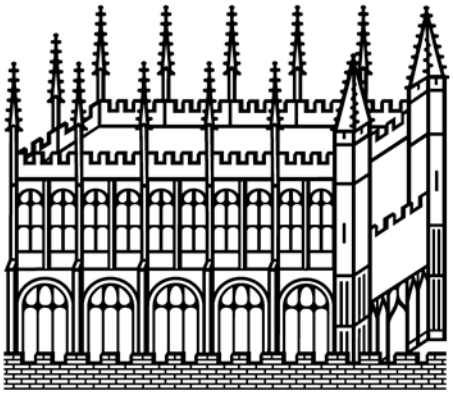

ESSAYS

ON THE

ORIGIN

OF

SOCIETY,
LANGUAGE,
PROPERTY,
GOVERNMENT,

JURISDICTION,
CONTRACTS,
AND
MARRIAGE.

INTERSPERSED WITH

ILLUSTRATIONS

FROM THE

GREEK AND GALIC LANGUAGES.

BY JAMES GRANT, ESQ. ADVOCATE.

LONDON:

PRINTED BY B. MILLAN, HENRIETTA-STREET, COVENT-GARDEN;

FOR G. G. J. AND J. ROBINSON, PATER-NOSTER-ROW;

AND

C. ELLIOT, EDINBURGH.

M DCC LXXXV.

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ERRA-

ERRATA.

Page 84, lines 5 & 6, *For*, were made the chief, *read*, were made by the chief.

—— 169, l. 21 & 22, *For*, by the obligee, as a ſecurity of performance of his engagement to the obligor, *read*, by the obligor, as a ſecurity of performance of his engagement to the obligee.

ORIGIN

OF

SOCIETY.

"AND the Lord God planted a garden eaſt-
ward in Eden; and there he put the
"man whom he had formed: and out of the
"ground made the Lord God to grow every
"tree that is pleaſant to the ſight, and good
"for food *."

"AND God ſaid, Behold, I have given you
"every herb bearing ſeed, which is upon the
"face of all the earth; and every tree, in the

* Geneſis, ch. ii. v. 8, 9.

" which is the fruit of a tree yielding ſeed, to " you it ſhall be for meat*."

In all that admirable variety of appearances which Nature exhibits to our view, the eye of a juſt obſerver muſt ever recogniſe that beautiful ſimplicity and economy which uniformly pervade her works.

One man and one woman were ſufficient to people the earth. The creation of more perſons of the human ſpecies than one male and one female, who were under the ſpecial care of the Divine Being, was unneceſſary.

The firſt man and woman muſt have been formed in full poſſeſſion of thoſe inſtincts, which lead to ſelf-preſervation and the propagation of the ſpecies. Having come out of the hand of the Creator perfect in their kind, they unerringly obeyed the laws of their nature: they ate of

* Geneſis, ch. i. v. 29.

the

the fruits of the earth, which grew in profuſion around them: they increaſed and multiplied. While they remained in the garden of Eden, they were ſecure from the attacks of ferocious animals: the bounties of Nature gratified in abundance their appetite for food: there exiſted not, as yet, any ſituations or circumſtances to call forth the diſplay of thoſe arts of contrivance and ingenuity which the human mind puts in practice in the progreſſive ſtages of ſociety.

PRIMEVAL Man, unaſſailed by the anxieties which a ſcanty proviſion of food creates, obeyed the dictates of his nature without control: he fed, he ſlept; or, incited to action by the native enjoyment which is felt in the exerciſe of the members of the body, he ſported in innocence, and gratified the ſocial diſpoſition of his kind.

IN ſuch happy ſtate it was not the lot of humanity long to continue. Man received from

of the ſun's genial rays, the food of Man grew in profuſion before his eyes: prepared by the hand of Nature, it required no degree of human art to make it palatable. Like all other granivorous animals, the human ſpecies herded together, and fed in common. The air which they breathed, the water which they drank, the food which they ate, were all equally the bounties of Nature, and were indiſcriminately enjoyed in the ſtate of primeval ſimplicity.

THE happieſt climates are not bleſſed with a conſtant ſun and a ſerene ſky. The grateful light periodically withdraws its cheering influence: Man finds himſelf enveloped in darkneſs; that ſeaſon in which the fierce tribes of carnivorous animals ſally forth from their dens in ſearch of their prey. Man muſt, therefore, have very early employed his art in building a ſufficient fence againſt ſuch dangerous enemies, or have taken the benefit of receptacles already prepared by Nature for his nightly habitation:

Proque

Proque domo longis ſpelunca receſſibus ingens
Abdita, vix ipſis invenienda feris *.

