactures, and consequently were in a condition to purchase freedom and immunities by pecuniary compositions, or by submitting to regular duties for the support of government. From such political considerations, we find that repeated efforts were made, and many regulations were introduced by different princes of Europe, for extending and securing the liberties and rights of the lower and more industrious part of their subjects.

In this manner domestic slavery, having gradually declined for ages, has at last been exploded from the greater part of Europe. In several European kingdoms, this has happened, from the natural progress of manners, and without any express interposition of the legislature. Thus in England, the peasants having, in consequence of their situation, acquired successive privileges, many of them were promoted to the rank of vassals or free-holders, while the rest, advancing more slowly, have remained in the condition of those who are called copy-holders at present. So late as the reign of Queen Elizabeth it appears that real bond-men were still to be found in many parts of the kingdom.(15*)

In Scotland the slavery of the villains, which was probably of a similar nature to what obtained in the other countries of Europe, appear in like manner to have gone into disuse without any aid of statute; but the period when this change was effected has not been ascertained by lawyers or historians.

The remains of bondage which are still to be found in the case of colliers and salters in Scotland, and of those who work in the mines in some other parts of Europe, are sufficient to point out the chief circumstance, from which, in all other cases, the ancient institution has been so generally abolished. In a coal-work, as the different workmen are collected in one place, instead of being scattered, like the ordinary peasants, over an extensive territory, they were capable of being put under the care of an overseer, who might compel them to labour; and the master did not so immediately feel the necessity of resigning

that authority over them with which he was invested.

After domestic liberty had been thus, in a great measure, established in those European nations which had made the greatest improvement in agriculture, America was discovered; the first settlers in which, from their distance, and from the little attention that was paid to them by the government of their mother countries, were under no necessity of conforming to the laws and custom of Europe. The acquisition of gold and silver was the great object by which the Spaniards were directed in their settlements upon that continent; and the native inhabitants, whom they had conquered, were reduced into slavery and put to work in the mines. But, these being either exhausted by the severity with which they were treated, or not being thought sufficiently robust for that kind of labour, negro-slaves were afterwards purchased for this purpose from the Portuguese settlements on the coast of Africa. When sugar-plantations were erected, the same people were employed in these, and in most other kinds of work which came to be performed in that part of the world. Thus the practice of slavery was no sooner extinguished by the inhabitants in one quarter of the globe, than it was revived by the very same people in another, where it has remained ever since, without being much regarded by the public, or exciting any effectual regulations in order to suppress it.(16*)

It merits particular attention, that the chief circumstance which contributed to procure freedom to the slaves in Europe, had no place in our American plantations. From the manner of working the mines, a number of slaves are usually collected together, and may therefore be placed under the command of a single person, who has it in his power to superintend their behaviour, and to punish their negligence. The same observation is applicable to the planting of sugar, and to the other occupations in our colonies, in which the negroes perform the same sort of work which in Europe is commonly performed by cattle, and in which, of consequence, many servants are kept upon the same plantation. As the slaves are continually under the lash of their master, he has not been forced to use the disagreeable expedient of rewarding their labour, and of improving their condition by those means which were found so necessary, and which were employed with so much emolument, to encourage the industry of the peasants in Europe.

Section IV

Political consequences of slavery

In the history of mankind, there is no revolution of greater importance to the happiness of society than this which we have now had occasion to contemplate. The laws and customs of the modern European nations have carried the advantages of liberty to a height which was never known in any other age or country. In the ancient states, so celebrated upon account of their free government, the bulk of their mechanics and labouring people were denied the common privileges of men, and treated upon the footing of inferior animals. In proportion to the opulence and refinement of those nations, the number of their slaves was increased, and the grievances to which they were subjected became the more intolerable.

