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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 IV.

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

## S E C T I O N IV.

(1) **D**UCES ex virtute sumunt. . . . Duces exemplo  
 'potius quam imperio, si prompti, si conspicui:  
 'Si ante aciem agant, admiratione praesunt.' *Tacit. de Mor. Germ. c. 7.* 'Ubi quis ex principibus in concilio se dixit ducem  
 'fore, ut qui sequi velint profiteantur; confurgunt ii qui et cau-  
 'sam et hominem probant, suumque auxilium pollicentur, atque  
 'ab multitudine collaudantur.' *Caesar, de Bell. Gall. lib. 6. c. 22.*

(2) 'Nihil autem neque publicae neque privatae rei, nisi ar-  
 'mati agunt. Sed arma sumere non ante cuiquam moris, quam  
 'civitas suffectorum probaverit. Tum in ipso consilio vel prin-  
 'cipum aliquis, vel pater, vel propinquus scuto frameaque juve-  
 'nem ornant.' *Tacit. de Mor. Germ. c. 13.*

'These military youths,' says *Comden*, 'were called in their  
 'language *Knechts*, as they are in ours.' *Introd. to the Britannia,*  
*p. 245.*

(3)



(3) 'Patri Regi Rex Ludovicus Ingelheim occurrit, indeque  
 'Renesburg cum eo abiit, ibique *ense* jam appetens adolescentiae  
 'tempora, *accinctus est.*' *Vit. Lud. Pii, an. 791.* Of King A-  
 theltane there is this mention in *Malmsbury*, 'Nam et avus  
 'Alfredus prosperum ei regnum imprecatus fuerat, videns et  
 'gratiose complexus speciei spectatae puerum, et gestuum ele-  
 'gantium: Quem etiam premature *militem fecerat donatum*  
 '*chlamyde coccinea, gemmato baltheo, ense Saxonico, cum vagina*  
 '*aurea.*' *Lib. 2.* 'Henrico nepoti suo David Rex Scotorum *vi-*  
 '*ria tradidit arma.*' *Hen. Huntingdon, lib. 8.* See *Du Cange,*  
*voc. Arma.*

Other particulars, expressive of the antiquity of knighthood,  
 may be seen in the Dissertations on the history of St. Louis.  
 And, with regard to our Saxon ancestors in particular, *Mr Sel-*  
*den* has found frequent mention of knights in the charters of  
 that age. *Titles of honour, part 2. ch. 5.* Mr Hume, there-  
 fore, reasons hypothetically, when he admits not of chivalry in  
 the Anglo-Saxon times. *Appendix, 11.*

The addition *Sir* to the names of knights, was in use be-  
 fore the age of Edward I. and is from *Sire*, which in old  
 French signifies *seigneur*, or lord. Though applicable to all  
 knights, it served properly to distinguish those of the order who  
 were not barons. To knights-baronet, who are a modern insti-  
 tution, and no part of the antient chivalry, the addition *Sir* is  
 granted





granted by a clause in their patents of creation. *Ashmole on the Garter, ch. 1.*

The most honourable method of receiving knighthood was from the sovereign. But every possessor of a fief could bestow it; and one knight could create another. 'Eorum,' says *Spelman*, 'fuit militem facere quorum fuit feodum dare.' *Dissert. de milite, ap. Reliq. p. 180.* 'Tout chevalier,' says *St. Palaye*, 'a voit le droit de faire chevaliers.' *Memoires sur l'ancienne chevalerie, tom. 1. p. 70.* A king could receive it from the hands of a private gentleman.

Its value may be remarked in the following peculiarity. 'Scitis,' said a Lombard king to his courtiers, 'non esse apud nos consuetudinem, ut regis filius cum patre prandeat, nisi prius a rege gentis exteræ arma susceperit.' *Paul. Diac. lib. 1. ap. Honoré de Sainte Marie, dissert. sur la chevalerie, p. 182.* 'Liberos suos,' said *Caesar* of the Gauls, 'nisi quum adoleverint, ut munus militiæ sustinere possint, palam ad se adire non patiuntur; filiumque in puerili aetate in publico in conspectu patris assistere, turpe ducunt.' *De Bell. Gall. lib. 6. c. 18.*

'Dans les premiers temps,' says *St. Palaye*, 'la plus illustre naissance ne donnoit aux nobles aucun rang personnel, à moins qu'ils n'y eussent ajouté le titre ou le grade de chevalier. Jusqu' alors on ne les consideroit point comme membres de l'état,



‘*Petat*, puisqu’ ils n’en étoient point encore les *soutiens et les*  
 ‘*defenseurs* : Les Ecuyers appartenoient à la *maison* du maître  
 ‘qu’ ils servoient en cette qualité ; ceux qui ne l’étoient pas en-  
 ‘core, n’ appartenoient *qu’ à la mere de famille* dont ils avoient  
 ‘reçu la naissance et la première éducation.’ *Tom. 1. p. 298.*

*Tacitus*, having described the ceremony of investing the Ger-  
 man with arms, adds, ‘*Haec apud illos toga, hic primus juventae*  
 ‘*honos, ante hoc domus pars videntur, mox reipublicae.*’ *De*  
*Mor. Germ. c. 13.*

This tendency and concurrence of circumstances is striking ;  
 and to these institutions we may trace the contempt with which  
 the rights of *minors*, both of high and low condition, were treat-  
 ed, in the middle ages. To be in minority was to be nothing.  
 Before his majority, or the investiture of arms, the individual did  
 not seem a citizen or a subject.