MAN, advanced in refinement of manners, and practiſing thoſe arts of improved civility and ſtudied policy which link together the ſubjects of great ſtates, nations, and empires, cannot eaſily quit his artificial ſtation, and deſcend to the level of his primeval anceſtors. He is apt to conſider the accounts given of early ſocieties of mankind living in caves, in the holes of rocks, or hollows of trees, as the effuſion of poetical fancy, as the offspring of the vain credulity of fabulous hiſtorians, or as the invention of travellers who delight in the relation of marvellous things. But the philoſophic enquirer will not haſtily reject the teſtimony of authors recounting facts relative to the original ſtate of Man, becauſe they are inconſiſtent with the train of his experience in improved ſociety; or becauſe it may be conſidered

* Ovid. 1. Faſt.

as

as incompatible with the elevation and dignity of ſtation which the human ſpecies are obſerved to hold among all ſublunary beings, to be aſſimilated to the beaſts of the field, herding together, cohabiting promiſcuouſly, feeding in common upon the fleſh of other animals, or upon fruits, roots, and herbs, without any regular notion of religion, government, arts, or property.

"MISERET atque etiam pudet æſtimantem, "quam ſit frivola animalium nobiliſſimi origo *."

IT is, however, no leſs unwiſe than unphiloſophical, to give way to ſo painful a feeling upon the ſubject of the original ſtate of Man's exiſtence, whether he is conſidered in his individual or aggregate capacity. All things are the work of the Supreme Author of the Univerſe: from the energy of his power every being derives his exiſtence.

* Plin. Nat. Hiſt. lib. vii. cap. 7.

Ab

Ab Jove principium Muſæ, Jovis omnia plena *.

THERE is no property more remarkable in the conſtitution of Man, than the verſatility of his genius, and the facility with which he accommodates himſelf to the circumſtances of his condition. He is born in a ſociety more or leſs numerous, upon which there is already ſtamped a certain form. He is not the author or contriver of his own lot. External circumſtances exiſt independently of him: to theſe he bends his will, or puts in action his arts of contrivance to faſhion them to his convenience. In this occupation his inventive powers and various talents are conſpicuouſly diſplayed. Hence a diverſity in ſituations and conditions muſt neceſſarily produce a diverſity in manners and cuſtoms; and adventitious circumſtances of a phyſical nature may juſtly lay claim to a conſi-

* Virg. Ecl. iii. 60.

derable ſhare of influence in the formation of national characters.

THE North-American Indian is a ſuperior animal to the Eſquimaux. This ſuperiority ariſes not from any partiality of Nature in favour of the Indian warrior: it muſt be aſcribed to the difference of their condition and mode of ſubſiſtence, which muſt affect, if not determine, their manners and characters.

THE Eſquimaux differs from the North-American Indian, no leſs in manners than in ſize and ſhape. The former is low of ſtature, round-faced, plump, and chubby. The latter is larger in ſize, ſtraight, thin, and bony. The Eſquimaux is ſportful, and expreſſes a childiſh joy at new objects. The Indian appears with a grave countenance and ſtately deportment: his demeanour is expreſſive of dignity and pride. The former feeds upon ſeal's fleſh, fiſh, and blubber; and although he exhibits great ſkill and

and ingenuity in the management of his little veſſel at ſea, his food is procured without thoſe bodily exertions which qualify him for warlike contention with the latter, who practiſes a high degree of cunning, addreſs, and manly activity, in deſtroying the game which is his chief fund of ſubſiſtence.

THE inhabitants of the colder regions of the globe are found univerſally to be more active beings than thoſe of hot climates. The former are jealous of encroachments on their natural freedom; they are impatient under uſurpation of power: while the latter, naked and improvident, baſk in the rays of the ſun; or, in the cooler ſhade, indulge in indolence and liſtleſs inactivity.

THE ſpontaneous productions of the earth long furniſhed the inhabitants of the middle regions of the globe with food in abundance; while the natives of climes ſituated nearer the polar extremes were early forced to roam over

foreſts and deſerts in purſuit of the means of ſupplying their daily wants. Such diverſity of occupations muſt neceſſarily have produced a variety in the manners and cuſtoms of different races of men, and have early ſtamped on different tribes or ſocieties of mankind diſtinct marks of variety of character.

