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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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Chapter I. Of the Spirit of Fiefs.

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A VIEW OF A SOCIETY

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O F

SOCIETY IN EUROPE,

IN ITS PROGRESS FROM RUDENESS
TO REFINEMENT.

B O O K II.

C H A P T E R I.

Of the Spirit of Fiefs.

S E C T I O N I.

A Distinction in the History of the Feudal Association. The Feudal Incidents. Their Advantages in one Situation. Their Disadvantages in another. The Influence of these different Situations on Society and Manners.

THE generosity of the barbaric manners was to suffer by the growing propensity to interest. Refinement and property were to open up the selfishness of mankind; and the feudal



feudal association, which was originally an exercise of bounty and gratitude, was to be a source of oppression and wantonness. The fruits of love, amity, and friendship, were to become the foundation of discord and contention. The superior and the vassal, the chief and the retainer, so intimately connected, and so fondly attached, were to be hostile to each other. Violence and corruption were to disfigure society; and scenes of splendour, liberty, and greatness, were to be succeeded by rapacity, oppression, and meanness.

The distinction of these different situations, though neglected by the antiquary, the lawyer, and the historian, is yet a matter of the greatest importance. It is, in some measure, the key to the history of modern nations. It will lead us to discover many mistakes and misapprehensions which conceal and deform topics of the highest moment and curiosity. It will overthrow many positions which have perplexed and misled the researches of the learned, and the reasonings of the speculative.

While the greatness and simplicity of those manners, which the conquerors of Rome brought with them from their woods, continued to animate their posterity, the feudal association was noble in its principles, and useful in its practice. The solitudes, and the mercenary spirit which rise up with commerce, were unknown, and the fullest scope was given to nature and the passions. The actions and conduct of men were directed by sentiment



ment and affection. In the ardour of private confederacies, the general feelings of generosity were augmented. The emotions of the heart increased their force by confinement. And the lord and the vassal were linked to each other in the closest connection. The arms and the zeal of his followers were the strength and the bulwark of the chief or the superior. The bounty and the power of the chief or the superior, were the subsistence and protection of the followers or the vassals. Their interests and their passions were the same; and a constant communication of good offices kept alive their attachments.

The vassal, kneeling before his lord, and putting his hands into his, acknowledged him for his superior; 'I become,' said he, 'your man, from this day forward, for life, and limb, and earthly honour.' The lord, receiving him in his arms, gave him the kiss, which bestowed his countenance and favour. This rite, known under the appellation of *homage*, expressed submission and reverence on the part of the vassal, protection and defence on that of the lord. The oath of *fealty*, or the engagement of fidelity, was then pronounced. 'Hear this, my lord,' said the vassal, 'I will be faithful and loyal to you, for the tenements I hold. So help me God and his saints (1).' They were exact to obligations in which were comprised their interest, their glory, and their pleasure. In every act of civil life, in peace and in war, they found alike the uses and advantages of their union. In the castle of the lord, the vassal added to his retinue, and proclaimed his



his magnificence. In his court he assisted in the administration of justice. In the field, he fought by his side, and covered his person with his shield. On the foundation of their connection, and of that of the land or fief, which the former bestowed on the latter, a train of *incidents* were to arise, the unequivocal expressions of friendship and habitude, the tender and affectionate fruits of an intercourse the most devoted and zealous.

While the grants of land were precarious, or for life, the superior was fond to educate in his hall the expectants of his fiefs. And, when they descended to a series of heirs, or in perpetuity, he was careful, on the death of the feudator, to take the charge of his son, and his estate. The former was a hope to him of future greatness. He protected his person, directed his education, and watched over his concerns. He felt a pride in observing his approaches to manhood, and delivered to him, on his majority, the lands of his ancestor, which he had been studious to improve. These cares were expressed in the incident of *wardship*.

The vassal, on entering to his fief, conscious of gratitude, and won with the attentions of his lord, made him a present. This acknowledgement, so natural, and so commendable, produced the incident of *relief*.

Grateful



Grateful for the past, and anxious for the future favour of his chief, the vassal did not incline to ally himself to a family which was hostile to him. The chief was ambitious to add to his power and splendour, by consulting the advantageous alliance of his vassal. They joined in finding out the lady whose charms and whose connections might accord with the passions of the one and the policy of the other. This attention gave establishment to the incident of *marriage*.

