

themselves in foreign commerce.

But though this natural order of things must have taken place in some degree in every such society, it has, in all the modern states of Europe, been in many respects entirely inverted. The foreign commerce of some of their cities has introduced all their finer manufactures, or such as were fit for distant sale; and manufactures and foreign commerce together have given birth to the principal improvements of agriculture. The manners and customs which the nature of their original government introduced, and which remained after that government was greatly altered, necessarily forced them into this unnatural and retrograde order.

## CHAPTER II

### OF THE DISCOURAGEMENT OF AGRICULTURE IN THE ANCIENT STATE OF EUROPE, AFTER THE FALL OF THE ROMAN EMPIRE

WHEN THE GERMAN and Scythian nations overran the western provinces of the Roman empire, the confusions which followed so great a revolution lasted for several centuries. The rapine and violence which the barbarians exercised against the ancient inhabitants, interrupted the commerce between the towns and the country. The towns were deserted, and the country was left uncultivated; and the western provinces of Europe, which had enjoyed a considerable degree of opulence under the Roman empire, sunk into the lowest state of poverty and barbarism. During the continuance of those confusions, the chiefs and principal leaders of those nations acquired, or usurped to themselves, the greater part of the lands of those countries. A great part of them was uncultivated; but no part of them, whether cultivated or uncultivated, was left without a proprietor. All of them were engrossed, and the greater part by a few great proprietors.

This original engrossing of uncultivated lands, though a great,

might have been but a transitory evil. They might soon have been divided again, and broke into small parcels, either by succession or by alienation. The law of primogeniture hindered them from being divided by succession; the introduction of entails prevented their being broke into small parcels by alienation.

When land, like moveables, is considered as the means only of subsistence and enjoyment, the natural law of succession divides it, like them, among all the children of the family; of all of whom the subsistence and enjoyment may be supposed equally dear to the father. This natural law of succession, accordingly, took place among the Romans who made no more distinction between elder and younger, between male and female, in the inheritance of lands, than we do in the distribution of moveables. But when land was considered as the means, not of subsistence merely, but of power and protection, it was thought better that it should descend undivided to one. In those disorderly times, every great landlord was a sort of petty prince. His tenants were his subjects. He was their judge, and in some respects their legislator in peace and their leader in war. He made war according to his own discretion, frequently against his neighbours, and sometimes against his sovereign. The security of a landed estate, therefore, the protection which its owner could afford to those who dwelt on it, depended upon its greatness. To divide it was to ruin it, and to expose every part of it to be

oppressed and swallowed up by the incursions of its neighbours. The law of primogeniture, therefore, came to take place, not immediately indeed, but in process of time, in the succession of landed estates, for the same reason that it has generally taken place in that of monarchies, though not always at their first institution. That the power, and consequently the security of the monarchy, may not be weakened by division, it must descend entire to one of the children. To which of them so important a preference shall be given, must be determined by some general rule, founded not upon the doubtful distinctions of personal merit, but upon some plain and evident difference which can admit of no dispute. Among the children of the same family there can be no indisputable difference but that of sex, and that of age. The male sex is universally preferred to the female; and when all other things are equal, the elder everywhere takes place of the younger. Hence the origin of the right of primogeniture, and of what is called lineal succession.

Laws frequently continue in force long after the circumstances which first gave occasion to them, and which could alone render them reasonable, are no more. In the present state of Europe, the proprietor of a single acre of land is as perfectly secure in his possession as the proprietor of 100,000. The right of primogeniture, however, still continues to be respected; and as of all institutions it is the fittest to support the pride of family distinctions, it is still

likely to endure for many centuries. In every other respect, nothing can be more contrary to the real interest of a numerous family, than a right which, in order to enrich one, beggars all the rest of the children.

Entails are the natural consequences of the law of primogeniture. They were introduced to preserve a certain lineal succession, of which the law of primogeniture first gave the idea, and to hinder any part of the original estate from being carried out of the proposed line, either by gift, or device, or alienation; either by the folly, or by the misfortune of any of its successive owners. They were altogether unknown to the Romans. Neither their substitutions, nor fidei commisses, bear any resemblance to entails, though some French lawyers have thought proper to dress the modern institution in the language and garb of those ancient ones.

