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**A View Of Society In Europe, In Its Progress From
Rudeness To Refinement: Or, Inquiries Concerning The
History Of Law, Government, And Manners**

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A View Of Society in Europe, in its Progress from Rudeness to Refinement.
Book I.

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ver found an observer more accurate and penetrating. In following such a guide, it is impossible not to convey information; and, on this subject, no modern has a title to speculate, who has not paid a most minute attention to his treatise. Antiquity has not given to the kingdoms of Europe a present more valuable.

The leading circumstance in discriminating the manners of barbarous and refined times, is the difference which exists between them in the knowledge and the management of property. The want of commerce, and the ignorance of money, permit the barbarian to exercise a generosity of conduct, which the progress of the arts is to destroy. The Germans conceived not that their descendants were to grow illustrious by acquisitions of land, and that they were to employ the metals as a source of influence. Land was yet more connected with the nation than the individual. The territory possessed by tribes was considered as their property, and cultivated for their use. The produce belonged to the public; and the magistrate, in his distributions of it, paid attention to the virtue and the merits of the receiver (1).

The German, accordingly, being unacquainted with particular professions, and with mercenary pursuits, was animated with high sentiments of pride and greatness. He was guided by affection and appetite; and, though fierce in the field, and terrible to an enemy, was gentle in his domestic capacity, and found



a pleasure in acts of beneficence, magnanimity, and friendship.

A state of equality, in the absence of the distinctions of property, characterised the individuals of a German tribe, and was the source of their pride, independence, and courage. Personal qualities were alone the foundation of pre-eminence. The sons of a chief were not distinguished from those of the simple warrior, by any superior advantages of education. They lived among the same cattle, and reposed on the same ground, till the promise of worth, the symptoms of greatness, separated the ingenuous from the vulgar, till valour claimed them (2). Ignorant of the arts of peace, they pursued, with keenness, the occupations of war. Where communities, perpetually inflamed with rivalry and animosity, brought their disputes to the decision of battles, and were agitated with revenge and with glory, the opportunities of distinction were frequent. The only profession known to the Germans was that of arms. The ambitious and enterprising courted dangers where they might acquire renown, and display their conduct and their prowess. To such a height did the military ardour prevail, that, if a tribe happened at any time to languish in ease, its youthful and impatient heroes sought those nations who were then at war. They disdained to remain in inaction; and could not so easily be persuaded to till the earth, and to wait its returns, as to challenge an enemy, and to hazard their lives. They thought it mean and ignoble to ac-

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quire by their labour, what they might purchase with their blood (3).

The animated temperament they displayed in war, was also apparent in their private concerns. To the chase they addicted themselves with no measure of moderation. And, in parties at dice, they engaged in their soberest and most serious hours, and with such hope or temerity, that they risked their liberty and persons on the last throw. The affection with which they embraced their friends was ardent and generous. To adopt the resentments, as well as the amities of their relations and kindred, was a duty which they held indispensable (4). In hospitality they indulged with the most unbounded freedom. The entertainer, when exhausted, carried his guest to the house of his next neighbour. Invitations were not waited for; nor was it of consequence to be invited. A reception, equally warm and hearty, was, at all times, certain. On these occasions, giving way to the movements of the heart, they delighted in presents; but they neither thought themselves entitled to a return for what they gave, nor laid under an obligation by what they received (5). They yielded to the impulse of passion, and the pleasure they felt was their recompense. Their gifts were directed by no view of an immediate or distant advantage; their generosity was no traffic of interest, and proceeded from no motive of design.

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But, amidst all this ardour, they were averſe from labour. The women and the infirm diſcharged the offices of the houſe. The warrior did not ſubmit to any domeſtic occupation. He was to baſk whole days by the fire; and a ſloth, joyleſs and ſupine, was to ſucceed and to relieve the briskneſs and fatigue of action (6). His admiration of fortitude, which was the cauſe of this indolence, and this contempt of drudgery, was at the ſame time to produce a ſtatelineſs in his behaviour. He was not to loſe his virtue, or to weaken the vigour of his mind, in the practice of mechanic or unworthy purſuits. When he walked, he ſeemed conſcious of importance; he caſt his eyes to the ground, and looked not around him for the objects of a vain and frivolous curioſity.

In the diet of theſe nations, there was much ſimplicity; it conſiſted of wild apples, new-killed veniſon, and curdled milk. They expelled hunger without oſtentation, or any ſtudied preparations of food; but, in ſatiſfying thirſt, they were leſs temperate. When ſupplied to their deſire in intoxicating liquors, they were no leſs invincible in vice than in valour (7). Yet, in the diſgraceful moments of debauch, they applied to public affairs, and debated concerning peace and war; and, in the heat of their diſputation and riot, the dagger was often to deform with blood the meetings of friendſhip and of buſineſs. In theſe ſeaſons, they imagined that their minds were diſpoſed to conceive honeſt ſentiments, and to riſe into noble ones. But, in

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an after-period, the undissembled thoughts of every one were diligently canvassed; a proper attention being paid to the time when they were first delivered, and to the purpose which then employed them. It was their meaning to deliberate when they could not deceive, and to form resolutions when they could not err (8).

They did not live in towns, and could not endure to have their houses contiguous. They built as they found a spot to their fancy, as they were attracted by a fountain, a plain, or a grove. But, being unacquainted with a private property in land, they were not ambitious of possessions. They vied not in the extent or the fertility of their grounds, in the rearing of orchards, and in the inclosing of meadows. Corn was the only produce they required from the earth; and they divided not the year into proper seasons. They understood, and had names for winter, spring, and summer, but had no idea of the term, and little knowledge of the fruits of autumn (9).

In their religion they were gross, like almost all nations, whether savage or cultivated. They believed in a plurality of gods; but thought it derogatory from their majesty to shut them up within walls, or to fashion them in resemblance to any human form. Their groves were appropriated to the uses of devotion; and, in the awful respect inspired by silence in the deep recesses of their woods, they felt and acknowledged the power of their deities.



deities. To augury and divination they were much addicted; and they were fond to draw prognostics and intimation from the running of water, the flight of birds, and the neighing of horses. Their priests had greater authority than their kings or chieftains; for it was not by any principle of expediency or reason that their actions and conduct were to be ascertained and examined. They were governed by the impulses and dictates of their divinities; and, being the interpreters of the will and intentions of these, they were able to exercise a jurisdiction uncontrollable and sacred (10).

The office of a magistrate was known and respected among these nations. The prince, or the chieftain of a district, with the body of his retainers or followers, constituted a court, which heard accusations, and determined concerning crimes. Traitors and deserters were hanged on trees. Cowardice, and the crime against nature, were considered as of equal atrocity; and the persons convicted of them were choked in mire and swamps by the pressure of hurdles. A corporal punishment, and compensations in corn or cattle, were the atonements of lesser delinquencies (11).

Noble birth, but more frequently the possession of superior qualities, entitled to the office and jurisdiction of a chief: And the general of an army was to command less by authority than from example. He drew respect and observation by his activity, his address, and the splendour of his exploits (12). Even
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the hopes and ambition of the simple warrior were made to depend on his personal honour and courage. Yet, with all this attention to merit, and with all their elevation of character, they were prone to deceive and to circumvent. They accounted it meritorious to steal upon their enemies in the darkest nights; they blackened their shields, and painted their bodies, to be terrible; and, to give ground, but immediately to return to the charge, was a common and an admired feat of their prudence. Cunning and stratagem appeared to them to be wisdom; and, though remarkable for courage, both active and passive, they exposed it to suspicion by the arts which, in a cultivated age, are characteristic of the pusillanimous (13).

It is also remarkable, that, though attentive to justice, with a punctilious exactness, within the bounds of their particular nations, they despised it with regard to other states and communities. Beyond the frontier of his tribe, the German was a thief and a robber. While, in the one instance, his theft or depredation was a crime of the deepest dye, and punished with death, it was, in the other, a mark of valour, and an expression of virtue. To make incursions against a neighbouring people, though at peace; to carry off their cattle, and to lay waste their territory, were actions of renown and greatness. They roused the ambition of the valorous, and were occupations in which they acquired reputation, and prepared themselves for scenes of greater danger and glory (14).

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But, the circumstance in the customs of these nations the most valuable, and which, like all their more remarkable features, arose from their unacquaintance with property, was the passion they entertained for independence and liberty. Every person who was free, considered himself in the light of a legislator. The people prescribed the regulations they were to obey. They marched to the national assembly to judge, to reform, and to punish; and the magistrate and the sovereign, instead of controlling their power, were to respect and to submit to it. Stated or regular terms were appointed for the convention of their public council; and a freedom of speech, entire and unlimited, was permitted. His age, his eloquence, his rank, and the honour he had acquired in war, were the qualities which procured attention to the speaker; and the people were influenced by persuasion, not by authority. A murmur coarse, and often rude, expressed their dissent: The rattling of their armour was the flattering mark of their applause (15).