The citizens of Athens, according to an enumeration of Demetrius Phalerius, are said to have amounted to 21,000, the strangers residing in that city to 10,000, and the slaves possessed by the whole people, to no less than 400,000. There is

reason to believe, however, that, in this enumeration of the free men, none but the heads of families are included, and in that of the slaves, every individual is comprehended; for an account of the former would probably be taken with a view to the taxes imposed upon each head of a family, and the latter, it is most likely, would be numbered, like cattle, in order to ascertain the wealth of each proprietor. Thus, allowing five persons to each family, the Athenian slaves exceeded the free men in the proportion of between two and three to one.(17*)

In the most flourishing periods of Rome, when luxury was carried to so amazing a pitch, the proportion of the inhabitants reduced into servitude was in all probability still greater. The number of slaves possessed by particular Roman citizens was prodigious. T. Minucius, a Roman knight, is said to have had 400. Pliny mentions one Caecilius, who bequeathed in his testament upwards of 4000 slaves. And Athenaeus takes notice, that the Roman slaves, belonging to individuals, often amounted to 10,000, or even to 20,000; and sometimes, to a greater number.

The negro-slaves in the West-Indies are commonly said to exceed the free people nearly as three to one; and it has been supposed that the disproportion between them is daily increasing.

It may in general be observed, that according as men have made greater progress in commerce and the arts, the establishment of domestic freedom is of greater importance; and that, in opulent and polished nations, its influence extends to the great body of the people, who form the principal part of a community, and whose comfortable situation ought never to be overlooked in the provisions that are made for national happiness and prosperity.

In whatever light we regard the institution of slavery, it appears equally inconvenient and pernicious. No conclusion seems more certain than this, that men will commonly exert more activity when they work for their own benefit, than when they are compelled to labour for the benefit merely of another. The introduction of personal liberty has therefore an infallible tendency to render the inhabitants of a country more industrious; and, by producing greater plenty of provisions, must necessarily increase the populousness, as well as the strength and security of a nation.

Some persons have imagined that slavery is conducive to population, on account of the frugality with which the slaves are usually maintained, and on account of the attention which is given by the master to their multiplication.

With regard to the former circumstance, it ought to be considered, that the work of a labourer depends very much upon the subsistence which he receives. As by living in too great affluence he may occasion an useless consumption of provisions, so by obtaining too little he is rendered less fit for the exercise of those employments by which mankind are supported. To promote the populousness of a country, the mechanics and labouring people should be maintained in such a manner as will yield the highest profit from the work which they are capable of performing; and it is probable that they will more commonly procure the enjoyments of life according to this due medium, when they provide their own maintenance, than when it depends upon the arbitrary will of a master, who, from narrow and partial views, may imagine that he has an interest to diminish the expense of their living as much as possible. To those who have occasion to know the extreme parsimony with which the negro-slaves in our colonies are usually maintained, any illustration of this remark will appear superfluous.

With respect to the care of the master to encourage the multiplication of his slaves, it must be obvious that this is of little moment, unless it be accompanied with an increase of the means of their subsistence. If slavery be always unfavourable to industry, and tend to hinder the improvement of a country, the number of inhabitants will be proportionably limited, in spite of all the regulations that can be made, and of all the encouragement that can be given to the propagation of the species. It is impossible even to multiply cattle beyond a certain extent, without having previously enriched the pastures upon which they are fed.

But slavery is not more hurtful to the industry than to the good morals of a people. To cast a man out from the privileges of society, and to mark his condition with infamy, is to deprive him of the most powerful incitements to virtue; and, very often, to render him worthy of that contempt with which he is treated. What effects, on the other hand, may we not expect that this debasement of the servants will produce on the temper and disposition of the master? In how many different ways is it possible to abuse that absolute power with which he is invested? And what vicious habits may be contracted by a train of such abuses, unrestrained by the laws, and palliated by the influence of example? It would seem that nothing could exceed the dishonesty and profligacy of the Roman slaves, unless we except the inhumanity and the extravagant vices which prevailed among the rest of the inhabitants.

Various statutes were made to restrain the manumission of slaves, and to prevent the dignity of a Roman citizen from being communicated to such infamous persons.