(4) ‘*Virtutem proprium hominis bonum : Deos fortioribus*  
 ‘*adesse.*’ *Tacit. Hist. lib. 4. c. 57.*

(5) ‘*Est et alia observatio auspiorum, qua gravium bellorum*  
 ‘*eventus explorant. Ejus gentis, cum qua bellum est, captivum*  
 ‘*quoquo modo interceptum, cum electo popularium fuorum,*  
 ‘*patriis quemque armis committunt. Victoria hujus vel illius*  
 ‘*pro praejudicio accipitur.*’ *Tacit. de Mor. Germ. c. 10.*

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An instance of the duel is described in *Livy, lib. 28. c. 21.* And the prevalence of this mode of trial is mentioned by *Paterculus, lib. 2. c. 118.* It was by single combat that the Celtic and Gothic nations decided the succession to offices, when the candidates were numerous and of equal merit. This was leaving it to the Deity to determine their pretensions. It was in this manner, that, among the Gauls, the place of the sovereign Druid was supplied, in cases of doubt. ‘His autem omnibus  
 ‘Druidibus praeest unus, qui summam inter eos habet auctoritatem. Hoc mortuo, si quis ex reliquis excellit dignitate, succedit. At si sunt plures pares suffragio Druidum adlegitur: Nonnunquam etiam de principatu armis contendunt.’ *Caesar, de Bell. Gall. lib. 6. c. 12.*

This form of deciding controversies and disputes, continued to prevail after the conquests of the barbaric nations; is to be seen every where in their laws; and became an important article in the jurisprudence of the middle times. The following ordinances illustrate its use and purposes.

‘Qui terram suam occupatam ab altero dixerit, adhibitis idoneis testibus, probat eam suam fuisse: Si occupator contradixerit, *campo dijudicetur.*’ *LL. Saxonum, tit. 15.*

‘Si quis Adalingum occiderit DC. fol. componat. Qui liberum occiderit, CC. fol. componat. Et de utroque si negaverit, cum



‘cum xii. juret, aut in *campum* exeat, utrum ille voluerit, ad  
 ‘quem causa pertinet.’ *LL. Angl. et Werinor. tit. 1.*

‘Qui domum alterius noctu incenderit, damnum triplo faciat,  
 ‘et in fredo solid. lx. aut si negat, cum undecim juret, aut *cam-*  
 ‘*po* decernat.’ *Ibid. tit. 8.*

‘Si aut calumniator, aut ille cui calumnia irrogata est, se so-  
 ‘lum ad sacramenti mysterium perficiendum protulerit, et dix-  
 ‘rit: Ego solus jurare volo, tu si audes nega sacramentum me-  
 ‘um, et armis mecum contende. Faciant etiam illud, si hoc eis ita  
 ‘placuerit; juret unus, et alius neget, et in *campum* exeant.’  
*LL. Frison. tit. 11. l. 3.*

‘Si mulier in morte mariti sui consiliata fuerit per se, aut per  
 ‘suppositam personam, sit in potestate mariti sui de ea facere  
 ‘quod voluerit: Similiter et de rebus ipsius mulieris. Et si illa  
 ‘negaverit, liceat parentibus eam purgare aut per sacramentum,  
 ‘aut per *pugnam*, id est, per *campionem*.’ *LL. Longobard. lib. 1.*  
*tit. 3. l. 6.*

Even from rude times, it is observable, that this trial took  
 place at the command of the magistrate. And, it is probable,  
 that it was in a good measure at his discretion, whether it took  
 effect. If the truth was to be investigated by witnesses, so that  
 complete evidence appeared, and there was no room for doubt,

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the battle might be avoided. It was, however, much to the taste of martial times. The barbarians, also, believed firmly that providence actually interfered in their affairs. And this absurdity was encouraged by the Christian clergy, who, like the priests of all religions, found an interest in deceiving the vulgar.

(6) The word *nidering* or *nidernig*, was a term of dishonour among the Normans and Danes; and, it is told by the historians of William Rufus, that, on an occasion which required the speedy aid of his vassals, including in his summons, that those of them who neglected to repair to him should be accounted *nidering*, his standard was immediately crouded. *Du Cange, voc. Nidering.*

To apply to a person the term *arga* among the Longobards, was to say, that he was a *coward* and a *worthless* fellow; and this offence to his honour could not be pardoned. If the accuser persisted in the assertion, the *combat* took place; and, if he confessed his crime, he was subjected to a fine. *LL. Longobard. tit. 5. l. 1.*

Of *arga*, it is remarkable, that, in its original and proper signification, it meant a person who permitted the infidelities of his wife. 'Proprie *arga* is dicitur,' says *Du Cange*, 'cujus uxor moechatur, et ille tacet.' *Gloss vol. 1. p. 319. Spelm. p. 40.* A person of this kind was infamous in the extreme, and generally  
of



of the vilest condition. The word *cucurbita* had also this sense; and hence the French *coucourd*, and our *cuckold*. Each of these terms, accordingly, in its enlarged acceptation, came naturally enough to signify a *mean, cowardly, and stupid fellow*. To have a *caput cucurbitinum*, was to be a *block-head*. And, from the confusion of the proper sense of *cucurbita*, and its enlarged one, the infamy seems to have arisen which, to this hour, constantly attends even an *involuntary cuckold*. It is thus, that even words operate upon manners.