In taking a view of the rude tribes of whom either laudable curioſity or proſpects of gain have procured information, one general trait may be obſerved to run throughout the whole of them. The Aſiatic, the African, the American, the European barbarian, when not ſtimulated by appetite for food, or by motives of action which flatter his vanity and pride, diſcovers a fondneſs for idleneſs and repoſe. All have their ſports, their dances, and their feaſts; but no laborious exertion, no enterprize of difficult or dangerous execution, are undertaken, from the abſtract conſideration, that ſloth and indolence are vices, or that activity and induſtry are virtues.

virtues. The human race exiſting in the earlieſt ſtates of ſociety have with reaſon been compared to the canine ſpecies, who ſpend their time in ſleep and indolence, when not engaged in warfare, in ſportive exerciſe, or in procuring food. To render Man active, his affections muſt be touched. He exerts himſelf, when rouſed by his deſires: while his paſſions continue in a ſtate of reſt, his excellencies and abilities will remain undiſcovered.

THAT idleneſs conſtitutes a chief part of the character of a rude people, is a propoſition the truth of which is ſufficiently confirmed by antient and modern obſervation. "If we contemplate "a ſavage nation," ſays Mr. Gibbon, "in any "part of the globe, a ſupine indolence and a "careleſſneſs about futurity will be found to "conſtitute their general character."

TACITUS, in his character of the antient Germans, obſerving their love of idleneſs, wonders

ders how they ſhould at the ſame time ſeem to hate quiet and repoſe: "Mira diverſitas naturæ, "ut iidem homines ſic ament inertiam, & oderint "quietem*." This admirable hiſtorian's character of the Germans is applicable to every people living in a rude ſtate of ſociety, and inhabiting thoſe tracts of the earth where ſuſtenance is to be procured by dexterity, addreſs, and enterprize.

THE occupation of hunting the wild beaſts of the field, is an emblem of war among the human race: it is often attended with danger, and frequently calls forth great exertions of mind and body. The ſame inſtruments are uſed in hunting, which are employed in conteſt with the human ſpecies. The moſt valuable qualities are thoſe which ſerve to procure maintenance for the tribe. The perſon moſt eminently poſſeſſed of thoſe qualities draws moſt pow-

* Taciti Germ. cap. xv.

erfully

erfully towards him the eſteem and admiration of the ſociety to which he is attached; and, in the day of warlike contention, will, by univerſal conſent, be dignified with the title of Chief or Leader. It is the conſideration of utility, which may be referred to the principle of ſelf-preſervation, that, in times of danger, raiſes one member of a tribe into a ſtation elevated above his fellows. In proportion as tribes multiply and increaſe, the feelings of ſelf-preſervation in each are alarmed. Their hunting-grounds are limited only by the utmoſt range of their excurſions in ſearch of their game. In this neceſſary occupation the members of different tribes may encounter; fears of encroachments will on either ſide prevail; apprehenſions about the means of ſubſiſtence ariſe; the ſeeds of diſſenſion are ſown, which grow up into the moſt cruel enmity and rancour:

Tum magis increſcunt animis diſcordibus iræ.

MAN,

MAN, however, is not born with a pre-determined diſpoſition to hate his ſpecies. When he comes into the world, the tender care of the mother muſt be exerciſed to preſerve him from periſhing. Offices of kindneſs and affection attend his infant years. He is raiſed to manhood by the bounty of thoſe around him. All perſons of his ſpecies whom he is accuſtomed to behold, are his benefactors: his experience is uniformly connected with the beneficence of his kind. Actions of benevolence muſt produce correſpondent affections in the mind; and theſe will ſerve to determine the human character. Man is therefore not the enemy of man, and a ſtate of nature is not a ſtate of war.

MAN, on whatever ſpot of the earth he was firſt planted, muſt have been plentifully ſupplied with food: as his family increaſed, they muſt have traverſed over a larger tract of ground in ſearch of the means of ſubſiſtence. A certain

ſpace

ſpace of territory could afford food but for a definite number of people. Their ſituation would ſoon lead them to diſcover the convenience of ſeparating into leſſer bands, and of removing into more diſtant regions; but ſtill they would herd together in ſuch numbers as ſhould be ſufficient to afford ſecurity againſt the attacks of the ferocious animals of prey which they ſhould have occaſion to encounter.