While these institutions and manners are expressive, in general, of the German communities, there are exceptions which it is not my province to explain. In the enumeration which is made by the Roman historian of the Germanic tribes, there are perceivable unequal degrees of civilization and refinement. The Chauci, for example, were an improved and an illustrious nation, and supported their greatness by their probity. They were lovers of peace and quiet, and contempters of avarice and ambition.

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They provoked no wars; engaged in no incursions or robberies; and, what may be considered as a certain proof of their power and valour, preserved their superiority, without having recourse to injuries and oppressions. When called upon, however, by the exigency of their affairs, they were not slow to take arms and to levy armies. They inhabited an extensive territory, were rich in men and in horses, and in peace and in war maintained their reputation. The picture of the Fenni, on the contrary, is that of mere rudeness. They had no arms, no horses, no religion. To the most savage fierceness, they had joined the most abject poverty. They clothed themselves in the skins of beasts, fed, at times, on herbage, and slept on the earth. Their chief dependence was on their arrows; and, having no iron, they pointed them with bones. The women accompanied the men to the chase, and demanded a share of the prey. A covering, inwrought with boughs, was all the shelter which defended their infants from the rigour of seasons, and the ferocity of animals. To this miserable dwelling their young men returned; and here their old men found a refuge. These courses of barbarousness, this melancholy sadness, they preferred to the fatigue of cultivating the earth, and of building houses, to the agitations of hope and fear attendant on a care of their own fortunes, and on a connection with those of others. Unapprehensive of any danger from men, and awed by no terror of the gods, they had reached a state which is nearly unattainable to all human endeavours—the being entirely without a wish (16).

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The majority of the tribes or communities of Germany may be said to have occupied a middle state between the cultivation of the Chauci and the savageness of the Fenni. And it is sufficient to have selected and expressed the more general and the more distinguished particulars which regard their institutions, government, and character. With these in my view, I proceed to describe the condition of their women; a subject which, though little attended to by the learned, may lead to conclusions of interest and curiosity.

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SECTION II.

An Idea of the German Women.

IT has been asserted, that men, in savage and barbarous periods, are carried to the sex merely from the incitement of animal gratification, and that they feel not the power of beauty, nor the pleasures which arise from love; and a multitude of facts have been produced from history to confirm this theory. It is concluded, of consequence, that, in such times, women are in an abject state of servility, from which they advance not till the ages of property (1).

One would fancy it, notwithstanding, consistent with reason, to imagine, that the sexes, in every period of society, are important to each other; and that the member of a rude community, as well as the polished citizen, is susceptible of tenderness and sentiment. He is a stranger, indeed, to the metaphysic of love, and to the fopperies of gallantry; but his heart cannot be insensible to female attractions. He cannot but be drawn by
 beauty;



beauty; he must know a preference in the objects of his affection; and he must feel and experience, in a certain degree, at least, that bewitching intercourse, and those delightful agitations, which constitute the greatest charm of cultivated life.

This opinion, I conceive, is strongly confirmed by the history of the Germanic states. Their general character, with particular and obvious facts, illustrate the importance and the consideration in which they held their women.

Even in the age of Caesar, the German tribes had conceived and acknowledged the idea and existence of a public interest, and, in general, had submitted to a mode of government in which the chiefs and the people had their departments as well as the prince. They are described in a similar, but a more cultivated situation, by Tacitus; and the spirit of liberty and independence which animated their actions, was to produce that limited and legal administration which still gives distinction and dignity to the kingdoms of Europe. Among such nations, accordingly, the women were necessarily free, and sensible only of the restraints which arise from manners.

The state of society, which precedes the knowledge of an extensive property and the meannesses which flow from refinement and commerce, is in a high degree propitious to women. To treat them with cruelty does not consist with the elevation of sen-

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timent which then prevails. Among the people, of whom I speak, even the slave was exposed to no studied insult or oppression (2). Of the women, the warrior and the citizen considered himself as the friend and the protector; and their weakness only served to render the attachment to them the more lasting and tender.

While courage and strength and feats of prowess gave glory to the men, the women were judged of by a different standard. They were studious to recommend themselves by the performance of domestic duties. They attended to the cares of the family and the house; and the mother found a long and a serious occupation in the rearing of her children, who were not allowed to approach the father in public till a certain age (3). To her daughters she endeavoured to give the accomplishments which might win to them the chiefs who were most celebrated and powerful. To her sons she recited the exploits of their ancestors, and formed them to valour.

Nor are these the only sources of the respect which was paid to them. It has been often remarked, that, in every period of society, the women are more disposed to rapture and devotion than the men, and that their curiosity to pry into futurity is more extravagant. The superstitious weaknesses, however, of the sex, which, in refined times, are a subject of ridicule, lead to reverence and attention in a rude age. The Germanic armies seldom took
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the field without forcereffes; and these had an important share in directing their operations (4). In private and civil affairs, their authority was not less decisive. On the foundation of the wonder and astonishment excited by the knowledge arrogated by the women, by the skill they displayed in divination, and, above all, by the ceremony and the cruelty of the rites they practised, a solid and permanent influence was established (5). It was thought, that they had something divine in their nature; and the names of many of them, who were worshipped as divinities, have come down in history (6).

To attend to the qualities of plants, and to the curing of wounds, was another branch of their occupation (7); and, in times of war and depredation, it is difficult to conceive a circumstance which could recommend them more. Nor were they inattentive to adorn their persons. The linen, which made the principal article of their dress, was of their own manufacture; and they had a pride in intermixing it with purple (8). They went frequently into the bath; their hair flowed in ringlets; a part of their charms was industriously displayed; and, in evidence of their beauty, there may be brought the testimony of the historian, and the song of the poet (9).

In the more serious and important wars in which these nations engaged, the chiefs and warriors seem constantly to have carried their wives and female relations along with them as an incitement to their valour. These objects of their affection they

placed



placed at a small distance from the field of battle: And the most terrible calamity which could befall them, was their captivity. By their importunity and wailing, it is recorded, that armies, in the moment of submission, have been recovered; and the stipulations of states were never so certainly secured as when some virgins of rank were delivered among the hostages (10). In the blood of their women, it was conceived there was a charm and a virtue; and hence it proceeded, that, to their uncles by the *mother* and to their fathers, children were the objects of an *equal* affection and tenderness (11).

But, what evinces their consideration beyond the possibility of a doubt, is the attention they bestowed on business and affairs. They felt, as well as the noble and the warrior, the cares of the community. They watched over its interest, considered its connection with other states, and thought of improving its policy, and extending its dominion. They went to the public councils or assemblies of their nations, heard the debates of the statesmen, and were called upon to deliver their sentiments. And, what is worthy of particular notice, this consequence in active scenes they transmitted to their posterity (12).

Such, in general, was the condition of women among our ancestors, while they were yet in their woods; and such, I should think, is in a great measure their state in every country of the globe in an age of society and manners, which knows not the cares, the corruptions, and the distinctions of property (13).

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S E C T I O N III.

Of Marriage and Modesty.

IT is not to be denied, that, before the idea of a public is acknowledged, and before men have submitted to the salutary restraint of law, the disorders of promiscuous love disturb and disfigure society (1). Yet, even in these wild and informal times, there exist parties, who, clinging together from choice and appetite, experience the happiness of reciprocal attentions and kindnesses; who, in the care of their offspring, find an anxious and interesting employment, and a powerful source of attachment; who, moved by love, by friendship, by parental affection and habitude, never think of discontinuing their commerce; and who, in fine, look forward with sorrow to the fatal moment when death is to separate them.

This cohabitation or alliance, attracting attention by its decency, its pleasures, and its advantages, would grow into a custom or a fashion. For, what men approve, they will imitate. To this

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use, therefore, it seems not unreasonable to refer the institution of marriage; and thus, before it is known as a political consideration, it, in some measure, subsists in nature. As men increase in their numbers, they perceive the necessity of attending to an union, which is no less important to society than to the individual, which has in view the support of the one, and the felicity of the other. A ceremonial is invented which gives it authority and duration. The state takes a share in the cares of the lover, and prescribes the forms that are to bind him to his mistress. Nature, while she fits the sexes for each other, leaves it to polity or law to regulate the mode of their connection.

The race of men who antiently inhabited Germany, are represented, as was formerly observed, in the condition of nations; and a legislature, composed of the prince, the nobles, and the people, directed their operations. This assembly, which gave a sanction to military expeditions, and adjusted alliances and treaties, managed also the objects of internal concern. It extended its jurisdiction over the women as well as over the other parts of the community, and ascertained the ceremonial of marriage.