The point of honour in Sweden, in early times, is well illustrated by the following law, which I give in the words of *Stiernbook*, whose book is not commonly to be met with.

‘ Si dicat vir viro probrosum verbum : Non es vir viri compar,  
 ‘ aut virili pectore : Ego vero sum vir [inquit alter] qualis tu. Hi  
 ‘ in trivio conveniunto. Si comparet provocans, nec provocatus ;  
 ‘ talis esto [provocatus] sequior ut dictus fuit, ut qui nec pro fe-  
 ‘ mina nec viro sacramentalis esse queat, intestabilis : Si vero com-  
 ‘ paret provocatus, nec provocans, quam vehementissime trino  
 ‘ immani clamore exclamet, et signum in terra radat, et sit vir  
 ‘ ille [provocans] eo deterior, quod verba locutus est, quae prae-  
 ‘ stare non ausus sit. Si jam uterque comparent, justis instructi  
 ‘ armis, et cadat provocatus, dimidio mulctae pretio [caedes]  
 ‘ expiator. Si vero provocans cadit, imputet temeritati. Capi-

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‘ talis





‘ talis ei linguae suae petulantia, jaceat in campo inxpiatus.’  
*De Jure Sueonum et Gothorum vetusto, lib. 1. c. 6.*

Among the antient Germans, in the age of *Tacitus*, the point of honour was carried so high, that a gamester having risked and lost his liberty and person on the last throw, submitted to voluntary servitude, allowing himself, though stronger and younger than his antagonist, to be bound and sold by him. ‘ *Ea est in re prava pervicacia; ipsi fidem vocant.*’ *Tacit. de Mor. Germ. c. 24.* The other words of the passage are: ‘ *Alem quod mirere, sobrii inter feria exercent, tanta lucrandi perdendive temeritate, ut cum omnia defecerunt, extremo ac novissimo jactu, de libertate et de corpore contendant. Victus voluntariam servitutem adit: quamvis junior, quamvis robustior, alligare se ac venire patitur.*’

It is not foreign to the purposes of this work, to remark, that the passion for play followed the conquests of the barbarians; that many ordinances were made to suppress it; and that, to this hour, it is a *point of honour* to extinguish game-debts. There is something interesting in this subject, and I cannot leave it without starting a conjecture.

The idea of borrowing under an obligation of repayment, was too cultivated for the German gamester. When he had lost  
 every



every thing \*, he therefore staked his liberty and his person. Having left his woods, he improved upon this usage; and, instead of endangering his person, gave a *pledge* as a security that he would pay his loss. ‘*Wadia dabat.*’ *Lindenbrog. Gloss. voc. Wadium.* The usage was not lost. ‘En 1368,’ says a French historian, ‘le Duc de Bourgogne ayant perdu soixante francs á la ‘paume contre le Duc de Bourbon, Messire Guillaume de Lyon ‘et Messire Guy de la Trimouille, leur laissa, faite d’argent, sa ‘ceinture: Laquelle il donna encore depuis *engage* au Comte ‘d’Eu pour quatre vingt francs par lui perdu au meme jeu.’ *Le Laboureur, ap. Saint Foix. tom. 1. p. 343.*

The custom of *pledges* introduced by gaming, grew common in other transactions, and in debts of every kind. From moveables, which were the first pledges, a transition was soon made to land. Hence the *mortuum-vadium* †, the pawn of land, or the

\* It does not appear what the German usually played for. It might be, sometimes, the coins of the Romans. ‘*Jam et pecuniam accipere docuimus.*’ *Tacit. de Mor. Germ. c. 15.* His chains and ornaments, utensils and furs, were probably his common stakes.

† ‘It is called a *dead-gage*,’ says *Cowel*; ‘because, whatsoever profit it yieldeth, yet ‘it redæmeth not itself by yielding such profit, except the whole sum borrowed be ‘likewise paid at the day.’ *The Interpreter, voc. Mortgage.*





the mortgage ; and hence also the legal doctrine of *distresses* \*. Such a mixture is there of whim and accident in the greater as well as the minuter precautions of civil polity !

(7) The forms of trial in the *duel* at common law, and in the *duel* for points of honour, were distinct. This subject will be treated in the sequel.

(8) ‘ Genus spectaculorum unum atque in omni caetu idem. Nudi juvenes, quibus id ludicrum est, inter gladios se atque infestas frameas saltu jaciunt. Exercitatio artem paravit, ars decorem. Non in quaestum tamen aut mercedem. Quamvis audacis lasciviae pretium est, voluptas spectantium.’ *Tacit. de Mor. Germ. c. 24.*

There is a remarkable passage in *Procopius* with regard to King *Totilas*, from which we may learn the dexterity which was exhibited in such military sports.