When the superior was reduced to distress and captivity, in the course of public or of private wars, when he was in embarrassment from prodigality or waste, when he required an augmentation of means to support his grandeur, or to advance his schemes and ambition, the vassal was forward to relieve and assist him by the communication of his wealth. On this foundation there grew the incident of *aid*.

When the vassal gave way to violence and disorder, or when by cowardice, treachery, or any striking delinquency, he rendered himself unworthy of his fief, the sacred ties which bound him to his lord were infringed. It was necessary to deprive him of his land, and to give it to a more honourable holder. This was the origin of the incident of *escheat* (2).

Amidst the contention of friendship, and the mutuality of mind which exercised and informed the lord and the vassal, there was

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experienced



experienced a condition of activity, liberty, and happiness (3). The vassals attended to the retainers who were immediately below them. In their turn, they were courted by the lords, whose strength they constituted (4). And the lords gave importance to the sovereign. A subordination was known, which was regular, compact, and powerful. The constituent parts interested in government (5), as well as war, were attentive, in their several departments, to the purposes of order and justice; and, in national operations, they acted with an union that made them formidable. Of this association, political liberty was the result. And, while this fortunate state of things continued, the people, in every country of Europe, came in arms to their national assembly, or appeared in it by their representatives (6).

Such, in a more particular manner, was the condition of the Anglo-Saxon period of our history; and the people, happy alike in their individual and their politic capacity, as men and as citizens, were to bear, more reluctantly, the oppressions of the Norman times. The impression of their felicity was to descend down with vivacity, in the succession of the earlier Norman princes, and to produce the most memorable struggles for liberty.

Nor was it in England only that such convulsions were experienced. The same injustice and oppressions which were to shake this nation, prevailed in every country of Europe, and gave a
beginning



beginning to those contentions which were to terminate in the destruction of their antient independence.

In this island alone, the valour and the fortune of its inhabitants were to teach freedom to revive in the midst of tyranny. The barons and the people were to inform King John of his condition and their own; and to give those lessons of instruction to his successors which they are never to forget without danger; and which a future tyrant was to confirm with his blood, while an injured nation made it to stream from the scaffold to atone an insolent ambition, and violated laws.

Disorders, which were to be felt throughout Europe, are not to be referred entirely to the rapacity and the administration of princes. There must be a cause more comprehensive and general, to which they are chiefly to be ascribed.

The original manners which the conquerors of the Romans brought from their forests, were to spend their force. The high sentiments which had resulted from the limited ideas of property, were to decay. The generous maxims of the feudal association, and the disinterested wildness of chivalry, were to suffer with time. Property was unfolded in all its relations, and in all its uses. It became a distinction more powerful than merit, and was to alter the condition of society. By separating the interests of the lord and the vassal, it was to destroy for ever the principles



of their association; and the *incidents*, which, in a better age, had fostered their friendship, were to feed their rage, and to prolong their animosity. As their confederacy had been attended with advantages and glory, their disaffection was marked with debasement and subjection. Out of the sweets of love, a fatal bitterness was engendered. Sufferance was to succeed to enjoyment; oppression to freedom. Society and government were to be tumultuous and disorderly; and diseases and infirmities were to threaten their decay.

In the prevalence of property and of mercenary views, the *ward* of the infant vassal, which the superior once considered as a sacred care and an honourable trust, was to be regarded in no other light than as a lucrative emolument. The acquisitions of the vassal, which, in their state of agreement and cordiality, were a strength to the lord, seemed now to detract from his domains. He committed spoil on the estate which, of old, it was his pride to improve. He neglected the education of the heir. He gave repeated insults to his person. The relations of the vassal were often to buy from the superior the custody of his person and his lands. This right was more frequently to be let out to exercise the rapacity of strangers. The treasury of princes was to increase with this traffic; and subject-superiors were to imitate, as well from necessity as from choice, the example of princes (7). The heir, on his joyless majority, received the lands of his ancestor; and, while he surveyed, with a melancholy eye,
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his castles, which bore the marks of neglect, and his fields, which were deformed with waste, new grievances were to embitter his complaints, and to swell his passions.