Such is the confusion of our times [says Dionysius of Halicarnassus,] so much has the Roman probity degenerated into shameful meanness, that some, having gathered money by robberies, prostitutions, and all kinds of wickedness, are enabled to procure their freedom, and to become Romans; others, associating with their miters, in poisonings, murders, and crimes committed both against the gods and the commonwealth, are rewarded in the same manner.(18*)

It has been alleged that, in one respect, the institution of slavery is beneficial to a nation, as it affords the most convenient provision for those who are become unable to maintain themselves. The maintenance of the poor, is doubtless, a very important object, and may be regarded as one of the most difficult branches in the police of a country. In the early periods of society, when family-attachments are widely extended, the rich are commonly willing to take care of their indigent relations; and from the dispositions of a people unacquainted with luxury, those persons who have no other resource may expect relief from the occasional charity of their neighbours. But in a commercial and populous nation in which the bulk of the people must work hard for their livelihood, many individuals are, by a variety of accidents, reduced to indigence; while at the same time, from their numbers, as well as from the prevailing spirit of the age, their misery is little regarded by their fellow creatures. The cunning impostor, in such a case, may sometimes carry on a profitable trade of begging; but the real object of distress is apt to be overlooked, and without some interposition of the public, would often perish from want. Poor-rates therefore, in some shape or other, must be established; and from the nature of such an establishment, it is usually attended with

much expense, and liable to many abuses. In a country where slavery is practised, no such inconvenience is felt. As the master may be obliged, in all cases, to maintain his slaves, no assessment is necessary, no charges are incurred in collecting and distributing money, for the benefit of the poor: not to mention, that the nuisance of common begging is thus effectually removed.

It must be owned that this is a frugal regulation; but that it will answer the purpose is far from being so evident. When the same person, who is subjected to a tax, is also entrusted with the application of the money, what security is there that he will ever apply it to the uses for which it is intended? When a master is ordered to support his slaves, after they have become unfit for labour, what measures can be taken to secure their obedience? As it is plainly his interest to get free of this burden, what reason have we to expect that he will submit to it longer than he thinks fit? In a matter of domestic economy, how is it possible for the public to watch over his conduct, or to observe one of a thousand instances in which he may neglect his decayed servants, or withhold from them the common necessaries of life? Instead of maintaining the poor therefore, this is only a method of starving them in the most expeditious, and perhaps, in the most private manner. In perusing the Roman history, with relation to this subject, we meet with enormities which fill the mind with horror. Among that people it appears that, notwithstanding all the laws that were made by emperors, of the best intentions and possessed of absolute power, the master did not even think it necessary to conceal his barbarity, or to show more regard to his slaves, than is usually shown to cattle which, from age or diseases, are no longer of service to the owner.

Considering the many advantages which a country derives from the freedom of the labouring people, it is to be regretted that any species of slavery should still remain in the dominions of Great Britain, in which liberty is generally so well understood, and so highly valued.

The situation of the colliers and salters in Scotland may seem of little consequence, as the number of persons engaged in that employment is not very great, and their servitude is not very grievous. The detriment, however, which arises from thence to the proprietor of such works is manifest. No man would choose to be a slave if he could earn nearly the same wages by living in a state of freedom. Each collier therefore must have an additional premium for his labour, upon account of the bondage into which he is reduced: otherwise he will endeavour to procure a livelihood by some other employment.

Many of the coal masters begin to be sensible of this, and with that their workmen were [are] upon a different footing; although, with a timidity natural to those who have a great pecuniary interest at stake, they are averse from altering the former practice, until such alteration shall be rendered universal by an act of parliament. But whatever advantages might accrue to them from a general law abolishing the slavery of the colliers, it seems evident that these advantages would be reaped in a much higher degree by any single proprietor who should have the resolution to give liberty to his workmen, and renounce the privileges which the law bestows upon him, with respect to those who might afterwards engage in his service. If the slavery of the colliers tends to heighten their wages, surely any one master who should be freed from this inconvenience before the rest, would be in the same circumstances with a manufacturer who produces a commodity at less expense than his neighbours, and who is thereby

enabled to undersell them in the market.(19*)

The slavery established in our colonies is an object of greater importance, and is, perhaps, attended with difficulties which cannot be so easily removed. It has been thought, that the management of our plantations requires a labour in which free men would not be willing to engage, and which the white people are, from their constitution, incapable of performing. How far this opinion is well founded, according to the present manner of labouring in that part of the world, seems difficult to determine, as it has never been properly examined by those who are in a condition to ascertain the facts in question. But there is ground to believe that the institution of slavery is the chief circumstance that has prevented those contrivances to shorten and facilitate the more laborious employments of the people, which take place in other countries where freedom has been introduced.