‘ Ipse

\* ‘ *Namium et namus* ] Captio, a Sax. naman, al. nyman capere. Voces prisca fori, haec apud Scotos, illa apud Anglos veteres usitatior : Res, bona, animalia, quae per *distractionem* capiuntur significantes : Hoc est, ea quae a possessore auferuntur, legitimèque retinentur, mulctae vel *pignoris* nomine, quousque id fecerit vel praestiterit, quod non sine injuria recusaverit.’ *Spelm. Gloss.* See farther the other *Glossaries*, and *Coke on Littleton*.



‘ Ipse equo eximio vectus, inter geminas acies armorum lu-  
 ‘ dum scite ludebat. Equum enim circumagens ac reflectens u-  
 ‘ troque versum, orbis orbibus impediabat. Sic equitans, hastam  
 ‘ in auras jaculabatur, eamque, cum tremula relaberetur, aripie-  
 ‘ bat mediam, et ex altera manu in alteram saepe trajiciens, ac  
 ‘ dextere mutans, operam huic arti feliciter navatam ostendebat :  
 ‘ resupinabat sese, et flexu multiplici nunc huc nunc illuc ita in-  
 ‘ clinabat, ut appareret diligenter ipsum a pueritia didicisse sal-  
 ‘ tare.’ *Lib. 4. c. 31.*

These ideas make a figure even in the paradise of the Gothic nations. ‘ Tell me,’ says *Gangler* in the *Edda*, ‘ How do the  
 ‘ heroes divert themselves when they are not drinking ?’ ‘ Every  
 ‘ day,’ replies *Har*, ‘ as soon as they have dressed themselves, they  
 ‘ take their arms ; and, entering the lists, fight till they cut one  
 ‘ another in pieces : This is their diversion. But, no sooner does  
 ‘ the hour of repast approach, than they remount their steeds all  
 ‘ safe and sound, and return to drink in the palace of *Odin*.’ *The  
 Edda, or antient Icelandic or Runic mythology, ap. Northern An-  
 tiquities, vol. 2. p. 108.* See also *Keyssler, Antiq. Select. Sep-  
 tentr. et Celt. p. 127.*

(9) In the books of the middle times, torneaments are called  
*ludi militares, militaria exercitia, et imaginariae bellorum prolusi-  
 ones.* A writer in *Du Cange* says, ‘ Torneamenta, dicunt quae-  
 ‘ dam nundinae, vel feriae, in quibus milites ex edicto convenire  
 ‘ solent,





‘solent, et ad ostensionem virium suarum et audaciae temere  
‘congregari, vel congregari.’ *Gloss. voc. Torneamentum.*

These exercises were the great schools of discipline and war. Their high antiquity on the continent may be seen in the dissertations on the history of St Louis. And, there is mention of them in England in the days of King Edgar, and at a more antient period. *Selden, duello, ch. 3.* Mr Madox was therefore in a great mistake, when he ascribed the rise of the spirit of torneying to the holy wars. *Bar. Angl. p. 281.*

The frequent accidents which necessarily happened in the exercise of these representations of war, through the impetuosity of valour, and the extravagance of heroism; the fulminations of the church; and, above all, the jealousy of princes which was excited by armed nobles and their retainers, gave them powerful checks. They continued, notwithstanding, to be long in fashion. In England, they were practised in the reign of Queen Elizabeth; and their total disappearance was preceded, under the elder James and his son Charles, by a gentle method of them, termed *caroufals*.

Torneaments originally were celebrated by all warriors at their pleasure. In after times, the sovereign, as the head of chivalry and arms, claimed their direction, and issued out his licenses and prohibitions. Richard I. by the following patent to Hubert,  
Arch-





Archbishop of Canterbury, gave license for lists or torneaments in five places within the kingdom.

‘ Sciatis nos concessisse, quod torneamenta sint in *Anglia* in  
 ‘ quinque placeis, inter *Sarum* et *Wilton*, inter *Warwick* et *Ke-*  
 ‘ *lingworth*, inter *Stamford* et *Walingford*, inter *Brakeley* et *Mixe-*  
 ‘ *ber*, inter *Bly* et *Tikehill*, ita quod pax terrae meae non infrin-  
 ‘ getur. Et comes qui ibi torneare voluerit, dabit nobis 20 mar-  
 ‘ cas, et baro 10 marcas, et miles, qui terram habuerit, 4 mar-  
 ‘ cas, et qui non habuerit, 2 marcas. Nullus autem extraneus  
 ‘ ibi attorneabit. Unde vobis mandamus, quod ad diem tornea-  
 ‘ menti habeatis ibi 2 clericos et 2 milites vestros, ad capiendum  
 ‘ sacramentum de comite et barone, quod nobis de praediecta pe-  
 ‘ cunia ante torneamentum satisfaciet, et quod nullum torneare  
 ‘ permittant antequam super hoc satisfecerit; et inbreviari faci-  
 ‘ ant quantum et a quibus receperint. Et 10 marcas pro carta  
 ‘ ad opus nostrum capiatis, unde comes *Sarum*, et comes de *Clara*,  
 ‘ et comes de *Warrena* plegii sunt. Teste meipso, apud villam  
 ‘ episcopi 22 die Augusti.’ *Ex lib. Rubro Scaccarii, ap. Selden*  
*in the Duello, ch. 3.*