When great landed estates were a sort of principalities, entails might not be unreasonable. Like what are called the fundamental laws of some monarchies, they might frequently hinder the security of thousands from being endangered by the caprice or extravagance of one man. But in the present state of Europe, when small as well as great estates derive their security from the laws of their country, nothing can be more completely absurd. They are founded upon the most absurd of all suppositions, the supposition that every successive generation of men have not an equal

right to the earth, and to all that it possesses; but that the property of the present generation should be restrained and regulated according to the fancy of those who died, perhaps five hundred years ago. Entails, however, are still respected, through the greater part of Europe; In those countries, particularly, in which noble birth is a necessary qualification for the enjoyment either of civil or military honours. Entails are thought necessary for maintaining this exclusive privilege of the nobility to the great offices and honours of their country; and that order having usurped one unjust advantage over the rest of their fellow-citizens, lest their poverty should render it ridiculous, it is thought reasonable that they should have another. The common law of England, indeed, is said to abhor perpetuities, and they are accordingly more restricted there than in any other European monarchy; though even England is not altogether without them. In Scotland, more than one fifth, perhaps more than one third part of the whole lands in the country, are at present supposed to be under strict entail.

Great tracts of uncultivated land were in this manner not only engrossed by particular families, but the possibility of their being divided again was as much as possible precluded for ever. It seldom happens, however, that a great proprietor is a great improver. In the disorderly times which gave birth to those barbarous institutions, the great proprietor was sufficiently employed in defend-

ing his own territories, or in extending his jurisdiction and authority over those of his neighbours. He had no leisure to attend to the cultivation and improvement of land. When the establishment of law and order afforded him this leisure, he often wanted the inclination, and almost always the requisite abilities. If the expense of his house and person either equalled or exceeded his revenue, as it did very frequently, he had no stock to employ in this manner. If he was an economist, he generally found it more profitable to employ his annual savings in new purchases than in the improvement of his old estate. To improve land with profit, like all other commercial projects, requires an exact attention to small savings and small gains, of which a man born to a great fortune, even though naturally frugal, is very seldom capable. The situation of such a person naturally disposes him to attend rather to ornament, which pleases his fancy, than to profit, for which he has so little occasion. The elegance of his dress, of his equipage, of his house and household furniture, are objects which, from his infancy, he has been accustomed to have some anxiety about. The turn of mind which this habit naturally forms, follows him when he comes to think of the improvement of land. He embellishes, perhaps, four or five hundred acres in the neighbourhood of his house, at ten times the expense which the land is worth after all his improvements; and finds, that if he was to improve his whole

estate in the same manner, and he has little taste for any other, he would be a bankrupt before he had finished the tenth part of it. There still remain, in both parts of the united kingdom, some great estates which have continued, without interruption, in the hands of the same family since the times of feudal anarchy. Compare the present condition of those estates with the possessions of the small proprietors in their neighbourhood, and you will require no other argument to convince you how unfavourable such extensive property is to improvement.

If little improvement was to be expected from such great proprietors, still less was to be hoped for from those who occupied the land under them. In the ancient state of Europe, the occupiers of land were all tenants at will. They were all, or almost all, slaves, but their slavery was of a milder kind than that known among the ancient Greeks and Romans, or even in our West Indian colonies. They were supposed to belong more directly to the land than to their master. They could, therefore, be sold with it, but not separately. They could marry, provided it was with the consent of their master; and he could not afterwards dissolve the marriage by selling the man and wife to different persons. If he maimed or murdered any of them, he was liable to some penalty, though generally but to a small one. They were not, however, capable of acquiring property. Whatever they acquired was acquired to their mas-

ter, and he could take it from them at pleasure. Whatever cultivation and improvement could be carried on by means of such slaves, was properly carried on by their master. It was at his expense. The seed, the cattle, and the instruments of husbandry, were all his. It was for his benefit. Such slaves could acquire nothing but their daily maintenance. It was properly the proprietor himself, therefore, that in this case occupied his own lands, and cultivated them by his own bondmen. This species of slavery still subsists in Russia, Poland, Hungary, Bohemia, Moravia, and other parts of Germany. It is only in the western and south-western provinces of Europe that it has gradually been abolished altogether.

