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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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Edinburgh, 1778

Section II. The Inefficacy of the Feudal Militia. The Fractions of a Fee. Its
Members. Attempts to escape out of the Bondage of Fiefs. The Fine of
Alienation. Substitutions of Service. Commutations ...

urn:nbn:de:gbv:45:1-1563

S E C T I O N II.

The Inefficacy of the Feudal Militia. The Fractions of a Fee. Its Members. Attempts to escape out of the Bondage of Fiefs. The Fine of Alienation. Substitutions of Service. Commutations of Service for Money. The Fine for the Neglect of Service. The Tenure of Escuage. The Rise of Stipendiaries, and the Necessities of Princes. Devices and Frauds to prevent the Service of Knights, and the Payments of Escuage. The Rise of Commerce.

THE portion of land termed a *fee*, which was the foundation of knight-service, and on which there rose the mighty fabric of the feudal strength, was no sooner invented than it was to suffer. In the frittering down of feudal property by infeudations, the practice prevailed of dividing even a fee. Thus, there were some vassals who possessed the half of a knight's fee. There were others, who had the third, the fourth, or the fifth parts of a fee. Fractions of a fee, even to the thirtieth and the fortieth parts, were not uncommon (1). These particulars, so perplexing to the historians of modern times, seem
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inconsistent with the views of knight-service, and require to be explained.

A fee could properly be divided into eight portions, and these were said to be its *members*. They received this appellation, because their proprietors were bound to perform the military service, or the original purpose of the grant. All divisions beyond these portions were improper; and their possessors, not being members of the fee, were to perform no service. The question still recurs, how the members of the fee, or the proprietors of the eight portions, were to perform the service of a knight? After the invention of knight-service, the usual term that the militia were to remain in the field was forty days. The eighth part of a fee, by this rule, gave a title to the eighth part of the service of a knight. Its proprietor, of consequence, took the field for five days, which was his proportion of the stipulated service of the fee for forty days. The possessor of the half of a knight's fee was thus to give his attendance for twenty days: And, in this manner, the other members of the fee were to act (2).

The members of the fee had each the privileges of a manour, that is, jurisdiction, court, and usage. Hence the multiplication, of old, of little manours. The proprietors of fractions, who were not members of the fee, had not the privileges of manours, but paid suit and attendance at the courts of the county or canton.



ton. The former were included in the system of fiefs; the latter were thrown out of it, and their number was equally promoted by the anxious fondness of a father, who would provide for all his children, and by the ruinous prodigality of a spendthrift, who would relieve his necessities.

The fractions which were members of the fee, were to be a shock to the feudal militia, by disposing to different persons, the service which a single individual could perform with greater skill and address. They were to be a source of weakness and disorder. The fractions which were not members of the fee, were to hasten the period of the alienation of property.

Amidst the wants created by society and intercourse, by ambition and pleasure, the vassal, who held from the crown many fees under knight-service, found it necessary, at times, to obtain from his prince the licence to let out a portion of them under a farm-rent, and not subject to military service, nor to homage, wardship, relief, and the other feudal incidents (3). The land he retained was sufficient to produce the number of knights which were required from him. No immediate prejudice was supposed to be done to the power of the sovereign, or to the militia. And thus, entire fees, and great proportions of territory, were to escape out of the magic circle of feudality. They were to pass from chivalry and tenure, to be subject to profits or prestations by the year. Licenses from vassals to their feudatories,

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created.



created also these conversions of fees into property. As deviations from a system, they mark its decline; as attentions to property, they express the propensity to refinement and commercial manners.

Leases, in this form, were even to be made without the knowledge of superiors. The interest of the vassal in the estate, so much greater and more intimate than that of the lord, was to carry him still farther. Retaining a sufficiency of land for the knights he was to furnish, he was to venture on the sale of particular fees. Encroachments made with this precaution, were to lead to encroachments more extravagant. Sales were to take place, without the reservation of a property equal to the military service to be performed by the vender. The attention of the lord was thus called forcibly to the acts of his vassal. Consulting his interest and importance, he would permit of no sales that had not the sanction of his consent. The usages and doctrines of fiefs were in his favour. It was expedient for the necessitous vassal to act with his approbation. A bribe came to soften the severity of the lord. The *fine of alienation* was established. On the payment of this fine, the vassal might sell and barter, not only a portion of his fees, but the whole of them (4).