Edward I. and Edward III. granted the liberty of holding yearly a just *viris militaribus comitatus Lincoln*. Richard Redman, and his three companions in arms, had the license of Richard II. *hastiludere cum Willielmo Halberton cum tribus sociis apud civitat. Carliol*. And a similar liberty was granted to John





de Gray by Henry IV. *Cottoni Posthuma*, p. 63. Edward I. commanded, by proclamation, that no torneaments or justing, or seeking of adventures, and no feats of arms should be celebrated or undertaken without his permission. 'Publice fecit  
'proclamari, et firmiter inhiberi, ne quis, sub forisfactura terrarum et omnium tenementorum, torneare, bordeare, justas facere, aventuras quaerere, seu alias ad arma ire praesumat, sine licentia Regis speciali.' *Cot. Post.* p. 67. There are also prohibitions of torneaments by Henry III. and other princes. They command all earls, barons, knights, and others, under their faith, homage, and affection, and under pain of losing their lands and tenements, that they presume not to torney, make justs, seek adventures, or go to feats of arms within the realm, without the King's express leave. See *Appendix*, No. V.

(10) 'Tum ad *negotia*, nec minus saepe ad *convivia*, procedunt *armati*.' *Tacit. de Mor. Germ.* c. 22.

This usage continued during the middle times. The posterity of the Germans went in armour to their parliaments and public councils, and to their private visits and meetings. Justice, says *Mezeray*, was rendered among the Franks by people in arms: The axe and the buckler were hung upon a pillar in the midst of the *malle* or the court. See *his history under Clotaire II*. From this practice among the Anglo-Saxons, the hundred court was, in some counties, called the *Wapentake*. The hundreder, holding





holding up his lance, it was touched by those of all the members, and thus the assembly was constituted. *LL. Edward. Confes. c. 33.* *Wapnu*, says Whitelocke, is arms, and *tac*, touch. *Notes upon the King's writ for members of Parliament, vol. 2. p. 39.*

To this day, in the kingdoms of Europe, the wearing of a sword is a part of dress. We go in arms to a feast as well as to a battle, and retain, in orderly times, a custom which habitual danger, and the defects of legislation, made necessary to barbarians. The clergy, it seems, pertinaciously opposed the custom, and it was retained with obstinacy. What is more surprising, they have ceased to exclaim against it, and yet it continues!

(11) ‘*Scutum* reliquisse praecipuum flagitium. Nec aut facris adesse, aut concilium inire ignominioso fas.’ *Tacit. de Mor. Germ. c. 6.*

Hence a high composition was allowed to the Frank, who had been reproached injuriously with the loss of his shield. ‘Si quis homo ingenuus alio improperaverit, quod *scutum* suum jactasset, et fuga lapsus fuisset, et non potuerit adprobare, DC. den. qui faciunt sol. xv. culpabilis judicetur.’ *Pactus legis Sallicae, ap. Georgisch. p. 69.* It was by raising him aloft on a shield, and supporting him on their shoulders, that the Germans proclaimed their sovereign, or lifted up a general to command their armies. *Tacit. Hist. lib. 4. c. 15.* It was by the same ceremony

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that





that the Kings of the Franks were acknowledged. This was their inauguration. The escutcheon or shield, says *Favine*, is the essential note of a nobleman, a knight, and an esquire. *Theatre of Honour, book 1. ch. 2.*

The usages which had their rise from arms, make a curious figure in the Gothic nations. We know from *Tacitus*, that the founding or clashing of arms, expressed approbation in the German assemblies; that a javelin wet with blood, and a war horse, were the rewards of German valour; that suits of armour were a flattering present to the more distinguished chiefs in the German communities; that an interchange of arms constituted the ceremonial of marriage among this people; and, that their only public amusement was the leaping amidst the threatening points of swords and lances. *De Mor. Germ. c. 11. 15. 18. 24.*

Charlemagne used to seal his treaties with the pommel of his sword: 'With the point of it,' said he, 'I will maintain them.' *St. Foix, Ess. Hist. vol. 2. p. 74.* To take his arms from a free man, was to deprive him of his rank, and to reduce him to the condition of a slave. *LL. Alfr. c. 1.* And to put into the hands of a slave the arms of a free man, was to give him his liberty. When an individual gave his oath in a court, or would bind himself in the most solemn manner to the performance of his contracts, he laid his hand on his sword. In the judicial combat, the customs growing out of arms were numerous: Thus,  
to



to strike a person with a club, or to give him a blow on the face, was to treat him like a villein; because villeins were permitted to fight only with clubs, and were not allowed to cover their faces with armour. *L'esprit des Loix, liv. 28. ch. 20.* A free man could not part with his sword as a part of his ransom. *LL. Longobard, lib. 1. tit. 11. l. 33.* And what shows, in a particular manner, the severity of the forest-laws, the killing of a royal stag inferred the loss of the shield, or the reduction of a free man to a slave. *LL. Forest. Canut. c. 25.* From the change of arms there resulted a change of usages. Thus, when archery was introduced, to wound the finger which sends off the arrow, was punished more severely than the maiming of the other fingers. *Lindenbr. Gloss. voc. Digitus.*