But if great improvements are seldom to be expected from great proprietors, they are least of all to be expected when they employ slaves for their workmen. The experience of all ages and nations, I believe, demonstrates that the work done by slaves, though it appears to cost only their maintenance, is in the end the dearest of any. A person who can acquire no property can have no other interest but to eat as much and to labour as little as possible. Whatever work he does beyond what is sufficient to purchase his own maintenance, can be squeezed out of him by violence only, and not by any interest of his own. In ancient Italy, how much the cultivation of corn degenerated, how unprofitable it became to the master, when it fell under the management of slaves, is re-

marked both by Pliny and Columella. In the time of Aristotle, it had not been much better in ancient Greece. Speaking of the ideal republic described in the laws of Plato, to maintain 5000 idle men (the number of warriors supposed necessary for its defence), together with their women and servants, would require, he says, a territory of boundless extent and fertility, like the plains of Babylon.

The pride of man makes him love to domineer, and nothing mortifies him so much as to be obliged to condescend to persuade his inferiors. Wherever the law allows it, and the nature of the work can afford it, therefore, he will generally prefer the service of slaves to that of freemen. The planting of sugar and tobacco can afford the expense of slave cultivation. The raising of corn, it seems, in the present times, cannot. In the English colonies, of which the principal produce is corn, the far greater part of the work is done by freemen. The late resolution of the Quakers in Pennsylvania, to set at liberty all their negro slaves, may satisfy us that their number cannot be very great. Had they made any considerable part of their property, such a resolution could never have been agreed to. In our sugar colonies., on the contrary, the whole work is done by slaves, and in our tobacco colonies a very great part of it. The profits of a sugar plantation in any of our West Indian colonies, are generally much greater than those of any other cultivation that is known either in Europe or America; and the profits

of a tobacco plantation, though inferior to those of sugar, are superior to those of corn, as has already been observed. Both can afford the expense of slave cultivation but sugar can afford it still better than tobacco. The number of negroes, accordingly, is much greater, in proportion to that of whites, in our sugar than in our tobacco colonies.

To the slave cultivators of ancient times gradually succeeded a species of farmers, known at present in France by the name of *metayers*. They are called in Latin *Coloni Partiarum*. They have been so long in disuse in England, that at present I know no English name for them. The proprietor furnished them with the seed, cattle, and instruments of husbandry, the whole stock, in short, necessary for cultivating the farm. The produce was divided equally between the proprietor and the farmer, after setting aside what was judged necessary for keeping up the stock, which was restored to the proprietor, when the farmer either quitted or was turned out of the farm.

Land occupied by such tenants is properly cultivated at the expense of the proprietors, as much as that occupied by slaves. There is, however, one very essential difference between them. Such tenants, being freemen, are capable of acquiring property; and having a certain proportion of the produce of the land, they have a plain interest that the whole produce should be as great as pos-

sible, in order that their own proportion may be so. A slave, on the contrary, who can acquire nothing but his maintenance, consults his own ease, by making the land produce as little as possible over and above that maintenance. It is probable that it was partly upon account of this advantage, and partly upon account of the encroachments which the sovereigns, always jealous of the great lords, gradually encouraged their villains to make upon their authority, and which seem, at least, to have been such as rendered this species of servitude altogether inconvenient, that tenure in villanage gradually wore out through the greater part of Europe. The time and manner, however, in which so important a revolution was brought about, is one of the most obscure points in modern history. The church of Rome claims great merit in it; and it is certain, that so early as the twelfth century, Alexander III. published a bull for the general emancipation of slaves. It seems, however, to have been rather a pious exhortation, than a law to which exact obedience was required from the faithful. Slavery continued to take place almost universally for several centuries afterwards, till it was gradually abolished by the joint operation of the two interests above mentioned; that of the proprietor on the one hand, and that of the sovereign on the other. A villain, enfranchised, and at the same time allowed to continue in possession of the land, having no stock of his own, could cultivate it only by means of

what the landlord advanced to him, and must therefore have been what the French call a metayer.