When the individual was called from the house of his father, and invested with arms; when he was advanced from being a part of a private family to be a member of the republic, he had the capacity of entering into contracts, and of singling out the object of his affections. The parties who had agreed to unite
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their interests, having obtained the approbation of their parents and relations, made an interchange of gifts in their presence. The lover gave his mistress a pair of oxen, a bridled horse, a shield, a sword, and a javelin; and she, in her turn, presented him with some arms. It was thus they expressed their attachment to each other, and their willingness to discharge mutually the duties of the married state. This was their strongest tie; these were their mysterious rites, these their conjugal deities (2).

Nor, let it be fancied that, in this ceremonial, there was any thing humiliating to the woman. It suited exactly the condition of a rude society, and must not be judged of by the ideas of a refined age. The presents, indeed, were expressive of labour and activity; but labour and activity were then no marks of reproach; and, in fact, the joined oxen, the prepared horse, the presented arms, instead of indicating the inferiority of the bride, denoted strongly her equality with her husband. They admonished her, that she was to be the partner and the companion of his toils and his cares, and that, in peace and in war, she was to sustain the same fatigues, and to bear a part in the same enterprises (3).

The fidelity of the married women among these nations, and the constancy and tenderness of their attachment, express also their equality with the men and their importance (4). A strict observance of the marriage-bed was required of them. The



crime of adultery was rare; and, in the severity of its punishment, the respect is to be traced which was paid to modesty. It was immediate, and inflicted by the husband. He despoiled the culprit of her hair and garments, expelled her from his house before her assembled relations, and whipped her through the whole village (5). Of the young women, the most powerful recommendation was the reserve and coyness of their demeanour. A violation of modesty was never pardoned. Nor youth, nor beauty, could procure a husband. Vice was not here sported with; and, to corrupt and to be corrupted, were not termed the fashion of times (6).

In the simplicity of their manners, they found a preservation against vice more effectual than the laws of cultivated states. The gallantries of the young men began late; their youth was, therefore, inexhausted. Those of the young women were not earlier. They mingled, when they were equal in age, in procerity, and strength, and had a progeny who expressed their vigour. Disgrace attended on celibacy; and the old were honoured in proportion to the number and the merits of their descendants. A dread of pain and the care of beauty checked not generation (7). The mother suckled her own children (8); and, in discharging this task, anticipated the greatness and the felicity she was to acquire and to experience from their virtues, and in their gratitude (9).

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It was thus the chastity of the women was guarded: It was thus their importance was confirmed. No allurements of public shows and entertainments relaxed their virtue, and insinuated into them the love of pleasure; no incitements of luxury inflamed their desires and exposed them to corruption; and what the Romans seem to have considered as particularly fatal, no acquirements of knowledge and of letters discovered to them the arts which minister to love (10).

In some of their states or communities, the respect of modesty was so great, that it was not lawful but to virgins to marry; who, without the hope or wish of second nuptials, received one husband, as they had done one body and one life, and had no thoughts or desires beyond him. It was their ambition and pride, if they survived the objects of their affection, to preserve, unfulfilled, the honours of widowhood; and, when the barbarians had made settlements in the provinces of Rome, when their manners had refined, and the sex were, in some measure, emancipated from this restraint, the spirit of the usage continued to operate. It augmented, as to the widow, the matrimonial symbols; a larger dower than usual was necessary to overcome her reluctance to a second bed (11); and, while it encouraged the king or the magistrate to exact a greater fine from her on her marriage (12), it entitled her to a higher compensation for injuries (13).

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Amidst the modesty of such usages and manners, we must not look for polygamy. It was unknown to these nations; though, it is to be allowed, that a few of the chiefs or more renowned princes were surrounded with a number of wives (14). This, however, was a matter of grandeur, not of appetite; and its source is to be found in maxims of policy, in the ambition of individuals, and in that of states. A prince, to support or extend his greatness, connected himself with different families; and the deliberations of his tribe not unfrequently pointed out to him the alliances he should court (15).

To the degrees of consanguinity and blood, concerning which nature has dictated so little, and polity so much, it is not to be conceived that they paid a scrupulous attention in their marriages (16). It is a subject on which no infant-communities are exact. They attended to it when, having fallen from their woods, they grew refined by time, observation, and experience.

C H A P.



C H A P T E R II.

The political Establishments of the Barbarians after they had made Conquests.

S E C T I O N I.

The Barbaric Conquests. The Origin of the Domains of the Prince, and of Allodality. The Lands of the Fisc. The Foundations of the Feudal Association, the Rise of the Feudal Grant, and the Genius of the Feudal System.

THE Romans, corrupted and servile in every quarter of the empire, were unable to oppose the valour and the activity of the Germanic tribes. And, the manners of the conquerors and the conquered being essentially different, and even contradictory, the revolution produced in the condition of Europe was total and decisive (1). It is thence chiefly, by an attention to the way of thinking which prevailed in their original seats, that the
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state is to be investigated which the barbarians exhibited on their conquests; and that the origin and the nature of those institutions are to be discovered, which, overturning in every country they invaded, the antient forms of legislation and government, arose on their ruins. In the masterly treatise, accordingly, in which Tacitus paints, with his inimitable pencil, the manners of these nations, I must look for the foundations of this state, and these institutions.

‘The members of a German nation,’ says this accomplished historian, ‘cultivate, by turns, for its use, an extent of land corresponding to their number, which is then parcelled out to individuals in proportion to their dignity: These divisions are the more easily ascertained, as the plains of Germany are extensive; and, though they annually occupy a new piece of ground, they are not exhausted in territory (2).’

This passage abounds in instruction, the most important. It informs us, that the German had no private property in land, and that it was his tribe which allowed him annually for his support a proportion of territory; that the property of the land was invested in the tribe, and that the lands dealt out to individuals returned to the public, after they had reaped the fruits of them; that, to be entitled to a partition of land from his nation, was the distinction of a citizen; and that, in consequence
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of this partition, he became bound to attend to its defence, and to its glory.

With these ideas, and with this practice, the Germans made conquests. In conformity, therefore, with their antient manners, when a settlement was made in a province of the empire, the property of the land belonged to the victorious nation, and the brave laid claim to their possessions. A tract of ground was marked out for the sovereign; and, to the inferior orders of men, divisions corresponding to their importance were allotted.

But while, in their original seats, such partitions were annual, it was expedient that they should now be invested in the possessor. A more enlarged idea of property had been gradually unfolding itself (3); and, though it was convenient to, and suited the views of a narrow community, to take back its land, the measure was not practicable in an extensive society. Nations were no longer to shift their habitations. The boundaries of particular states were to be respected. The tribe ceasing to wander, the individual was also to be stationary. The lot or partition now received by him, was to continue in his possession, and to be an object of his industry. He was to take root, if I may speak so, in a particular spot. He was to bestow on it his affection; it was to feed and to enrich him with its produce. His family were to feel an interest in his estate; his sons were to succeed to him. Heirs were to fail in the blood of the proprietor.

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prietor. It affected him, that the crown or a stranger should possess the subject of his toils and attentions. The powers of sale and donation came to be understood. The right of holding a landed territory with no limitation, and of disposing of it at pleasure, was known and prevailed.

The advantages of property open themselves with time. They were not observed by the German in his woods. But, when he was no longer the member of a narrow community, and felt his unimportance in the extensive kingdoms which arose on his conquests, when other professions were to be exercised beside that of the warrior, his attention turned from the public to himself. Ideas of interest pressed in upon him on every side. He was no longer to act chiefly from appetite and passion. He was to look forward to distant prospects. He was to busy himself for advantages which were to arrive slowly, and which were often to elude his diligence. He had passed from the empire of manners to that of laws. Riches had become a source of distinction; and his mind was to be torn with cares, anxiety, and ostentation.

When we mount up to the origin of customs, we are to be struck with their simplicity. The lot or partition to the sovereign was to constitute his *domains*. It was to support his splendour, to defray the expences of government, and to maintain his household. The lot or partition to the individual was

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to give rise to *allodality*. It was the land which was *free*, which was named *propriety*, in contradistinction to *tenure* (4); and, being still the mark of a citizen, it subjected him, as in Germany, to the general obligation of taking arms in defence of the community (5).

But the domains of the sovereign, and the lands of lot or partition to the people, could not exhaust all the territory of a conquest. They were principal and natural objects of attention. Yet, after their appointment, there were much extensive property, and many fair possessions. The antient maxims of the people did not allow them to seize these by a precarious occupation. Men, who had connected the property of land with the tribe, and not with the individual, could not conceive any title in consequence of which they might arrogate possessions to humour their fancy, or to flatter their pride. Their antient notions continued their operation: The community was concerned with what no man could claim. The lands, accordingly, which were assigned neither to the sovereign nor to the people, which formed not the domains of the former, nor the partitions of the latter, were the lands of the state or the Fisc. And, under this appellation, in fact, they are known in the codes of the barbarians (6).