The old Germans rushed to battle with a loud noise, applying their shields to their mouths, that their voices might rise by repercussion into a fuller and more sonorous swell. ‘Sunt illis haec quoque carmina, quorum relatu quem *barditum* vocant, accendunt animos, futuraeque pugnae fortunam ipso cantu augurantur; terrent enim, trepidantve, prout sonuit acies. Nec tam voces illae, quam virtutis concentus videntur. Affectatur praecipue asperitas soni, et fractum murmur, objectis ad os scutis, quo plenior et gravior vox repercussu intumescat.’ *Tacit. de Mor. Germ. c. 3.*

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It merits observation, that, from this usage, there grew the *cry d'armes* of the middle ages. These cries were supposed to incite to valour, and to make the soldier precipitate himself upon the enemy. *Montjoie Saint Denis*, was a famous cry of the Franks. *Deus adjuva, Deus vult*, were cries during the crusades. Every banneret, or every knight who had a banner, had a cry peculiar to himself and the troops under him. Barons had also their cries. There were thus general and particular cries. While fiefs and the feudal militia continued, these cries prevailed in Europe. They were lost on the introduction of an improved military discipline, and of standing armies. Perhaps, it is to these cries, that we must trace the origin of the mottos to ensigns armorial.

(12) 'Scuta lectissimis coloribus distinguunt.' *Tacit. de Mor. Germ. c. 6.*

On the foundation of the *sagum*, or the short vest of the Gaul and the German, which covered his arms, shoulders, and breast, *coats of arms* arose. 'La cotte d'armes a esté le vêtement le plus ordinaire des anciens Gaulois: il estoit appellé par eux *sagum*, d'ou nous avons emprunté le mot de *saye*, ou de *sayon*.' *Dissert. 1. sur l'Histoire de St Louis, p. 127.* 'Tegumen omnibus *sagum*,' says *Tacitus, c. 17.*

According to this instructive historian, the *sagum* was adorned with spots and with bits of fur. 'Eligunt feras, et detracta velamina spargunt maculis, pellibusque belluarum.' *c. 17.* And  
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we know from *Herodian*, that it was sometimes ornamented with silver. *Lib. 4.*

These things are very curious; and it is impossible not to see in them the *colours*, the *furs*, and the *metals* which are the materials of the science of blazonry.

When *Tacitus* mentions the shield, he takes occasion to remark, that the German warriors had the knowledge of *coats of mail*, and of *head-pieces* or *helmets*, but seldom made use of them. His words are ‘*Paucis loricae, vix uni alterive cassis, aut galea.*’ *c. 6.* They were about to be more fashionable.

(13) *Valer. Maximus*, lib. 5. c. 6. *Florus*, *Rom. Rer. Hist.* lib. 3. c. 3.

(14) These captives were of the tribe of the *Catti*, a Germanic people; for, it is surely this tribe that *Dio* means, when he speaks of the *Cenni*. ‘*Horum captae a Romanis uxores, interrogatae ab Antonino, utrum vendi, an occidi mallent, mori se malle responderunt: quumque essent postea venditae, omnes mortem sibi consciverunt: Nonnullae una filios interfecerunt.*’ *Excerpt. e Dion. p. 876.* A multitude of examples, to the same purpose, might easily be collected, if it were necessary.

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But, while we reflect on these things, it must not be fancied, that the German women were deficient in gentleness. A high independent spirit is not inconsistent with the softest passions. There are a few beautiful and energetic words in *Tacitus*, which may be employed on this occasion, and finely express the distinctive characters of the sexes in antient Germany. ‘Lamenta ac lacrymas cito: dolorem et tristitiam tarde ponunt. *Feminis* lugere honestum est; *viris* meminisse.’ *De Mor. Germ. c. 27.*

(15) *Tacit. de Mor. Germ. c. 7.*

(16) Saint Foix, *Essais Historiq. sur Paris*, tom. 5. p. 184.

(17) ‘Regnator omnium Deus, cetera subjecta atque parentia.’ *Tacit. de Mor. Germ. c. 39.* This testimony of the purity of the German theology, is well illustrated by the following passage of the Icelandic Edda.