THE human ſpecies muſt have lived at a very early period in a ſtate of war with the noxious animals of the field: their ingenuity muſt have been early called forth for their deſtruction. The weapons which they had invented for defence and preſervation againſt thoſe fierce enemies, they could have had no motive to direct againſt one another, while the territory they were wont to traverſe afforded ſufficiency of food for their maintenance. The multiplication of the ſpecies begot thoſe fears and apprehenſions which ſerved to link together mankind in the form of hordes

or tribes; each being joined together by that ſtrongeſt motive of political union, ſelf-preſervation. It was from neceſſity that neighbouring tribes became what may be termed natural enemies, actuated by a never-ceaſing jealouſy, or relentleſs hatred.

THE relative ſituation of rude tribes to each other, may eaſily account for that ſeeming inconſiſtency of character aſcribed to the antient Germans.

THE moſt expert hunter, or, in other words, the moſt ſucceſsful provider of the means of ſubſiſtence, eaſily gained the greateſt ſhare of praiſe and eſteem; and as the public good is the predominant principle of action, real merit never failed to meet with its juſt reward; which conſiſted in exaltation to the chief command in the day of battle, or enterprize of danger. Feats of agility and exploits of difficult execution are held to be neceſſary to the ſafety of the community.

munity. War againſt their own ſpecies, or againſt the beaſts of the field, affords primitive ſocieties the only occaſion for the exertion of thoſe talents and abilities which gain eſteem and confidence, and gratify the ambition and pride of rude men, by raiſing them to the rank of great warriors in the day of danger.

PRIDE, or an inordinate degree of ſelf-eſteem, is a predominant feature in the character of ſavage man: a rude dignity of manner and loftineſs of air mark his gait and deportment. A man who depends upon his own perſonal activity and proweſs, and is in the daily habits of victory and conqueſt in procuring the means of ſubſiſtence, naturally fancies in himſelf qualities of excellence and ſuperiority; and as, in the common affairs of life, he requires not the aid or favour of any of his fellow-members of the tribe, he feels himſelf free and independent, and therefore is naturally endued with that high ſenſe of ſelf-eſteem which conſtitutes the paſſion of pride.

ANTIENT authors teſtify the fondneſs of rude people for warfare: when they had no wars to engage their attention at home, they went in ſearch of other nations engaged in warlike conteſts*.

THE like diſpoſition is obſerved in the American Indians. An individual will make a ſolitary excurſion of many days journey, through trackleſs woods, or over mountains covered with ſnow, in purſuit of an enemy or a wild beaſt; and when he returns home, like the beaſt of prey, becomes a ſluggard, paſſing his time in ſleep and indolence until rouſed to action by a freſh expedition of difficulty and danger †.

CONSTANT labour, ſuch as occupies the time of the great body of mankind in civilized ſociety,

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* Taciti German. cap. xiv. Ammianus Marcellinus, lib. xv. c. 12. Cæſar de Bello Gallico, lib. iv. c. 1.

† Carver's Travels, p. 298.

would,

would, to the imagination of a primitive man, figure as a greater evil, and in fact prove a more intolerable grievance, than the moſt cruel death. The ſavage and barbarian are habituated to great exertions and indolence by turns. War being the only ſcene in which the talents and abilities which they moſt highly eſteem can be diſplayed, it is no wonder they ſhould ſeek for diſtinction where alone it is to be found. The utility of warlike exerciſes calculated for the defence and ſafety of the community, ſerved to feed the flame of admiration for dexterous atchievements; and the moſt ſucceſsful ſlayer of men was the moſt conſpicuous object of praiſe. "And it came to paſs as they came, when David "was returned from the ſlaughter of the Philiſtines, that the women came out of all cities "of Iſrael, ſinging and dancing to meet King "Saul, with tabrets, with joy, and with inſtruments of muſic. And the women anſwered "one another as they played, and ſaid, Saul

"hath

"hath ſlain his thouſands, and David his ten "thouſands *."

THE diſcoveries which have been made in modern ages, have led us into an acquaintance with varieties of condition in which the human ſpecies are found to exiſt. Mankind appear in all ſituations divided into tribes, herding together, ſubſiſting in diſtinct communities, who underſtand ſeparate intereſts. They have a ſenſe of common danger: wars and diſſenſions prevail among them: they appear armed for each other's deſtruction: their breaſts are, in times of contention, filled with the moſt implacable animoſities, which produce the moſt rancorous cruelties.