Of the territories of this kind, the king, as representing the state, was to take the direction; and, in the grants and disposal



of them, the barbarians were also to be assisted by the usages to which they had been accustomed in their woods.

A German state comprehended a sovereign, who acted for the interest of the community, chieftains, who governed in different districts, and the mass of the people. The sovereign and the chiefs owed their rank or estimation, sometimes to their birth, but oftener to their merits. The former was ambitious to support, with lustre, the honour he sustained: The latter were studious to deserve his favour, and to vie with one another. The people, as they were struck with the qualities of particular chiefs, ranged themselves under their banners, and devoted themselves to their fortunes. It was the great emulation of the chiefs to excel in the number and the courage of their retainers. This was the dignity which most attracted them, and the power they courted most. These were their ornaments in peace, and their defence in war. In the field it was infamous in the chief to be surpassed in valour; it was infamous in the retainers not to equal the valour of the chief. To guard and to defend his person, and to ascribe to his glory all their gallant acts, was their greatest oath. The chief fought for victory; the retainer for the chief (7).

These connections, and this subordination, followed the barbaric nations into their settlements. And here we may perceive the *foundations* of the feudal association.

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But land, which was the tie that bound together the members of a feudal kingdom, had no concern in these appearances. The chief could not confer a landed property on his retainer, because land had not yet descended to individuals. It obeyed, however, the order of nations; and the more *powerful* of the Gaulic and German communities had been in the practice of granting, under *military service*, proportions of *territory* to *inferior* tribes. Communities were antiently the vassals of communities (8). Here then was the *essence* of the feudal grant.

Accustomed to this way of thinking, and to these institutions, a German state found itself in a province of the Romans. The sovereign, from gratitude and interest, was disposed to court the chiefs who were the associates of his victories; and the chiefs were not insensible of their importance. The retainers were proud of their prowess and their services; and the chiefs were forward to show their favour and affection to men who constituted their strength. Land had begun to be detached from nations, and to be connected with *individuals*. And the conquest obtained was in danger from the turbulence of the times, and from new invaders.

The situation of a German state which had acquired a settlement, produced thus the necessity of drawing closer the connection of the sovereign and the chiefs, and of the chiefs and the people. Its antient usages concurring with this situation, pointed

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ed out the conduct to be pursued. The lands of the *ffc* were the medium which was to operate the purpose that was so necessary. The sovereign took the direction of these; hence possessions flowed to the chiefs, under the burden of presenting themselves in arms at the call of the sovereign; hence the chiefs dealt out lands to their retainers, under the like injunction of continuing to them their aid (9); and thus a political system was founded, which was to act in society with infinite efficacy.

Of this system the intention and the spirit were national defence, and domestic independence. While it called out the inhabitant and the citizen to defend his property and to secure his tranquillity, it opposed barriers to despotism. Growing out of liberty, it was to promote the freedom of the subject. The power of the sovereign was checked by the chiefs, who were to form a regular order of nobility; and the aristocracy, or the power of the chiefs, was repressed by the retainers and vassals, who, constituting their greatness, were to attract their attention. The chief, who oppressed his retainers, was to destroy his own importance. It was their number and their attachment, which made him formidable to his prince and to his equals.

In this manner, I would account for the origin of the domains of the sovereign, and of allodality; for that of fiefs (10); and for the genius they displayed in their earliest condition. And this short deduction may be sufficient to exhibit a general idea of the state of land among the barbaric tribes on their conquests.

S E C-



S E C T I O N II.

Of the Property of the Women. The Dowry, the Morgengabe, and the Marriage-portion. The Communication to the Women of the Powers of Succession and Inheritance. The advancement of Manners.

HAVING distinguished the property of the men, it is fit I should treat that of the women. I have observed, that, among the antient Germans, and the case, it is to be presumed, is similar in every rude community, the property of the land was invested in the tribe or nation. His proportion of corn was allotted to the individual by the magistrate, and corresponded to the number of his family, the degrees of his merit, and the importance of his service. He derived, accordingly, no source of influence from the property of land. His chief, and almost only riches, consisted in cattle (1); and, in those rude and remote times, the more powerful supported their hospitality and magnificence by war and violence. They collected their retainers, and committed incurſion and plunder upon neighbouring nations; and their ſtates diſcouraged not a practice which was favourable to the military virtues.

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In this situation, it is obvious, that no property could be possessed by the women (2). They had neither land nor cattle, and could demand no share of the booty procured by robbery and depredation. While they remained in their virgin state, they continued, therefore, in the families of which they were descended (3); and, when they passed, by marriage, into other families, their husbands became bound to attend to and to provide for them. Hence the custom recorded by Tacitus: '*Dotem non uxor marito, sed uxori maritus offert.*' On the death of the husband, the wife received this provision; and, it was the object of it to render her alike independent of the house she had left, and of that into which she had entered (4).

This provision consisted, doubtless, of goods; and, even in this form, it is to be conceived, it discovered itself after the Germanic conquests. When time, however, refinement, and necessity, had taught the barbarians the uses of wealth, and individuals were proud of acquisitions in land, it assumed more enlarged appearances; and property opening to the women, they acquired a source of consideration which they had not formerly known, and which was about to produce consequences of no less moment to themselves than to society.

The *dos* or *dower* came to consist in money and in land. It was to arise out of a personal estate, out of allodial property, or out of fiefs. With the widow, it remained during her life, and

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on her death it passed to the heirs of her husband. In general, it was regulated by his deed. In some places it was governed by custom. It was sometimes constituted by ceremonies, which grew out of the particular situation of parties (5); and, when no private act had taken place, where no custom directed, and where no peculiarity of situation prevailed, it was fixed and ascertained by established and statutory laws (6).

Nor was it a *dower* only, that the husband bestowed on the wife. The morning after his nuptials, he made her a present, which was valuable in proportion to his generosity and wealth. This acquisition is known by the appellation of *morgengabe* (7); and, possessing it in full property, she could convey it away during her life, allow it to pass to her heirs, or dispose of it by a deed, to take effect after death (8).

The experience of the uses of property was to produce a solicitude to possess it. While the *dower* and the *morgengabe* gave distinction to the wife, the daughter was to know the necessity of acquisitions, and to wish for them. The parent was to encourage her hopes, and to gratify his affections. He was to make her state correspond to his riches and his dignity. The refining intercourse, and the rising luxuries of society, were to demand this attention. A portion was to go from the bride to the husband. The personal fortune, to which the daughter had been a stranger in the days of Tacitus, made its appearance. And

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wealth



wealth in the female sex, joining itself to beauty and wit, contributed to support and extend their dominion.

The custom, in fact, of giving portions to the women, is to be traced to an early period in the laws of the Germanic and Celtic nations (9). The present, simple and slight in its origin, grew complicated and extensive. It kept pace with luxury and opulence. The *dower*, which before was chiefly directed by the will of the husband, became now a formal matter of treaty and agreement. The bride had a title to stipulate her claims. The riches she brought, and her rank, were duly considered; and a provision in proportion to both were allotted (10).

The *portion* of the daughter, like the *dower* and the *morgengabe* of the wife, was originally to consist of goods, and then of money. It was afterwards to consist of land. But, when the father was first to bestow land on the daughter, it is to be understood, that it was a part of his property, which was free or *allodial*. Fiefs, in their commencement, could not be enjoyed by the women. The actual service of the shield was required from the vassal. To admit them to allodality, was even a deviation from the spirit of the antient customs of the barbarians; and, it was only in the evolution of the rights of property, that they were permitted to acquire it. A *propriety* then, or an *allodial* possession, might come to them by donation or by testament. But, by the rules of regular succession, it was to go

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to the sons; and, according to law, they were only to inherit, when there were to be no sons, or when the sons were to fail (11). The communication, however, of these privileges was a powerful addition to their importance, and was to lead to advantages still greater.

The capacity to receive allodality by grant, by gift, by testamentary destination, and to enter to it by succession, in the event of the want of male heirs, or after their demise, introduced and fostered the idea of their admission to fiefs. As the original rudeness of the barbaric nations yielded to successive improvements, as manners softened, and the arts of peace were cultivated, the propensity to add to their emolument, and to contribute to their pleasure, grew stronger. If they could not march to the field, and charge an enemy at the head of their vassals, they might perform these offices by substitution. An approved warrior might discharge, for the female possessor of a fief, the military duties to which it was subject. A right to succeed to feudality was, by degrees, acknowledged in the sex; and, when invested in the grant, they were to exert all its civil rights. Though they deputed its military command, they could sustain its honours and prerogatives. They were to hold courts, and exercise jurisdiction in ordinary fiefs; and, while they attended to these cares in noble ones, they were also to assemble with the peers, in the great assemblies of the state in every country of Europe, to deliberate, to vote, and to judge.



military service incident to every fief, nor the obligation of attending the assembly of the peers or the council of the nation incident to fiefs, which were noble, could prevent the advancing condition of the women. The imbecillity of their nature, which gives a strength to all their other attractions, made them fulfil the first duty by delegation: The last they were long to perform in person (12).