It could never, however, be the interest even of this last species of cultivators, to lay out, in the further improvement of the land, any part of the little stock which they might save from their own share of the produce; because the landlord, who laid out nothing, was to get one half of whatever it produced. The tithe, which is but a tenth of the produce, is found to be a very great hindrance to improvement. A tax, therefore, which amounted to one half, must have been an effectual bar to it. It might be the interest of a metayer to make the land produce as much as could be brought out of it by means of the stock furnished by the proprietor; but it could never be his interest to mix any part of his own with it. In France, where five parts out of six of the whole kingdom are said to be still occupied by this species of cultivators, the proprietors complain, that their metayers take every opportunity of employing their master's cattle rather in carriage than in cultivation; because, in the one case, they get the whole profits to themselves, in the other they share them with their landlord. This species of tenants still subsists in some parts of Scotland. They are called steel-bow tenants. Those ancient English tenants, who are said by Chief-Baron Gilbert and Dr Blackstone to have been rather bailiffs of the landlord than farmers, properly so called, were probably of the

same kind.

To this species of tenantry succeeded, though by very slow degrees, farmers, properly so called, who cultivated the land with their own stock, paying a rent certain to the landlord. When such farmers have a lease for a term of years, they may sometimes find it for their interest to lay out part of their capital in the further improvement of the farm; because they may sometimes expect to recover it, with a large profit, before the expiration of the lease. The possession, even of such farmers, however, was long extremely precarious, and still is so in many parts of Europe. They could, before the expiration of their term, be legally ousted of their leases by a new purchaser; in England, even, by the fictitious action of a common recovery. If they were turned out illegally by the violence of their master, the action by which they obtained redress was extremely imperfect. It did not always reinstate them in the possession of the land, but gave them damages, which never amounted to a real loss. Even in England, the country, perhaps of Europe, where the yeomanry has always been most respected, it was not till about the 14th of Henry VII. that the action of ejectment was invented, by which the tenant recovers, not damages only, but possession, and in which his claim is not necessarily concluded by the uncertain decision of a single assize. This action has been found so effectual a remedy, that, in the modern practice, when the land-

lord has occasion to sue for the possession of the land, he seldom makes use of the actions which properly belong to him as a landlord, the writ of right or the writ of entry, but sues in the name of his tenant, by the writ of ejectment. In England, therefore the security of the tenant is equal to that of the proprietor. In England, besides, a lease for life of forty shillings a-year value is a freehold, and entitles the lessee to a vote for a member of parliament; and as a great part of the yeomanry have freeholds of this kind, the whole order becomes respectable to their landlords, on account of the political consideration which this gives them. There is, I believe, nowhere in Europe, except in England, any instance of the tenant building upon the land of which he had no lease, and trusting that the honour of his landlord would take no advantage of so important an improvement. Those laws and customs, so favourable to the yeomanry, have perhaps contributed more to the present grandeur of England, than all their boasted regulations of commerce taken together.

The law which secures the longest leases against successors of every kind, is, so far as I know, peculiar to Great Britain. It was introduced into Scotland so early as 1449, by a law of James II. Its beneficial influence, however, has been much obstructed by entails; the heirs of entail being generally restrained from letting leases for any long term of years, frequently for more than one year. A

late act of parliament has, in this respect, somewhat slackened their fetters, though they are still by much too strait. In Scotland, besides, as no leasehold gives a vote for a member of parliament, the yeomanry are upon this account less respectable to their landlords than in England.

In other parts of Europe, after it was found convenient to secure tenants both against heirs and purchasers, the term of their security was still limited to a very short period; in France, for example, to nine years from the commencement of the lease. It has in that country, indeed, been lately extended to twentyseven, a period still too short to encourage the tenant to make the most important improvements. The proprietors of land were anciently the legislators of every part of Europe. The laws relating to land, therefore, were all calculated for what they supposed the interest of the proprietor. It was for his interest, they had imagined, that no lease granted by any of his predecessors should hinder him from enjoying, during a long term of years, the full value of his land. Avarice and injustice are always short-sighted, and they did not foresee how much this regulation must obstruct improvement, and thereby hurt, in the long-run, the real interest of the landlord.

The farmers, too, besides paying the rent, were anciently, it was supposed, bound to perform a great number of services to the landlord, which were seldom either specified in the lease, or regu-



lated by any precise rule, but by the use and wont of the manor or barony. These services, therefore, being almost entirely arbitrary, subjected the tenant to many vexations. In Scotland the abolition of all services not precisely stipulated in the lease, has, in the course of a few years, very much altered for the better the condition of the yeomanry of that country.