THIS mode of life could not have been the original and natural ſtate of Man. There muſt

* 1 Samuel, chap. xviii. v. 6, 7.

have

have exiſted a period when the whole human race lived in amity together; when as yet no diſtinction of warlike tribes was known; when no idea of ſeparate intereſts had found place in the human mind. While Nature, without the exertion of art or induſtry, had furniſhed food ſufficient to ſupply the wants of the whole human ſpecies, the means of ſubſiſtence were enjoyed by all in common: notions of ſeparate intereſts could not have had exiſtence. Mankind muſt have lived in a ſtate of general concord, until preſſed by wants which they found not ready means to ſupply. The exiſtence of all the members of the community living in a body became then incompatible. Branches naturally iſſued from the main ſtock. Thus colonies were ſent forth, and the earth was peopled. Mankind aſſociated from a principle of natural affection towards the ſpecies. Their union was rendered firm and ſtable, from a principle of fear and ſelf-preſervation.

SOCIETY preſents a variety of appearances, through its ſucceſſive ſtages from rudeneſs to refinement. What is termed the ſavage ſtate of ſociety is held by philoſophers to be the firſt and moſt natural to primeval Man. The marks by which this ſtate is diſtinguiſhed are, the occupation of hunting or fiſhing to procure the means of ſubſiſtence, or the feeding upon the ſpontaneous productions of the earth, and ignorance of the nature of excluſive or private property in individuals.

AN illuſtrious author * affirms, that a general ſtate of promiſcuous commerce among the ſexes never exiſted but in the imagination of poets. Several circumſtances, however, natural to the ſtate of primeval ſociety, afford grounds for doubting the juſtice of this aſſertion. It appears to be more than probable, that a ſtate of pro-

* Dr. Robertſon's Hiſtory of America.

miſcuous

miſcuous commerce among the ſexes made part of the original mode of ſocial exiſtence; and that the union of the ſexes by excluſive ties, was a departure from the firſt and moſt natural ſtate of human ſociety. A ſtate of promiſcuous commerce among the ſexes we ſhould be inclined to hold, alſo, as one of the diſtinguiſhing marks of primeval ſociety.

THERE are qualities belonging to the human ſpecies, which are univerſal properties of their nature, and ſufficiently diſtinguiſh them from all other animals. One of theſe properties in Man, and which conſtitutes a well-marked diſtinction, is LANGUAGE.

ORIGIN

OF

LANGUAGE.

MAN is diſtinguiſhed in a peculiar manner from the brute creation by his voice, and the various modulations of which it is capable. His organs of articulation diſplay an admirable variety of powers, which no other ſpecies of animal appears to poſſeſs. Theſe powers were beſtowed on him to anſwer the purpoſes of his nature. By their means he communicates thoughts, intelligence of which can be conveyed with preciſion neither by features, countenance, nor geſture.

THE firſt language, or vocal expreſſion, would conſiſt of ſimple ſounds, the ſignificancy of which

would be determined by a particular tone of voice, modulated by the paſſion or feeling of the mind which excited vocal utterance.

It is found from experience, that different paſſions produce different tones and modulations of voice. Theſe, whether conſiſting of ſimple or articulate ſounds, conſtituted the elementary parts of language, and laid the foundation of that artificial ſuperſtructure, which mankind in all ſituations have formed for the purpoſes of communicating to one another a knowledge of the feelings and operations of their minds.

If there is now exiſting an original language uncorrupted by foreign admixture, it will be found, upon examination of its roots and combinations, to contain an authentic record of the original manners of primeval ſociety, of their cuſtoms, notions of right and wrong, and their mode of ſocial life.

IT is not the intention of this Eſſay, to enter into any elaborate diſquiſition on the origin of language. A ſubject which has occupied the attention of men of the greateſt philoſophical ingenuity and abilities, could derive little additional elucidation from our beſt endeavours. We ſhall therefore content ourſelves with taking notice of ſome roots, combinations, and derivations of words in a primitive and ſtill living language, which tend to throw ſome light upon the original condition of Man, and to mark the train of his ideas in his primeval ſtate of exiſtence.