From the moment that settlements were made in the territories of Rome, the women were to improve in advantages. The subordinations of rank, which before had been chiefly discriminated by merit, were now marked more palpably by riches and property. Modes of a distant and respectful demeanour were invented. New sentiments of dignity and meanness became known. Displays of elegance and luxury took place. The extent and order of established kingdoms rendered men more domestic. Less engaged with the public, the female sex engrossed more strongly their regard and notice. They approached them with greater reverence; they courted them with an assiduity that was more tender and anxious. The women, in their turn, learned to be more vain, more gay, and more alluring. They grew studious to please and to conquer. They lost somewhat of the intrepidity and fierceness which before were characteristic of them. They were to affect a delicacy, and even a weakness. Their education was to be an object of greater attention and care. A finer sense of beauty was to arise. They were to abandon all
employments



employments which hurt the shape and deform the body. They were to exert a fancy in dress and in ornament (13). They were to be more secluded from observation. A greater play was to be given to sentiment and anticipation. Greater reserve was to accompany the commerce of the sexes. Modesty was to take the alarm sooner (14). Gallantry, in all its fashions, and in all its charms, was to unfold itself.

But, before I can express, with precision, the consideration they attained, and perceive, with distinctness, the splendour which the feudal association was to throw around them, I must look for the extension of fiefs, and for the sources of chivalry. Fiefs and chivalry were mutually to act upon one another. The feudal association was to direct and to foster chivalry; and, from chivalry, it was to receive a support or lustre. They were plants which were destined to take root about the same period, and to sympathise in their growth, and in their decline. The seeds of them had been gathered by the barbarian in his woods; and, to whatever soil or climate his fortune was to carry him, there he was to scatter them with profusion.

S. E. C.



S E C T I O N III.

The Grandeur consequent on Property, and the Power of the Nobles. The Prerogative of private War, and its destructive Tendency. The Conversion of Allodality into Tenure. The Extension and Universality of Fiefs.

PROUD with victory, with riches, and with independence, the conquerors of the Romans separated to enjoy their possessions and their grandeur. The chiefs continued, as of old, to possess a military authority and a civil jurisdiction (1). The prerogatives, which before they had arrogated as due to their merit, they now enjoyed as the holders of fiefs. In war they commanded their vassals and retainers, and they judged of their disputes in times of peace. The inhabitants of their territories were soldiers and subjects. Their castles and household bore a resemblance to the palace, and the establishment of the sovereign. They had their officers and their courts of justice; and they exercised the powers of punishment and mercy (2). They even continued to exert the privilege of making war of their private authority; and the sovereigns of Europe could behold subjects in arms, who infringed not their allegiance to the state (3).

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This right of spreading, with impunity, the tumults of war, operated as the leading source of the disorders of the middle ages, and marks expressively their condition and manners. It demands, of consequence, an attention which I must refuse, at present, to the other prerogatives of nobility; and, in order to discover its origin, I must glance at the beginnings of criminal jurisprudence.

In the early ages of society, the individual depends for protection on himself. There is no tribunal to which he can appeal for redress. He retaliates, with his own arm, the insult he has suffered; and, if he is unable, of himself, to complete his revenge, he engages his friends to assist him (4). Confederacies are formed for attack and for defence (5), and the members composing them are animated with the same passions. In this perturbed state of mankind, the punishment of the offender is disproportioned to his crime. Men, frantic with rage, are unacquainted with pity or with reason. The most barbarous actions, and the most cruel disorder, are perpetrated and prevail. It is perceived, that the interest of the community is injured. Yet the right of revenge, so dangerous in the hand of the individual, cannot, without injustice, be torn from him. It is equitable that he be satisfied for the wrongs he has endured; but it is no less equitable, that the public do not suffer by his violence. He is allowed, accordingly, to gratify his resentment, but through the power of the magistrate, who, while he feels for the



the injuries he has received, can also look with compassion to the criminal (6).

It is not, however, to be imagined, that this improvement takes place at once, and that every individual is, in the same moment, made to relinquish the exercise of his right of revenge. In rude times, the chief distinction among men arises from their personal qualities. Force of body, and vigour of mind, procure then to their possessors the greatest attention and respect. A distinguished warrior, or a chief, must be treated very differently from the vulgar; and, though the exercise of private revenge is to be ravished from the herd of the community, it is yet to continue in the jurisdiction of the great and the powerful. What is possessed by a few, grows in time a mark of honour, and a privilege of nobility (7).

Among the Germans, in the days of Tacitus, the exercise of the right of revenge had passed, in a great measure, from the multitude. It remained, notwithstanding, with the chiefs; and they were not, on their conquests, in a disposition to renounce so splendid a distinction. They enjoyed, as a prerogative, the exercise of a right, which is destructive to order and society; and, in times when the art of legislation and government was only approaching to perfection, their claims were acknowledged. The freedom of revenge, at first unlimited, was confined; and the barons made war of their private authority (8).

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It is thus that this prerogative arose which filled Europe with confusion. Nobles, haughty and independent, did not think of accepting a fine as a compensation for an insult, and submitted not their disputes to a judge. They brought them to the decision of the sword; and, their vassals and retainers, entering into their sentiments and feelings, partook of their glory and disgrace. They were rivals whom nothing could unite, but the enemies of the state, or the encroachments of the sovereign. To repress these they could act with cordiality. But, in their usual carriage to one another, they were sullen, jealous, and proud; and, it was their chief employment to vie in displays of magnificence, or to try their strength in hostility.

In the state of tumult, bloodshed, and oppression, produced by the exercise of the prerogative of private war, a most important distinction was effected between the holders of fiefs, and the possessors of property. While, in the imperfection of government, the magistrate could not extend his power with equal force over all the orders of men in the society; while the weak were exposed to the insults and the passions of the strong; while nobles, haughty and independent, could legally prosecute their resentments with the sword, revenge their wrongs, and gratify their avarice and cruelty, the holders of fiefs enjoyed a supreme advantage over allodial proprietors. A Lord and his retainers, connected together in an intimate alliance, following the same standard, and adopting the same passions, could act with concert and effi-

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cacy.



cacy. But allodial proprietors were altogether disqualified to defend themselves. Being distant and disengaged, they could form and support no continued or powerful confederacy; and the laws, in fact, did not permit them to enter into factions and hostilities. The violence of the times created an absurdity. It gave to gifts under service, and revertible to the grantor, a value superior to lands which were held in full property, and at the disposal of the possessor. It made necessary the conversion of *propriety into tenure.*

Nor was this the only consideration which had weight with the possessors of property. In every monarchy, but in one more particularly that is governed by feudal ideas, rank and pre-eminence attract chiefly the attention, and excite the ambition of individuals. The king being the fountain of honour, and distinctions flowing from his favour, the ranks of men were nicely adjusted; and, in proportion as they approached to his person, they exacted and received respect. From this principle it naturally proceeded, that allodial proprietors were treated with contempt. Holding by no tenure, and occupying no place in the feudal arrangements, they could not draw observation. Their pride was alarmed, and they wished for the respect and the security of vassals.

Princes, bent on the extension of fiefs, discouraged these proprietors. Their ambition, their abilities, and their prerogatives, furnished



furnished them with the greatest influence; and they employed it to give universality to a system, which was calculated to support the royal dignity and the national importance. Compositions for offences inferior to those which were allowed to a vassal, were deemed sufficient for the proprietors of allodiality. In the courts of justice they felt the disadvantages of their condition. Mortified with regal neglect, without sufficient protection from the laws, exposed to the capricious insolence and the destructive ravages of the great, disgusted with rudeness, contempt, and indignity, they were driven into the circle of fiefs. They courted the privileges and the protection which were enjoyed by vassals. They submitted their estates to tenure, selecting to themselves a superior the most agreeable, granting to him their lands, and receiving them back from him as a feudal donation (9).

In this direction of affairs, the extension of the feudal institutions was unavoidable. The landed property was every where changed into feudality. The empire of fiefs was universal. Even land, the great source and medium of tenure, was to be insufficient for the multitude of those, who were pressed to be vassals, by their wants and feebleness, and who were invited to be so by the great, in the wildness of their contentions, and amidst the enormity and misrule created by the exercise of private war. Every matter that was an object of profit, of pleasure, of use, or of commerce, was to become the foundation of a fief. The right



of judging the delicts committed in a forest, the right of the chase or of hunting in a certain district, the tax on public roads, the privilege of escorting merchants to a fair or a market, offices of trust and of justice, the swarms of bees in a woody territory, the profits of a mill, the fishing in a water, the allotment of a pension, and other rights and possessions in still wider deviation from the original grounds or doctrines of feudality, were to be held as fiefs (10). The imagination was exhausted to invent new methods of infeudation. None could be too romantic or whimsical, while strength or importance was derived from them to the grantors. The holders or vassals were bound to military service, and subject to obligations; and the chief and the eminent, in consequence of this policy, extended, supported, and maintained their public magnificence, their private consideration, and the ruinous conflicts and animosities in which they were involved by the passions of others, and their own.