The *relief*, which originally was no more than a present, at the pleasure of the vassal, on his entering into the fief, was consolidated into a right. An expression of gratitude was converted into a debt and a burden. The superior, before he invested the heir in his land, made an exaction from him, in which he had no rule but his rapacity. His demand was exorbitant and grievous. And if the heir delayed too long to extinguish this fine of redemption, or was unable to pay it, the superior continued his possession of the estate. Rigours, so humiliating and so frantic, produced clamour, discontent, and outrage. Mitigations were to be applied to them, and to prove ineffectual. Laws were to be made against them, and to be disregarded (8).

The *marriage* of the vassal, which could not be abused while their association was firm and their interest mutual, became a most ruinous perquisite, when their association was broken, and their interest discordant. The superior could give his vassal in marriage to whom he pleased. This right he exerted as a property. It might be purchased from him by the vassal himself, or by a stranger. The marriage of the vassal, without the consent of the superior, involved the forfeiture of the estate, or was punished with oppressive penalties. It was a rule, indeed, resulting
out.



out of their former habitudes, that the heir should not be married to his disparagement (9). But this rule was overlooked amidst the violence of the times. The superior had no check but from his humanity, the vassal no relief but in remonstrance.

This right, so mortifying to the male heir, was a stretch of still wilder oppression, and more ferocious cruelty, when exercised on the female ward. Her hand might be tendered at the will of the superior. He might pay no attention to her affections. She was to submit at his mandate to indecent embraces, unauthorised with love. Her beauty was to lose its sweets, and her heart its enjoyments, to feed his avarice, and to gratify his whim. Her relations were often to buy from him a privilege so frightful; and the unfeeling tyrant was to paint the horrors of its exertion, to extort his demand (10).

The *aid* which, in happier times, the vassal bestowed out of benevolence to relieve the distress, and to assist the grandeur of his lord, became a burden and a tax in the misery of their disaffection. It was arrogated as a duty and a tax. The lord called for an aid or contribution, when his eldest daughter was married, when his eldest son was made a knight, and when, having been taken in war, his own person was to be ransomed. These were esteemed the legal occasions when exactions could be made (11). But custom and practice authorised the requisition of aids on pretences the most frivolous. When the crown or the

lord



lord was disposed to be oppressive, they could find a reason for an *aid*; and wants, not his own, were to affect every moment the substance of the vassal (12).

While their confederacy was maintained, it was not on any slight foundation, that the fief could be taken from the vassal. Cowardice, dishonour, treachery, or treason, were then the causes of *escheat*. The lord was not to be so offended with lesser delinquencies, as to take possession of the estate. In the times, however, of their disagreement, the causes of forfeiture were to multiply, and he was to be active to enforce them. Trespasses and trifles were to be sufficient grounds for the seizure of lands, of which the possessor was offensive. The vassal held a precarious and dangerous territory; and, with a mind disposed to be hostile to his chief, was to observe to him an attentive and punctilious demeanour. If he refused too long to attend the court of the superior, and to give his oath of fidelity; if he happened to commit the slightest infringement of his oath; if he foresaw any misfortune that was to befall his lord, and neglected to inform him of it; if, by any act, he was to affect the credit or the reputation of his superior; if he should chance to reveal any private circumstance concerning him; if he should grant an infeudation in any other form than that in which he held his own; if he should make love to the wife or the daughter of his lord, or should carefs his sister, while yet a virgin and unmarried;

these,

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these, and reasons still more absurd, were to forfeit the estate to the superior, and to involve the ruin of the vassal, and that of his family (13).

A system of oppression the most destructive was thus established; and, by a strange peculiarity in the history of mankind, the same *incidents* were to act in the production of situations the most opposite. In one period, they were to encourage liberty and happiness; in another, rapacity and savageness. Prosperity and vigour attended the feudal association in its youth. Its maturity was marked with peevishness and infirmities; and a croud of observers, being only to see it in this condition, were to mistake its spirit, and to survey it without enlargement.

The monks, who, on the revival of letters, presumed to chronicle the transactions of men, looked to the past with the prejudices of their own times. They could know, and could comprehend, no manners but their own. The cultivated historian was to observe and to complain of their omissions; but, instead of labouring to supply them, he was only to arrange their materials, to hold out, with lustre, some superior names, and to give his narrative the charm of picture and ornament. The lawyer and the antiquary were to be equally uninformative; while the former confines his remark to the legislation and the practice of his own age; and while the latter, amusing himself in the search of dates and of trifles, seeks not to advance into
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any general views, or to catch the spirit of those antient periods, which provoke his sweat and his toil.