Notwithstanding the connexion between our colonies and the mother-country, the instruments proper for some of the most common branches of labour are little known in many parts of the West Indies. In Jamaica the digging of a grave gives full employment to two men for a whole day; as from the want of proper tools it is necessary to make a large hole no way adapted to the human figure. I am informed, that, unless it has been procured very lately, there is hardly a spade in the whole island. In procuring firewood for boiling sugar, etc., a work that takes up about five or six weeks yearly, no use is made of the saw, but the trees are cut with an axe into logs of about 30 inches in length. Instead of a flail the negroes make use of a single stick in threshing the Guinea-corn; so that in this and in winnowing, ten women are capable of doing no more work in a day, than, with our instruments and machinery, two men would perform in two hours. From the want of a scythe or sickle, they are obliged every night to cut with a knife, or pull with their hands, a quantity of grass sufficient to serve their horses, mules, and black cattle.(20*)

With regard to the planting of sugar, experiments have been made, in some of the islands, from which it appears that, in this species of cultivation, cattle might be employed with advantage, and that the number of slaves might be greatly diminished.(21*) But these experiments have been little regarded, in opposition to the former usage, and in opposition to a lucrative branch of trade which this innovation would in a great measure destroy.

At any rate, the interest of our colonies seems to demand that the negroes should be better treated, and even that they should be raised to a better condition. The author of a late elegant account of our American settlements has proposed, that small wages should be given them as an encouragement to industry. If this measure were once begun, it is probable that it would gradually be pushed to a greater extent; as the master would soon find the advantage of proportioning the wages of the slaves to the work which they performed. It is astonishing that so little attention has hitherto been paid to any improvements of this nature, after the good effects of them have been so fully illustrated in the case of the villains in Europe. The owner of a sugar or tobacco plantation, one would think, might easily estimate the average value of the crop which it had formerly yielded, and could run no hazard, whatever profit he might reap, by allowing the people employed in the cultivation to draw a share of any additional produce obtained by their labour and frugality.

It affords a curious spectacle to observe that the same people who talk in a high strain of political liberty, and who

consider the privilege of imposing their own taxes as one of the unalienable rights of mankind, should make no scruple of reducing a great proportion of their fellow-creatures into circumstances by which they are not only deprived of property, but almost of every species of right. Fortune perhaps never produced a situation more calculated to ridicule a liberal hypothesis, or to show how little the conduct of men is at the bottom directed by any philosophical principles.

In those provinces, however, of North America, where few slaves have ever been maintained, and where slavery does not seem to be recommended by the nature of those employments in which the people are usually engaged, there may be some ground to expect that its pernicious effects upon industry will soon be felt, and that the practice will of course be abandoned. It is said that some of the provincial assemblies in that country have lately resolved to prevent or discourage the importation of negroes; but from what motives this resolution has proceeded, it is difficult to determine.(22*)

The advancement of commerce and the arts, together with the diffusion of knowledge, in the present age, has of late contributed to the removal of many prejudices, and been productive of enlarged opinions, both upon this and upon a variety of other subjects. It has long been held, in Britain, that a negro slave, imported into this country, obtained thereby many of the privileges of a free man. But by a late judgment in the court of king's-bench it was found that the master could not recover his power over the servant by sending him abroad at pleasure.(23*)

By a still more recent decision of the chief court in Scotland, it was declared:

That the dominion assumed over this negro, under the law of Jamaica, being unjust, could not be supported in this country to any extent: that therefore the defender had no right to the negro's service for any space of time; nor to send him out of the country against his consent.(24*)

This last decision, which was given in 1778, is the more worthy of attention, as it condemns the slavery of the negroes in explicit term, and, being the first opinion of that nature delivered by any court in the island, may be accounted an authentic testimony of the liberal sentiments entertained in the latter part of the eighteenth century.