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of judgment, the justice of the cause, or of having in a certain manner, the privilege of securing merchandise, or of a market, office, or a monopoly.

SECTION IV. Of the rights and duties of the subjects, and of the duties of the sovereign.

Arms, Gallantry, and Devotion. The origin of Knighthood and the Judicial Combat, of Torneaments and Blazonry. The Sources of Chivalry.

WHEN the inhabitants of Germany sallied from their woods, and made conquests, the change of condition they experienced produced a change in their manners. Narrow communities grew into extensive kingdoms, and petty princes, and temporary leaders, were exalted into monarchs. The ideas, however, they had formerly entertained, and the customs with which they had been familiar, were neither forgotten nor neglected. The modes of thought and of action which had been displayed in their original seats, advanced with them into the territories of Rome, continued their operation and power in this new situation, and created that uniformity of appearance which Europe every where exhibited. Their influence on the forms of government and polity which arose, was decisive and extensive; and, it was not less efficacious and powerful on those inferior circumstances which join to constitute the system of manners,

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ners, and to produce the complexion and features that distinguish ages and nations.

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The inclination for war entertained by the Germanic states, the respect and importance in which they held their women, and the sentiments they had conceived of religion, did not forsake them when they had conquered. To excel in war was still their ruling ambition, and usages were still connected with arms. To the sex they still looked with affection and courtesy. And their theology was even to operate in its spirit, after its forms were decayed, and after Christianity was established. Arms, gallantry, and devotion, were to act with uncommon force; and, to the forests of Germany, we must trace those romantic institutions, which filled Europe with renown, and with splendour; which, mingling religion with war, and piety with love, raised up so many warriors to contend for the palm of valour and the prize of beauty.

The passion for arms among the Germanic states was carried to extremity. It was amidst scenes of death and peril that the young were educated: It was by valour and feats of prowess that the ambitious signalized their manhood. All the honours they knew were allotted to the brave. The sword opened the path to glory. It was in the field that the ingenuous and the noble flattered most their pride, and acquired an ascendancy. The strength of their bodies, and the vigour of their counsels, surrounded



surrounded them with warriors, and lifted them to command (1).

But, among these nations, when the individual felt the call of valour, and wished to try his strength against an enemy, he could not of his own authority take the lance and the javelin. The admission of their youth to the privilege of bearing arms, was a matter of too much importance to be left to chance or their own choice. A form was invented by which they were advanced to that honour.

The council of the district, or of the canton to which the candidate belonged, was assembled. His age and his qualifications were inquired into; and, if he was deemed worthy of being admitted to the privileges of a soldier, a chieftain, his father, or one of his kindred, adorned him with the shield and the lance. In consequence of this solemnity, he prepared to distinguish himself; his mind opened to the cares of the public; and the domestic concerns, or the offices of the family from which he had sprung, were no longer the objects of his attention (2).

To this ceremony, so simple and so interesting, the institution of *knighthood* is indebted for its rise. The adorning the individual with arms, continued for ages to characterise his advancement to this dignity. And this rite was performed to him by his sovereign, his lord, or some approved warrior. In conformity,



mity, also, to the manners which produced this institution, it is to be observed, that even the sons of a king presumed not to approach his person before their admission to its privileges; and the nobility kept their descendants at an equal distance. It was the road, as of old, to distinction and honour. Without the advancement to it, the most illustrious birth gave no title to personal rank (3).

Their appetite for war, and their predatory life, taught the Germans to fancy that the gods were on the side of the valiant. Force appeared to them to be justice, and weakness to be crime (4). When they would divine the fate of an important war, they selected a captive of the nation with whom they were at variance, and opposed to him a warrior out of their own number. To each champion they presented the arms of his country; and, according as the victory fell to the one or the other, they prognosticated their triumph or defeat. Religion interfered with arms and with valour; and the party who prevailed, could plead in his favour the interposition of the deity. When an individual was called before the magistrate, and charged with an offence, if the evidence was not clear, he might challenge his accuser. The judge ordered them to prepare for battle, made a signal for the onset, and gave his award for the victor (5).

Nor was it only when his interest and property were at stake, that the German had recourse to his sword. He could bear no

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stain on his personal character. To treat him with indignity or disdain, was to offend him mortally. An affront of this kind covered him with infamy, if he forgave it (6). The blood of his adversary could alone wipe it away; and he called upon him to vindicate his charge, or to perish.

In these proceedings, we perceive the source of the *judicial combat*, which spread so universally over Europe, and which is not only to be considered as a precaution of civil polity, but as an institution of honour (7).

These nations, so enamoured of valour, and so devoted to arms, courted dangers even in pastime, and sported with blood. They had shows or entertainments, in which the points of the lance and the sword urged the young and the valiant to feats of a desperate agility and boldness; and in which they learned to confirm the vigour of their minds, and the force of their bodies. Perseverance gave them expertness, expertness grace, and the applause of the surrounding multitude was the envied recompense of their audacious temerity (8).

These violent and military exercises followed them into the countries they subdued, and gave a beginning to the *jousts* and *torneaments*, which were celebrated with so unbounded a rage, which the civil power was so often to forbid, and the church so

loudly



loudly to condemn; and which, resisting alike the force of religion and law, were to yield only to the progress of civility and knowledge (9).

Unacquainted with any profession but that of war, disposed to it by habit, and impelled to it by ambition, the German never parted with his arms. They accompanied him to the senate-house, as well as to the camp, and he transacted not without them any matter of public or of private concern (10). They were the friends of his manhood, when he rejoiced in his strength, and they attended him in his age, when he wept over his weakness. Of these, the most memorable was the *shield*. To leave it behind him in battle, was to incur an extremity of disgrace, which deprived him of the benefit of his religion, and of his rank as a citizen (11). It was the employment of his leisure to make it conspicuous. He was sedulous to diversify it with *chosen colours*; and, what is worthy of particular remark, the ornaments he bestowed, were in time to produce the art of *blazonry* and the occupation of the herald. These chosen colours were to be exchanged into representations of acts of heroism. Coats of arms were to be necessary to distinguish from each other, warriors who were cased compleatly from head to foot (12). Christianity introduced the sign of the cross; wisdom and folly were to multiply devices; and speculative and political men, to flatter the vanity of the rich and great, were to reduce to regulation and system what had begun without rule or art.

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It is thus I would account for knighthood, and the single combat, for torneaments and blazonry; institutions which were to operate with an influence not less important than extensive. And, in the same distant antiquity, we meet the source of that gallantry and devotion, which were to mount them to so wild a height.

To the women, while he was yet in his woods, the German behaved with respect and observance. He was careful to deserve their approbation; and they kept alive in his mind the fire of liberty, and the sense of honour. By example, as well as exhortation, they encouraged his elevation of sentiment and his valour. When the Teutones were defeated by Marius, their women sent a deputation to that commander, to require that their chastity might be exempted from violation, and that they might not be degraded to the condition of slaves. He refused their request; and, on approaching their encampment, he learned, that they had first stabbed their infants, and had then turned their daggers against themselves (13). To some German women taken in war, Caracalla having offered the alternative of being sold or put to the sword, they unanimously made choice of death. He ordered them, notwithstanding, to be led out to the market. The disgrace was insupportable; and, in this extremity, they knew how to preserve their liberty, and to die (14). It was amidst this fierceness and independency, that gallantry and the point of honour grew and prospered. It was the reproach of these women, which,



on the banks of the Rhine and the Danube, filled the coward with the bitterest sorrow, and stained him with the most indelible infamy. It was their praise which communicated to the brave the liveliest joy and the most lasting reputation. *Hi*, says Tacitus, *cuique sanctissimi testes, hi maximi laudatores* (15).

These notions did not perish when the Germans had made conquests. The change of air, and of situation, did not enfeeble this spirit. The women were still the judges of personal merit; and, to some distinguished female, did the valorous knight ascribe the glory of his achievements. Her smile and approbation, he considered as the most precious recompense; and, to obtain them, he plunged into dangers, and covered himself with dust and with blood. *Ab! si ma Dame me voyoit!* exclaimed the knight when performing a feat of valour (16).

