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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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Section 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 ...

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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.

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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.*

**T**HE 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,  
his



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 care for his sister, while yet a virgin and unmarried;

these,

lord



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  
any



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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