‘*Ganglerus* orsus est tunc suum sermonem. Quis est supremus, seu primus deorum? *Har.* respondet: Qui nostra lingua Pantopater dicitur. Tunc *Gang.* Ubi est hic Deus? Aut quid potest efficere? Aut quid voluit ad gloriam suam manifestandam? *Har. resp.* Ille vivit per omne aevum, ac gubernat omne regnum suum, et magnas partes et parvas.’ *Edda, ap. Northern Antiq. vol. 2. p. 283.*

(18)





(18) 'Auspicia, fortesque ut qui maxime observant.' *Tacit. de Mor. Germ. c. 9.* See also, *Du Cange, voc. Aucones et Sors.* The following form of divination was common to all the German tribes. 'Virgam frugiferae arbori decifam, in furculos amputant, eosque notis quibusdam discretos super candidam vestem temere ac fortuito spargunt. Mox si publice consulatur sacerdos civitatis, sin privatim, ipse pater familiae precatus deos, coelumque suspiciens, ter singulos tollit, sublato secundum impressam ante notam interpretatur.' *De Mor. Germ. c. 10.* Of this folly, there is yet a remain in the *Baguette Divinatoire* of the miners in Germany; and it is to be observed, that the heralds of the Franks had *consecrated twigs*, which they bore as the emblems of peace. Thus the heralds sent by Gundobald to Guntram appeared 'cum virgis consecratis, juxta ritum Francorum, ut scilicet non contingerentur ab ullo.' *Gregory of Tours, lib. 7. c. 32.* But, what is more remarkable, these *twigs* came to figure in the investiture of lands. Hence the feoffment or *sale* *per fustem et per baculum, per virgam et per ramum.* Hence the *tenure par la verge*, which is formally treated by Littleton. On what a simple foundation does there rise institutions, important and interesting in business and society!

(19) Hence the Gothic ordeals, the fire ordeal, and the water ordeal. Of the antiquity of these trials I have spoken in another work. *Dissert. on the Antiq. of the Eng. Constitut. part 4.* It is observable, that the trials of fire and water, though absurd

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in the greatest degree, were much encouraged by the Christian clergy. What is more disgraceful to them, they invented modes of trial, founded in the same superstition, and not less absurd. These were the judgment of the cross, the corsned or consecrated morsel, the Eucharist, and the *sortes sanctorum*. By the first, the criminal was to remain with his arms extended before a cross for six or seven hours, without motion. If he failed in sustaining this trial, he lost his cause, and was judged guilty. By the second, the accused person swallowed a bit of bread or cheese, over which the priest had muttered a form of execration. If he was guilty, he was suffocated by the morsel; if innocent, he escaped without injury. In the judgment of the Eucharist, the symbols of the blood and body of Christ were employed; and they convicted the guilty, by acting as a poison, which inflicted death or sickness. The *sortes sanctorum* consisted in the opening, at a venture, the Bible, or any holy book, and in considering as oracular the first passage that presented itself. See *Du Cange, voc. Crux, Corsned, Eucharistia, Sors*. This impiety, and these impositions on the common understanding of mankind, advanced the temporal emolument of the priesthood; an end, which is at all times more important to them than the interests of religion and virtue.

(20) ' Matrem Deum venerantur. Insigne superstitionis, for-  
' mas aprorum gestant. Id pro armis omniumque tutela, securum  
' deae





‘*deae cultorem etiam inter hostes praeftat.*’ *Tacit. de Mor. Germ.*  
c. 45.

‘I know a fong,’ said *Odin*, ‘by which I soften and enchant  
the arms of my enemies, and render their weapons of none ef-  
fect. I know a fong which I need only to fing, when men  
have loaded me with bonds; for the moment I fing it, my  
chains fall to pieces, and I walk forth at liberty. I know a  
fong useful to all mankind; for, as soon as hatred inflames the  
sons of men, the moment I fing it, they are appeased. I know  
a fong of fuch virtue, that, were I caught in a storm, I can hush  
the winds, and render the air perfectly calm.’ *The Magic of  
Odin, ap. North. Antiq. vol. 2. p. 217. Du Cange, Literae Solu-  
toriae, et voc. Incantare.*

By secret or magical operations, it was not only supposed, that  
men could defend themselves against all dangers whatever, and  
render themselves invulnerable; but that they could even change  
themselves into wolves, and other animals. The word *werwolff*  
expressed this metamorphosis, and the extravagancy is to be tra-  
ced to a distant antiquity. ‘*Neuri, ut accepimus, stas temporibus  
in lupos transfigurantur; deinde, exacto spatio quod huic  
forti attributum est, in pristinam faciem revertuntur.*’ *Solinus,*  
c. 15. To late times this ridiculous fancy was continued down  
among the Irish; and *Camden* was puzzled to account for it.  
*Britannia by Gibson, vol. 2. p. 1350.*





(21) These things appear clearly and strongly from the laws which were made against them, after the introduction of Christianity, and from other authentic evidence. *Capit. Kar. et Lud. lib. 7. LL. Longobard. lib. 2. tit. 38. Du Cange, voc. Fons, Arbor, &c. Pelloutier, Hist. des Celtes, vol. 2. edit. par Mons. de Chiniac.*

(22) *Du Cange, voc. Fadus, Fada, Caragus, Dufii, Folleti Daemones, Tempestarii. Edda. Keyser, Antiq. Septentr. et Celt.* Here we have the source of the wonders and extravagancies of the old romance.