Nor were arms and the attachment to women the only features of importance in the character of the German. Religion, which, in every age and in every nation, gives rise to so many customs, mingled itself in all his transactions. He adored an invisible being, to whom he ascribed infinite knowledge, justice, and power (17). To profit by his knowledge, he applied to divination (18); to draw advantage from his justice, he made appeals to his judgment (19); and to acquire, in some degree, his power, he had recourse to incantation and magic (20). The elements and the visible parts of nature, he conceived, at the same time,

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to be the residence of subordinate divinities, who, though the instruments only of the agency of the supreme intelligence, had a great superiority over men, and were entitled to their attention and reverence (21). Every tree and every fountain had its genius; the air, the woods, the water, had their spirits. When he made a step, or looked around him, he felt an impulse of awe and of devotion. His anxiety, his amazement, his curiosity, his hope, and his terror, were every moment excited. The most ample scope was afforded by this theology for the marvellous. Every thing, common as well as singular, was imputed to supernatural agents. Elves, fairies, sprites, magicians, dwarfs, enchanters, and giants, arose (22). But, while the lesser divinities of these nations attracted notice, it was to the supreme intelligence, that the most sincere and the most flattering worship was directed; and this god, amidst the general cares which employed him, found leisure to attend more particularly to war, and valued his votary in proportion to his courage. Thus religion and love came to inflame, and not to soften the ferocity of the German. His sword gained to him the affection of his mistress, and conciliated the favour of his deity. The last was even fond of obeying the call of the valiant; he appeared to them in battle, and fought by their side (23). Devotion, of consequence, was not less meritorious than love or than valour (24). Christianity did not abolish this usage. It descended to the middle ages. And, to love *God* and the *ladies*, was the first lesson of chivalry (25).

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But, though arms, gallantry, and devotion, produced the institutions of chivalry, and formed its manners, it is not to be fancied, that they operated these effects in a moment; and that, immediately on the settlements of the barbarians, this fabric was erected. The conquerors of Rome continued to feel and to practise in its provinces, the instincts, the passions, and the usages to which they had been accustomed in their original seats. They were to be active and strenuous, without perceiving the lengths to which they would be carried. They were to build, without knowing it, a most magnificent structure. Out of the impulse of their passions, the institutions of chivalry were gradually to form themselves. The passion for arms, the spirit of gallantry, and of devotion, which so many writers pronounce to be the genuine offspring of these wild affectations, were in fact their source; and it happened, by a natural consequence, that, for a time, the ceremonies and the usages produced by them, encouraged their importance, and added to their strength. The steps which marked their progress, served to foster their spirit; and, to the manners of ages, which we too often despise as rude and ignoble, not to political reflection or legislative wisdom, is that system to be ascribed, which was to act so long and so powerfully in society, and to produce infinite advantage and infinite calamity.

It is to those only who apply to rude societies the ideas of a cultivated aera, that the institutions of chivalry seem the production

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tion of an enlightened policy. They remember not the inexperience of dark ages, and the attachment of nations to their ancient usages. They consider not, that if an individual, in such times, were to arise of a capacity to frame schemes of legislation and government, he could not reduce them to execution. He could not mould the conceptions of states to correspond to his own. It is from no pre-conceived plan, but from circumstances which exist in real life and affairs, that legislators and politicians acquire an ascendancy among men. It was the actual condition of their times, not projects suggested by philosophy and speculation, that directed the conduct of Lycurgus and Solon.

S E C



SECTION V.

The Institutions of Chivalry, the Pre-eminence of Women, Politeness, and the Point of Honour.

FROM the state of the feudal nobles, and the exertion of the right of private war, it resulted, that the lower orders of men were courted and attended to in an uncommon degree. The military retainers of a noble, and the inhabitants of his lands, constituted his power; and it was not his interest to neglect men who might offer their service to an enemy. They shared in his property and greatness, were flattered with his countenance, and formed the bulwark which supported him. His own sons, those of his vassals and tenants, and the ambitious youth whom his renown attracted from a distance, learned under his direction the art of war, fought his battles, and entitled themselves to the honours of chivalry.

Every descendant of a gentleman, or every free-born person, had a capacity to bear arms, and to aspire to knighthood: And a long train of services prepared him to receive it. From his
earliest



earliest years he attended the court, and resided in the castle of his lord; and in this school he acquired all the knightly virtues. The emulation of his equals, the example and admonitions of his chief, and the company of the ladies, from whose number he was to select the accomplished fair one, to whom he was to ascribe all his sentiments and his actions, inflamed in him the passion for war, infused into his mind a zeal for religion, and instructed him in all the arts of a respectful gallantry. From the performance of domestic duties, which were the first that employed his attention, he was called to the management of horses and of armour (1). He then entered into greater familiarity with his lord, and accompanied him in all his hazardous expeditions. He became accustomed to perils and to toils; he acquired, by degrees, the whole science of attack and of defence; and, when his hard apprenticeship was over, he acted himself as a knight, and fought and wished for still severer trials to exercise his ambition (2).

To adorn him with arms, was originally, as I remarked, the simple ceremonial which invested the warrior with knighthood. But greater pomp and solemnity came to express his advancement to this dignity. Its importance had grown with time; the feudal institutions had fostered a taste for splendour; and the Christian clergy, who succeeded to the privileges of the Germanic priests, improving on their ambition, made religion interfere in its forms (3).

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The candidate presented himself in a church, where he confessed his sins, and declared his repentance and remorse. Absolution was then given him, and he passed the night in watching and pious meditation. In the morning he heard mass, and, approaching the altar, placed his sword upon it, which was returned to him, with benedictions, by the hands of the priest. The eucharist was next administered to him; and, having been bathed, to express the purity which was necessary for the state into which he was to enter, he was dressed in rich robes, and his spurs and his sword were put on. He then appeared before his sovereign or his chief, and, receiving a blow upon the neck, was dubbed a knight. This parade, courtly as well as sacred, was concluded with feasting and merriment (4).

The splendour, however, which accompanied the exaltation to knighthood, was proportioned to the wealth and the birth of the candidate. The same prodigal ostentation and punctilious grandeur, attended not the investiture of an inferior person, and the descendant of a feudal lord. The rich and the great displayed, on these occasions, their magnificence, their ingenuity, and their taste (5). To furnish an aid, accordingly, to make his eldest son a knight, was one of the *benevolences* which were due to a feudal proprietor from his vassals; and, during the prevalence and purity of the Gothic manners, no contribution was paid with greater cheerfulness. But while, in times of festival and peace, the admission to this honour was thus stately and ambitious, a
gentle



gentle stroke with a sword was sufficient, during war, to intitle to its privileges; and, in this form, in the day of a battle, or in the hour of victory, it was usual to bestow it, in order to reward the valiant, and to encourage prowess (6).

When the warrior was promoted to knighthood, the company and tables of the sovereign and the nobles were open to him; and in times, when personal qualities were the great sources of renown and merit, no distinction was more considerable or important. It was permitted to him to wear gold, fur, and silk, and to surpass in the richness of his dress and arms. And, while his external appearance marked him out from inferior men, he was distinguished in his own order by his ensigns-armorial, and the peculiarities of his blazonry (7). He had certain privileges in hunting; in executions for debt, it was not lawful to take his horse and armour (8); and in the courts of law, fines beyond the usual proportion were awarded to compensate his wrongs. When a prisoner, and in the power of a conqueror, his rank preserved him from an unworthy or ignominious treatment. His word or promise might be relied upon with the firmest assurance. Fetters and chains were only fit for the ignoble. When the chief, or the baron to whom he was more particularly attached, required not his aid, he might enter into the service of another master. Pensions and presents rewarded his prowess; and he was enriched by the share he received in the spoils of an enemy, and by the ransoms of his captives (9). His usual appearance in the field was on



horseback (10), attended by an esquire; and, if his wealth so increased, that he could afford to have knights in his train, his sovereign allowed him the use of a banner or a standard like the barons, and, like them, he exercised a civil as well as a military jurisdiction (11).

Nor did his death terminate the honours which were paid to him. The solemnity and ceremonies of his funeral, expressed his merits and the public regrets. A monument was erected to him, and the ornaments with which it was embellished, suiting his actions and history, inspired his posterity with a generous emulation. The sword which he had carried to battle, the shield which had defended his body, and the other articles of his dress and armour, became the objects of respect and veneration. The most illustrious persons courted their possession, and churches were often esteemed the only proper repositories of these attendants of his victories and valour (12).

Splendid with knighthood, of which the honour was so great as to give dignity even to kings and to princes, the generous and the aspiring were received in every quarter with attention and civility. The gates of every palace, and of every castle, were thrown open to them; and, in the society of the fair, the brave relieved the severities of war, and fed their passion for arms. Though it was the study of the knight to consult the defence and the glory of the state, and to add to the strength and the reputation



tation of his chief, yet the praise of his mistress was the spring of his valour, and the source of his activity. It was for her that he fought and conquered. To her all his trophies were consecrated. Her eye lighted up in his bosom the fire of ambition. His enterprise, his courage, his splendour, his renown, proclaimed the power and the fame of her perfections.