These peculiarities had power of themselves to destroy the feudal militia. But other causes were to concur with them.

Men



Men of rank and fortune were to yield to an increasing luxury. The love of ease made them wish an exemption from service, and their pride produced a dislike to the mandate of a superior. The substitution of persons to perform their duties, of which the idea was first suggested by the sickness of vassals, and then familiar from the grants of fees to ecclesiastics, and their devotion to women, became a flattering expedient to the rich and the luxurious (5). The prince could not depend on the personal attendance of the nobles and the tenants *in capite*. Persons, hired with a price or a pension, were often to discharge their offices, and to disgust troops, who were to submit reluctantly to their command.

Substitutions of this sort, however, though they came to be very common, were a matter of delicacy and attention. For the condition of society in the feudal ages permitted not, at all times, the wealthy and the noble to delegate the authority over their vassals. But, when in a situation so critical, they were not without resources.

It had been usual, from the earliest times, for the superior to levy a fine from the military tenant who refused to take the field at his summons (6). This suggested, very naturally, the commutation of service for money. A new method of tenure was thus to arise. The vassal by knight-service might convert his holding into the tenure of *escuage*, which, instead of exacting



knights for the fees of his estate, required him to make payments to the exchequer of his prince (7).

While this aversion from service was to prevail, troops were yet to be necessary. The fine, accordingly, which the sovereign demanded from the vassal who neglected to perform his duty, the payments he received by agreement from the tenants by es- cuage, and his interest to supply the attendance of both, were to produce, in every country of Europe, a multitude of *stipendia- rios*.

These forces were a mixture of all nations, and consisted of men, whom poverty and debauchery had corrupted into wretchedness. They had no sollicitude what cause they were to defend; and their convenient swords obeyed, at all times, the donatives of princes. They were called *coterelli*, from the hangers they wore, *ruptarii*, from the pay they received, and many of them being of the country of Brabant, the term *Brabançons*, or *Brabantini*, came to express them (8).

The introduction of these banditti into a feudal army, was the utmost violence to its nature. It offended infinitely the barons and the military tenants, that they should be called to mingle with persons so ignoble. Yet, the princes of Europe, finding the advantages of troops whom they could command to their purposes, and march at their will, were disposed to encourage them.



them. They perceived, that they could possess no power without mercenaries; and no mercenaries were to be had without money. Hence the passion for wealth they were to discover; hence their ruinous projects to acquire it.

But, while the struggles for money, thus created, were to produce consequences distant and important, they served to destroy altogether the purposes of knight-service. They gave a mortal stab to the feudal militia. The feudal association was to be foul with disgusts, oppressions, and disorders. Time, and the devices of art, augmented the general confusion. The barons and tenants *in capite* by knight-service, when summoned to take arms, were often to dispute the number of their fees, and the knights they should furnish. The tenants by escuage made proffers of the half or the third of the payments to which they were bound. The constables and the marshals of armies were ill qualified to decide concerning matters, so delicate in their own nature, and in which an impropriety of conduct might be a prejudice to their sovereigns. Doubts were to arise, not only about the fees or the knights of estates, but about the tenure by which they were held (9). The clergy were to invent, and to encourage frauds. They taught the laity to convey to them their feudal possessions, and to receive them back as property. The fees in their own enjoyment they affected to hold in frankalmoigne, or by a tenure that gave no service but prayers (10). The subdivisions of knight-fees created perplexities that were intricate in no common



mon degree. Fines or payments were often to be demanded, not only for the fractions which were members of the fee, but for fractions which were not members (11). The consultation of rolls and records, inquisitions by jurors, and the examination of witnesses or evidence, required a length of time, and a trial of patience, and were not to be always satisfactory. The sovereign, in the mean time, was in haste to march against an enemy. And he felt his weakness in the diminished ranks of his army, in the abstractions of his revenue, in the turbulent service of the great vassals who obeyed his summons, in the coldness of those who acted as substitutes, in the total want of discipline and of military knowledge in inferior orders, and in the limited time which the troops were to remain in the field.

To all these causes, the rise of commerce is to be added. Its various pursuits, and its endless occupations, were to actuate the middle, and the lowest classes of men, and to give the killing blow to a system, of which the ruins and decline have an interest and importance that bring back to the memory its magnificence and grandeur.

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