(23) ‘Deo imperante quem adesse bellantibus credunt.’ *Tacit. de Mor. Germ. c. 7.* This deity was called *Teut* or *Tis*. After the age of *Tacitus*, if I am not mistaken, he had usually the name of *Odin*; and, it is of *Odin* that *Wormius* thus expresses himself, ‘Suam implorantibus opem in bello, instar senis monoculi equo insidentis, et albo clypeo tecti, quandoque se conspiciendum praebuit.’ *Monument. Dan. c. 4.*

(24) Traces of the spirit of gallantry and love, it is to be remarked, appear in a striking manner, even in the religious system of the Gothic nations.

‘*Freya*,’ says the *Edda*, ‘is the most propitious of the goddesses. The place which she inhabits in heaven is called “the union.”’



“ union of the people.” She goes on horseback to every place  
 ‘ where battles are fought, and asserts her right to one half of  
 ‘ the slain; the other half belongs to Odin. Her palace is large  
 ‘ and magnificent; thence she sallies forth in a chariot drawn by  
 ‘ two cats. She lends a very favourable ear to those who sue for  
 ‘ her assistance. It is from her that the ladies have received the  
 ‘ name which we give them in our language. She is very much  
 ‘ delighted with the songs of lovers; and such as would be hap-  
 ‘ py in their amours, ought to worship this goddess.’ p. 76.

In another fable of the *Edda*, there are the following particu-  
 ‘ lars. ‘ Gefione is a virgin, and takes into her service all chaste  
 ‘ maids after their death. Fylla, who is also a virgin, wears  
 ‘ her beautiful locks flowing over her shoulders. Her head is  
 ‘ adorned with a golden riband. She is entrusted with the toil-  
 ‘ lette and slippers of Frigga, and admitted into the most impor-  
 ‘ tant secrets of that goddess. . . . . Siona employs herself  
 ‘ in turning men’s hearts and thoughts to love, and in making  
 ‘ young men and maidens well with each other. Hence lovers  
 ‘ bear her name. Lovna is so good and gracious, and accords  
 ‘ so heartily to the tender vows of men, that, by a peculiar power  
 ‘ which Odin and Frigga have given her, she can reconcile lo-  
 ‘ vers the most at variance. Varra presides over the oaths that  
 ‘ men make, and particularly over the promises of lovers. She  
 ‘ is attentive to all concealed engagements of that kind, and pu-  
 ‘ nishes





‘ nishes those who keep not their plighted troth.’ *Ibid.* p. 96.  
97.

It is also remarkable, that, in the Gothic Elyfium, it was beautiful virgins named *Valkyriae*, who poured out their liquor to the heroes. *Keyfser, Antiq. Septr. et Celt.* p. 152.

(25) *St Palaye*, speaking of the candidates for chivalry, says, ‘ Les premieres leçons qu’on leur donnoit regardoient principalement *l’amour de Dieu et des dames*, c’est a dire, la religion et ‘ la galanterie.’ *Mem. sur l’ancienne cheval.* tome 1. p. 7. The Christian knight was not less devout than the Pagan warrior. Anciently, during the celebration of mafs in every country of Europe, he drew his sword, and held it out naked, in testimony of his readiness to defend the faith of Christ. *Favine*, p. 54. *Keyfser, Antiq. select. Celt.* p. 164.

It was the influence of such manners which induced ‘ that agreeable libertine Boccace very seriously to give thanks to *God Almighty* and the *Ladies* for their assistance in defending him ‘ against his enemies ;’ and which made Petrarch compare ‘ his mistress Laura to Jesus Christ ;’ circumstances which appeared so absurd to Mr Hume. See his *Essays*, p. 277.

When the Count de Dunois was about to attack the English army which besieged Montargis, la Hire, a knight and a man of fashion





fashion who served under him, having received absolution, joined devoutly his hands, and thus prayed. ‘ Dieu, je te prie que  
 ‘ tu fasses aujourd’hui pour la Hire autant que tu voudrois que  
 ‘ la Hire fist pour toi, s’il étoit Dieu, et tu fusses la Hire.’ *St  
 Foix, Ess. hist. tome 1. p. 347.*

A picture, not less strange, and still more profane, is in the poetry of *Deudes de Prades*, a canon who had the reputation of being wise and spiritual. He thus laments the death of Brunet, a troubadour, or one of the provencal bards. ‘ Il chantoit si  
 ‘ bien, que les rossignols se taissoient d’admiration pour l’entendre.  
 ‘ Aussi Dieu l’a t’il pris pour son usage. Je prie Dieu de le pla-  
 ‘ cer a sa droite. Si la Vierge aime les gens courtois, qu’elle  
 ‘ prenne celui-la.’ *Histoire litteraire des Troubadours, tome 1.  
 p. 320.*

These strokes are expressive, and illustrate, more than the most careful reasonings, the nature and spirit of the devotion of the ages of chivalry. Amidst the decencies and the proprieties which philosophy introduces in cultivated times, we look back, with surprize, to this gross familiarity with the supreme Being, and to this blasphemous insolence. Yet, it is difficult, at the same time, not to remember, that these things are equalled, if not exceeded, among us, by those gloomy and fanatical men, who, having got what they term the *new light*, conceit themselves the society of the *elect*, and the *friends* of God!

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