The women failed not to feel their dominion. The dignity of rank and its proprieties, the pride of riches, the rivalry of beauty, unfolded their excellence and charms. Their natural modesty, the sanctity of marriage, the value of chastity, improved with time and with Christianity. The respectful intercourse they held with the knights, the adoration paid to them, the tournaments at which they presided (13), the virtues they inspired, the exploits achieved to their honour, concurred to promote their elevation and lustre. To their enamoured votaries they seemed to be divinities; and toils, conflicts, and blood, purchased their favour and their smiles.

Placed out to general admiration, they studied to deserve it. Intent on the fame of their lovers, watchful of the glory of their nation, their affections were roused; and they knew not that unquiet indolence, which, softening the mind, awakens the imagination and the senses. Concerned in great affairs, they were agitated with great passions. They prospered whatever was most noble in our nature, generosity, public virtue, humanity, prowess.

They



They partook in the greatness they communicated. Their softness mingled with courage, their sensibility with pride. With the characteristics of their own sex, they blended those of the other.

Events, important and affecting, actions of generosity, enterprise, and valour, exhibited in the course of public and private wars, were often employing their thoughts and conversation. And, in the seasons of festivity and peace, the greater and the lesser tournaments exercised their attention and anxiety (14). These images of war were announced with parade and ceremony. Judges were appointed to determine in them, and to maintain the laws of chivalry; and they were generally selected from among the aged knights, who came in crowds to live over again the scenes they had acted, and to encourage and direct the intrepidity and the skill of the aspiring youth. The combatants, entering the lists slowly, and with a grave and majestic air, pronounced aloud the *names* of the ladies to whom they had vowed their hearts and their homage. This privilege they had obtained at the expence of many a gallant atchievement; and they were presented by the fair ones with a riband, a bracelet, a veil, or some detached ornament of their dress, which they affixed to their helmets or their shields, and considered as the pledges of victory (15). Every signal advantage won in the conflicts, was proclaimed by the instruments of the minstrels, and the voices of the heralds. Animated by the presence of the ladies,



ladies, by the sense of their former renown, and of that of their ancestors, the champions displayed the most brilliant feats of activity, address, and valour. And the ladies, entering into their agitations, felt the ardours of emulation, and the transports of glory (16). When the torneaments were finished, the prizes were distributed with a ceremonious impartiality. The officers who had been appointed to observe every circumstance which passed in the conduct of the combatants, made their reports to the judges. The suffrages of the spectators were collected. After serious deliberation, in which the most celebrated personages who were present were proud to assist, the names of the conquerors were pronounced. Ladies were then chosen, who were to present to them the symbols of victory; and, in these fortunate moments, they were permitted to imprint a kiss on the lips of these fair disposers of renown. Amidst the contending praise of the judges and the knights, the music of war, and the shouts of the people, the victors were now conducted to the palace of the prince or the noble who exhibited the torneament. There, at the feast, which concluded their triumph, they were exposed to the keen look, and the impassioned admiration of whatever was most accomplished in beauty and in arms. And, in the height of a glory, in which they might well have forgot that they were mortal, they employed themselves to console the knights they had vanquished, and ascribed their success to fortune, not to valour; displaying a demeanour complacent and gentle, disarming
envy



envy by modesty, and enhancing greatness by generous sympathy and magnanimous condescension (17).

The operation of love and of glory, so powerful in the institutions of which I speak, was advanced and inspirited by religion; and principles, the most efficacious in our nature, built the fabric of the Gothic manners. Devotion had characterised the barbarian in his woods. The god of war was propitious to the brave, the consecrated standard led to victory (18), and an immortality and a paradise took away its terrors from death (19). Christianity, which looks with a sovereign contempt to every other mode of faith, which holds out to the believer the most flattering joys, and which, not contented with haunting guilt with remorse in the present scene, lifts it from its grave to torture it with eternal pains in another existence; Christianity, I say, was more calculated, than the superstitions of paganism, to impress the imagination and the heart (20). The rite of baptism taught the follower of Odin to transfer his worship to Christ. To defend Christianity with his sword and his life, became a sacred vow, to which every knight was ambitious to submit. He considered himself as a saint, as well as a hero; and, on the foundation of his piety, the successors of St Peter were to precipitate the armies of Europe upon Asia, and to commence the crusades, those memorable monuments of superstition and heroism (21). The lady, not less than the knight, was to feel the influence of this religion. Society was to be disturbed with the sublime extravagance



travagance of fanatics, who were to court perfections out of the order of nature. Mortifications, austerities, and penances, were to be meritorious in proportion to their duration and cruelty. The powers and affections of the mind and the heart, were to sicken and to languish in frivolous and fatiguing ceremonials. The eye of beauty was to sadden in monasteries and in solitude, or to light the unholy fires of a rampant priesthood. The deity was to be worshipped in abjectness and in terror, as if he contemned the works he had made, and took delight in human dejection and wretchedness.

But, while ecclesiastics, designing and ambitious, were to abuse mankind by the means of this new faith, it was to be beneficial to manners by the purity of its moral. While it was to guard the sexes from frailty, it invigorated the sense of justice; and, in a period of disorder and confusion, taught the knight to be strenuous in vindicating the wrongs of the injured. The weak and the oppressed, the orphan and the widow, had a particular claim to his protection. To disobey their call, was to infringe a law of chivalry, and to incur dishonour and infamy. He seemed, in some measure, to be entrusted with the power of the magistrate; and the fashion of the times made him forward to employ his arm, and to spill his blood in the cause of innocence and virtue.

Thus



66 A VIEW OF SOCIETY

Thus war, gallantry, and devotion, conspired to form the character of the knight. And these manners, so lofty and so romantic, were for ages to give a splendour to Europe, by directing the fortunes of its nations, and by producing examples of magnanimity and valour, which are unequalled in the annals of mankind. But their effects in policy and war, however conspicuous, are of little consideration, when compared with the permanent tone they communicated to society. The spirit of humanity, which distinguishes modern times in the periods of war, as well as of peace; the gallantry which prevails in our conversations and private intercourse; on our theatres, and in our public assemblies and amusements; the point of honour which corrects the violence of the passions, by improving our delicacy, and the sense of propriety and decorum; and which, by teaching us to consider the importance of others, makes us value our own; these circumstances arose out of chivalry, and discriminate the modern from the antient world.

The knight, while he acquired, in the company of the ladies, the graces of external behaviour, improved his natural sensibility and tenderness. He smoothed over the roughness of war with politeness. To be rude to a lady, or to speak to her disadvantage, was a crime which could not be pardoned. He guarded her possessions from the rapacious, and maintained her reputation against slander. The uncourteous offender was driven from the society of the valiant; and the interposition of the fair was often



often necessary to protect him from death. But the courtesy of the knight, though due in a peculiar manner to the female sex, extended itself to all the business and intercourse of civil life. He studied a habitual elegance of manners. Politeness became a knightly virtue; it even attended him to the field of battle, and checked his passions in the ardour of victory. The generosity and the delicate attentions he showed to the enemy he had vanquished, are a satire on the warriors of antiquity (23). His triumphs were disgraced by no indecent joy, no brutal ferocity. Courteous and generous in the general strain of his conduct, refined to extravagance in his gallantry to the ladies, and the declared protector of religion and innocence, he was himself to be free from every stain. His rank, his duties, and his cares, made him aim at the perfection of virtue. His honour was to be as incontestable as his valour. He professed the most scrupulous adherence to truth and to justice. And, the defects of civil government, and his personal independence, gave an uncommon value and propriety to his personal fidelity. The formalities of the single combat, which were so scrupulously just, as to remove even the suspicion of every thing unfair and dishonourable, fostered the punctilious nicety of his demeanour (24). To utter a falsehood, was an offence of which the infamy was never to be effaced. The culprit was degraded from knighthood; a punishment more terrible to the warrior than death (25). To give the lie to a knight was, of consequence, to insult him in a point the most tender; and, while he was careful to maintain



his integrity, and ambitious to entitle himself to its honours, he was ardent and forward to defend himself against an improper accusation, and to punish the abuser of his name. His delicacies on this head demand respect and commendation; yet the rigid moralist has been pleased to make them the object of his ridicule. His ridicule, however, is as absurd as it is contemptuous. It applies not to the purer ages of chivalry, when honour was inseparable from virtue; and, perhaps, it is unjust in every application, but when it refers to individuals, who, being foul with meanness, lay claim to the consideration of probity and character, and insolently appeal to their swords to support their pretensions.

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THE generosity of the barbarians was more to be admired by the growing propensity to mischief. Refinement and property were to open up the selfishness of mankind; and the