The usages and customs which the barbaric tribes brought from their woods, the remote source of all their laws, transactions, and establishments, were to be observed with a transient regard. They are, notwithstanding, the sure guides which are to direct the inquirer in the darkness and obscurity of the middle times. They point to, and evince the distinction that is now made in the history of the feudal association. And, they are to lead to other distinctions of curiosity and usefulness.

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SECTION II.

A Distinction in the History of Arms and Chivalry. The Sovereign is considered as the Fountain of Honour. The Epoch of the Grandeur of Chivalry. The Decline of Fiefs. The Remedy for their Recovery. The Invention of Knight-service. The Knight's Fee. The Distinction between the Knight of Tenure and the Knight of Honour. Fiefs under Knight-service.

THE decline of the Gothic manners, while it affected so strongly the feudal association, did not fail to extend its influence to chivalry and arms. Every possessor of a fief conferred, of old, at his pleasure, the dignity of knighthood; and every person who had been admitted to knighthood, had a title to bestow it. But, when the feudal connection was infringed, and its generous principles were destroyed, the feudatory was disposed no longer to seek out the meritorious whom he might advance to an honour, which was to be an advantage, and to reflect a glory to his superior. He was now the enemy, not the friend of his lord, and wished neither to add to his splendour in peace, nor to his power in war. He had grown more selfish with
time,



time, and the knowledge of property. He was to avoid, not less from interest than passion, the having knights in his train. The right which it had been his pride to exercise, he regarded with coldness. And, what the possessor of the fief was careless to bestow, the simple knight did not pertinaciously arrogate as a prerogative. The prince or sovereign, from whom it had always been the greatest favour to receive this dignity, came, by degrees, exclusively to confer it. At the head of the state and of arms, he was to be considered as the fountain of honour.

The distinction of knighthood, accordingly, did not immediately fall in the declension of the feudal association. It felt, indeed, the shock which separated the interests of the superior and the vassal; but, surviving its impulse, it was to rise, for a time, in height and splendour. When in the creation only, and at the disposal of the Prince, it was to acquire a value from his greatness. It was to be given, for a season, with more choice and reserve, than when at the will of the possessor of the fief, and of the simple knight. Higher feats of prowess, the possession of greater wealth, more illustrious descent, were to be required in its candidate. This was the epoch of its lustre and renown. Heralds, skilful in pedigrees and armories, were to multiply. The duel was to improve in ceremony and parade; tournaments were to advance in magnificence; and, a court of chivalry, extensive in its jurisdiction, was to regulate deeds of arms, and usages of war (1).

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But, while the feudal association in its decline was thus to contribute to the elevation of the antient chivalry, by threatening its ruin, it was to produce effects of still higher importance, and of an operation not less universal. It was to give a new appearance to fiefs, and a more regular form to the feudal militia. It was to protract the fall of a system already ruinous, to create new disorders, and to lead to new establishments.

Though the cordiality of the lord and the vassal was decayed, the grant of land from the former to the latter continued its obligations. The vassal was held by a tie, which he could not renounce without forsaking his importance. His property and subsistence fastened him to an enemy. His passions and his duties were at variance. He might hate the person of his lord, but he was to bow to him as his superior. The grant of land he enjoyed, bound him to the performance of military service. With a cold heart, he was to buckle himself in his armour; and, with reluctant steps, he was to follow the march of his chief. Of old, it had been his fondest attention to carry all his strength against an enemy, that he might display his own greatness, and add to the magnificence of his superior. He now furnished unwillingly the least assistance in his power. The fervour of his former conduct was never more to advance the measures of ambition. And, in this state of things, the feudal militia was to obstruct and retard, rather than to forward the operations of princes.

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In the heart of a populous kingdom, and surrounded with subjects accustomed to arms, the feudal sovereign was thus to feel an unnatural weakness. A malady, so formidable, could not but produce an anxiety for its cure. And, what is no less certain than peculiar, in the different countries of Europe, the same remedy was applied to it.