The public services to which the yeomanry were bound, were not less arbitrary than the private ones. To make and maintain the high roads, a servitude which still subsists, I believe, everywhere, though with different degrees of oppression in different countries, was not the only one. When the king's troops, when his household, or his officers of any kind, passed through any part of the country, the yeomanry were bound to provide them with horses, carriages, and provisions, at a price regulated by the purveyor. Great Britain is, I believe, the only monarchy in Europe where the oppression of purveyance has been entirely abolished. It still subsists in France and Germany.

The public taxes, to which they were subject, were as irregular and oppressive as the services. The ancient lords, though extremely unwilling to grant, themselves, any pecuniary aid to their sovereign, easily allowed him to tallage, as they called it, their tenants, and had not knowledge enough to foresee how much this must, in the end, affect their own revenue. The taille, as it still subsists in

France, may serve as an example of those ancient tallages. It is a tax upon the supposed profits of the farmer, which they estimate by the stock that he has upon the farm. It is his interest, therefore, to appear to have as little as possible, and consequently to employ as little as possible in its cultivation, and none in its improvement. Should any stock happen to accumulate in the hands of a French farmer, the taille is almost equal to a prohibition of its ever being employed upon the land. This tax, besides, is supposed to dishonour whoever is subject to it, and to degrade him below, not only the rank of a gentleman, but that of a burgher; and whoever rents the lands of another becomes subject to it. No gentleman, nor even any burgher, who has stock, will submit to this degradation. This tax, therefore, not only hinders the stock which accumulates upon the land from being employed in its improvement, but drives away all other stock from it. The ancient tenths and fifteenths, so usual in England in former times, seem, so far as they affected the land, to have been taxes of the same nature with the taille.

Under all these discouragements, little improvement could be expected from the occupiers of land. That order of people, with all the liberty and security which law can give, must always improve under great disadvantage. The farmer, compared with the proprietor, is as a merchant who trades with burrowed money, compared with one

who trades with his own. The stock of both may improve; but that of the one, with only equal good conduct, must always improve more slowly than that of the other, on account of the large share of the profits which is consumed by the interest of the loan. The lands cultivated by the farmer must, in the same manner, with only equal good conduct, be improved more slowly than those cultivated by the proprietor, on account of the large share of the produce which is consumed in the rent, and which, had the farmer been proprietor, he might have employed in the further improvement of the land. The station of a farmer, besides, is, from the nature of things, inferior to that of a proprietor. Through the greater part of Europe, the yeomanry are regarded as an inferior rank of people, even to the better sort of tradesmen and mechanics, and in all parts of Europe to the great merchants and master manufacturers. It can seldom happen, therefore, that a man of any considerable stock should quit the superior, in order to place himself in an inferior station. Even in the present state of Europe, therefore, little stock is likely to go from any other profession to the improvement of land in the way of farming. More does, perhaps, in Great Britain than in any other country, though even there the great stocks which are in some places employed in farming, have generally been acquired by fanning, the trade, perhaps, in which, of all others, stock is commonly acquired most slowly. After small proprietors, however, rich and great farm-

ers are in every country the principal improvers. There are more such, perhaps, in England than in any other European monarchy. In the republican governments of Holland, and of Berne in Switzerland, the farmers are said to be not inferior to those of England.

The ancient policy of Europe was, over and above all this, unfavourable to the improvement and cultivation of land, whether carried on by the proprietor or by the farmer; first, by the general prohibition of the exportation of corn, without a special licence, which seems to have been a very universal regulation; and, secondly, by the restraints which were laid upon the inland commerce, not only of corn, but of almost every other part of the produce of the farm, by the absurd laws against engrossers, regraters, and forestallers, and by the privileges of fairs and markets. It has already been observed in what manner the prohibition of the exportation of corn, together with some encouragement given to the importation of foreign corn, obstructed the cultivation of ancient Italy, naturally the most fertile country in Europe, and at that time the seat of the greatest empire in the world. To what degree such restraints upon the inland commerce of this commodity, joined to the general prohibition of exportation, must have discouraged the cultivation of countries less fertile, and less favourably circumstanced, it is not, perhaps, very easy to imagine.