NOTES:

1. These captives are worse treated by some of the American nations than by others; but in fact they are always retained in the condition of slaves. See Lafitau, Moeurs de Sauvages Ameriquains, 4to. tom. 2, p. 308.

2. In north America, where slaves are said to be much better treated than in the West-India islands, it is believed, the expense of a negro-slave, for common labour, is not much inferior to that of a free labourer. In the Jerseys, and in New York, the expense of a negro slave may be stated as follow:

The original price, about 100 l. currency,	
for which double interest allowed, at 7 per cent.	£14
Yearly expence of clothing	6
For medicines, etc.	3
For maintenance	15

yearly.

A free labourer, in those provinces, when hired by the year, receives from 24 l. to 30 l. yearly; to which may be added 15 l. for maintenance. And in balancing this account we must take in the risk that the negro, when purchased, may not be fit for the purpose, and that his labour may be of little value.

3. See Heineccius, Ant. Rom. lib. 1, tit. 5, § 6. This regulation, however, admitted of an exception, where a man fraudulently suffered himself to be sold in order to share in the price; in which case he became the slave of the person whom he had defrauded. L. 3. Dig. quib. ad. libert. proclam. non licet.

4. It is accordingly held, in the later Roman law, that a soldier is entitled to no part of the plunder acquired in war, unless from the special donation of the emperor. L. 20. § 1. Dig. de capt. et postl. 1. 36. § 1. c. de donat.

5. Plautus, Amphitr.

6. Juvenal, Sat. 6.

Vedius Pollio, a Roman citizen, is said to have fed the fishes in his fish-ponds with the flesh of his own slaves. Donat. ad Terentii Phorm. act 2, scen. 1.

With regard to the treatment of the Roman slaves, see Mr Hume's learned essay on the populousness of ancient nations.

7. Exodus, chap. xxi, ver. 20, 21, 26, 27. It has been a question whether the last quoted laws, in ver. 26 and 27, related to the slaves acquired from foreign nations, or only to such of the israelites as had been reduced into a state of servitude. Grotius is of the latter opinion. Vide Grotius, com. ad cit. cap.

8. The following account is given by Tacitus, concerning the state of the slaves among the ancient Germans. 'Gambling,' says he, speaking of that people, 'one may be surprised to find, they practice in all seriousness in their sober hours, with such recklessness in winning or losing that, when all else has failed, they stake personal liberty on the last and final throw: the loser faces voluntary slavery; though he be the younger and the stronger man, he suffers himself to be bound and sold; such is their persistence in wrong-doing, or in their good faith, as they themselves style it. Slaves so acquired they trade, in order to deliver themselves, as well as the slave, from the humiliation involved in such victory.

'Their other slaves are not organized in our fashion: that is, by a division of the services of life among them. Each of them remains master of his own house and home: the master requires from the slave as serf [colonus] a certain quantity of grain or cattle or clothing. The slave so far is subservient; but the other services of the household are discharged by the master's wife and children. To beat a slave and coerce him with hard labour and imprisonment is rare: if they are killed, it is not usually to preserve strict discipline, but in a fit of fury, like an enemy, except that there is no penalty to be paid.' Tacitus, de mor. Germ. § 24, 25.

9. Potgiesserus, de statu servorum, lib. 2 cap. 1. 3, 4, 5. 9 Ibid. cap. 10, §3. 7, 8. Ibid. lib.3,§1.3,

10. Potgiesserus, de statu serv. lib. 2, cap. 1, § 24. A singular proof of the moderation of the masters in correcting their slaves, about this period, is mentioned by the same author, as follow:

'The punishment was, however, lenient in this way, that slaves might not be beaten with a stick wider and thicker than one veru (thickness of an arrow) as I remember having seen in the ancient parchment codex of Werdinensis.' Ibid.

11. See Dr Wallace, on the numbers of mankind.

12. The stock which is delivered by the master to his tenant goes under the name of 'steel-bow goods' in the law of Scotland. At the end of the lease the tenant is bound to restore the same in quantity and quality to the master.