Fiefs, or the grants of land under military service, had advanced from being annual to be for life; and, from being donations for life, they were to proceed to be hereditary. It was before the establishment of this ultimate point in their progression, that the happiness of the feudal association was disturbed. And, it was the establishment of this point which was to afford the opportunity to princes of recovering, in some degree, their greatness. While the cordiality of the vassal was maintained, a *general* obligation of military service was sufficient to induce him to marshal all his force in the field. When this cordiality was destroyed, policy was to extort what his generosity and attachment had conferred. Lands were to be burdened with a *full* and exact proportion of soldiers. The giving them out in perpetuity was the season for annexing this burden. An expedient, natural, and not to be opposed, suggested itself. The tenure of *knight-service* was invented.

A portion of land, of which the grant, by the agreement of the giver and the receiver, entitled to the service of a soldier or a knight,



knight, was a *knight's fee*. An estate, of two hundred fees, furnished, of consequence, two hundred knights. Manours, baronies, and earldoms, were thus powerful, in proportion to their extensiveness. The grants from the sovereign to the nobles claimed the service of so many knights; and the sub-infeudations of the nobles enabled them to perform this service (2). The tenants of the crown who were not noble, had also their fees, and furnished proportionally their knights. Grants *in capite*, or from the sovereign, and the sub-infeudations of vassals, called out the force of the kingdom. The prince, the nobility, and the people, were in the capacities of a general, officers, and soldiers. A call to arms put the nation into motion. An army, numerous and powerful, could be assembled with expedition, exact in its arrangements, and in a state for defence and hostility (3).

Such, I conceive, was the origin and nature of the tenure of knight-service. And thus, in the history of the feudal institutions, there are two remarkable periods; the epoch which preceded the invention of knight-service, and the epoch during which it prevailed.

The knights produced by this tenure, differed most essentially from the knights of whom I have formerly spoken. But, though the train of thinking into which I have been led, points to their peculiarities with an obvious clearness, the mistakes of
grave



grave men, and an attention to perspicuity, oblige me to express their distinctive characters (4).

The one class of knights was of a high antiquity; the other was not heard of till the invention of a *fee*. The adorning with arms and the blow of the sword, made the act of the creation of the antient knight; the new knight was constituted by an investment in a piece of land. The former was the member of an order of dignity which had particular privileges and distinctions; the latter was the receiver of a feudal grant. Knight-hood was an honour; knight-service a tenure. The first communicated splendour to an army; the last gave it strength and numbers. The knight of honour might serve in any station whatever; the knight of tenure was in the rank of a foldier.

It is true, at the same time, that every noble and baron were knights of tenure, as they held their lands by knight-service. But the number of *fees* they possessed, and their creation into rank, separated them widely from the simple individuals, to whom they gave out grants of their lands, and who were merely the knights of tenure. It is no less true, that the sovereign, without conferring nobility, might give even a single *fee* to a tenant; and, such vassals *in capite* of the crown, as well as the vassals of *single fees* from a subject, were the mere knights of tenure. But the former, in respect of their holding from the crown, were to be called to take upon themselves the knight-hood



hood of honour; a condition, in which they might rise from the ranks, and be promoted to offices and command. And, as to the vassals *in capite* of the crown, who had *many* fees, their wealth, of itself, sufficiently distinguished them beyond the state of the mere knights of tenure. In fact, they possessed an authority over men who were of this last description; for, in proportion to their lands, were the fees they gave out, and the knights they commanded (5).

It was, in this manner, that the tenure of knight-service came to recover the feudal militia, at a time when it was perishing in weakness. But, though it bound more closely, in the connection of land, the superior and the vassal, by the fixedness of the service it enjoined, it could not bring back their antient cordiality. It gave a strength and consistency to the military department of the feudal institutions; but it removed none of their civil inconveniences and burdens. These, on the contrary, were to increase during its prevalence. It was to brace, only, with a temporary vigour, a system which no prudence or art could accommodate to refining manners.

The *incidents*, which had grown with the progress of fiefs, still continued their operation. Every grant by the tenure of knight-service, was attended with homage and fealty, and was exposed to wardship and relief, to marriage, aid, and escheat. The superior had still his pretensions and his claims; the vassal was still

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to suffer and to complain. Promises of the relaxation of the feudal perquisites, were to be made by princes, and to be forgotten. Legal solemnities of restraint were to be held out, and, occasionally, to produce their effect. But, palliatives, feeble or forced, were not to controul the spirit of the system and the times. Fiefs, while they sustained, in the tenure of knight-service, the grandeur of the European states were wasting with internal debilities. And the eye, in surveying their strength and magnificence, can trace the marks of an approaching weakness and decline.

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