13. Thus Onesimus, notwithstanding his conversion to Christianity, is understood by the apostle Paul to continue still the slave of Philemon; and it is not supposed that the master, who was also a Christian, was under an obligation to relinquish any part of his authority, far less to give liberty to his servant. See St Paul's epistle to Philemon. See also, to the same purpose, Rom. chap. xiii, ver. 1, etc. -- Ephes. chap. vi, ver. 5. -- Coloss. chap. iii, ver. 22. 1 Tim. chap. vi, ver. 1, 2. -- Tit. chap. ii, ver. 9, 10. -- 1 Pet. chap. ii, ver. 18. -- 1 Cor. chap. vii, ver. 21, 22.

14. See the different decrees of councils referred to by Potgiesserus, de stat. serv. lib. 4, cap. 2, 4, 5. In one of these it is enacted, 'Episcopus liberos ex familiis ecclesiae, ad condemnationem suam facere non praesumat. Impium enim est, ut qui res suas ecclesiae Christi non contulit, damnum inferat, et ejus ecclesiae rem alienare contendat. Tales igitur libertos successor episcopus revocabit, quia eos non aequitas, sed improbitas absolvit.' [Or, freely translated, 'A bishop presumes to his condemnation to emancipate slaves from among families of the church. For it would be an impiety that one who has not conferred his own property upon the church of Christ should incur a loss to His Church by attempting to alienate her property. Therefore the bishop who succeeds him, will recall such freedmen because they were wrongfully rather than justly set free.']

In another it is said, 'Mancipia monachis donata ab abbate non liceat manumitti. Injustum est enim, ut monachis quotidianum rurale opus facientibus, servi eorum libertatis otio potiantur.' [Or in English, 'It is not permissible for an abbot to manumit slaves given to the monks. For it would be unjust that the slaves of monks should enjoy leisure in freedom while they themselves had to labour in the fields day after day.']

It is likely, however, that the clergy treated their slaves with greater lenity than was usual among the rest of the people. Mention is made of a bishop of Arles, who, in conformity to the Mosaical institution, never allowed above thirty-nine stripes to be given, at one time, to any of his servants -- 'Solebat sanctus vir id accurate observare, ut nemo ex istis qui ipsi parebant, sive illi servi essent, sive ingenui, si pro culpa flagellandi essent, amplius triginta novem ictibus ferirentur. Si quis vero in gravi culpa deprehensus esset, permittebat quidem ut post paucos dies iterum vapularet, sed paucis.' [Or, translated, 'This saintly man was always very careful to see that none of his subjects, whether slave or free, should be given more than

thirty-nine stripes in punishment for any offence. If the offence was a very serious one, he might be given additional stripes after a few days, but only a few.'] Ciprianus, in vita S. Caefarii, Cit. Potgiess. lib. 2, cap. 1, § 6.

15. See observations on the statutes, chiefly the more ancient; 1 Rich. II. A.D. 1377. Smith's Commonwealth of Eng. Bk. 3, chap. 10.

16. See Anderson's history of commerce, vol. 1, p. 336. -- The first importation of negro slaves into Hispaniola was in the year 1508. Ibid.

17. Mr Hume supposes that, in the above enumeration, none but heads of families, either of the slaves or free men, are included; from which it would follow that, throwing aside the strangers, the slaves exceeded the citizens nearly as twenty to one; and as this disproportion is highly incredible, he is of opinion that the number of slaves should be reduced to 40,000. But the precise reduction to this number is entirely arbitrary; and upon the supposition which I have made, there will be no reason to suspect the account either of exaggeration or inaccuracy.

18. Dion. Hal. Antiq. Rom. Lib. 3.

19. By a late act of parliament such regulations have been made as, in a short time, will probably abolish the remains of that servitude to which this order of men have been so long subjected.

20. These observations were made about the year 1765, and relate more immediately to the parishes of Vere, Hanover, and St Thomas in the vale.

21. See American husbandry, published in 1775.

22. See a vindication of the address to the inhabitants of the British settlements on the slavery of the negroes in America, by a Pennsylvanian, printed at Philadelphia, 1773.

23. In the case of Somerset, the negro, decided in 1772.

24. Joseph Knight, a negro, against John Wedderburn, 15 January 1778.

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