THE Galic language, ſpoken by the Caledonians, or, as they are now called, the Highlanders of Scotland, and by the deſcendants of the antient inhabitants of Ireland, it is well known, is a dialect of the Celtic language, which was at a remote period ſpoken by the inhabitants of a conſiderable part of this globe. That this

this dialect of the Celtic ſtill preſerves its original purity, may reaſonably be preſumed from the circumſtance, that the Caledonians have remained to modern times an unmixed people. The ſubjection of their country, though it might ſerve to gratify the minds of vain and ambitious conquerors, could furniſh no ſtrong allurements for the eſtabliſhment of ſettlements. The barrenneſs of the ſoil preſented no flattering temptations for fixing a permanent reſidence. The difficulties of encountering a warlike people inhabiting a country which every where preſented lakes, rivers, rocks, woods, and mountains, were ſufficient to cool the ardour of even Roman conquerors; who, dreading the hazard, or ſeeing the unprofitableneſs, of accompliſhing the deſign of conqueſt, held it more expedient to build fortified walls, as well for the preſervation of the provinces which they had ſubdued, as for repelling the incurſions of the natives, whoſe ſpirit they could not reduce to obedience.

IT is true, that the Danes and Norwegians made ſettlements in the weſtern and northern iſlands of Scotland; but the language of the Caledonians could not have been affected by the incurſions of the northern nations, who never had made any ſettlements in Caledonia properly ſo called.

THAT the Galic is an original language, can be proved by the moſt ſatisfactory and demonſtrable evidence. It is not derived from any other language, being obviouſly reducible to its own roots. Its combinations are formed of ſimple words of known ſignification; and thoſe words are reſolvable into the ſimpleſt combinations of vowels and conſonants, and even into ſimple ſounds.

IN ſuch a language, ſome traces, it may be expected, will be found, of the ideas and notions of mankind living in a ſtate of primeval ſimplicity; and if ſo, a monument is ſtill preſerved of the

the primitive manners of the human race, while as yet under the guidance of ſimple nature, without any artificial reſtraint or control.

SILENCE naturally accompanies a tranquil ſtate of mind: the agitations of paſſion as naturally produce vociferation and utterance of ſound. If various paſſions produce various modifications of vocal expreſſion or ſound; and if particular modifications of ſound ſerve to convey, from one mind to another, intelligence of particular paſſions; it may be concluded, that thoſe modified ſounds are the primary language of nature, in the conſtitution of which no artificial means were uſed for marking expreſſion with a determinate ſignification.

THE vowels *A*, *E*, *I*, *O*, *U*, pronounced in Scotland in the ſame manner as they are in Italy, are all ſignificant ſounds with the deſcendants of the Caledonians. *A* is a ſound, uttered with loud vociferation, to cauſe terror. *E* is an excla-

exclamation of joy; *I*, of diſlike; *O*, of admiration; and *U*, of fear; alſo of grief, modified by a graver tone of voice.

SUDDEN ſenſations of heat, cold, and bodily pain, are expreſſed by articulate ſounds, which, however, are not uſed in the language to denote heat, cold, or bodily pain. Sudden ſenſation of heat is denoted by an articulate exclamation, *Hoit*; of cold, by *Id*; of bodily pain, by *Oich*. The ſimple cries are generally, if not always, followed by articulate ſounds; as, *A, Ab*; *E, Ed*; *I, Ibh*; *O, Obh*; *U, Ubh*. The letters *bh* ſound like *v*. All theſe ſounds, both ſimple and articulate, may be called interjections, being parts of ſpeech which diſcover the mind to be ſeized with ſome paſſion. We doubt if any of the modern improved languages of Europe preſent ſo great a variety of interjections, or ſounds which in utterance inſtantaneouſly convey notice of a particular paſſion, bodily or mental feeling. Although the ſounds, ſimple and arti-

culate, enumerated above, have not all been adopted or preſerved as ſignificant words, ſome of them ſtill remain as words or ſounds of marked ſignification.

THE pronouns *He* and *She* are expreſſed by the ſimple ſounds, or vowels, *E* and *I*; and theſe ſerve as regular marks of the maſculine and feminine genders. A neuter gender being unknown, every object is in a manner perſonified in the application of theſe pronouns.

DISTINCTLY varied ſounds having been once employed by primitive Man to denote the genders of living objects, he naturally applies them to inanimate things. Language advances from ſterility to copiouſneſs by ſlow degrees. The invention of a word to denote a neuter gender, belongs to an improved underſtanding. It is probable that the το of the Greeks was not coeval with their ο and η, which, like the Galic *E* and *I*, were ſimple ſounds uſed to denote

denote the male and female of every ſpecies.

RUDE Man is incapable of forming abſtract ideas: his intellectual powers are extremely limited: his reaſoning faculty is applied to few objects: the rare impreſſions made upon his mind are therefore ſtrong: inanimate things paſs unnoticed: objects of motion and life catch his attention. Diſpoſed to taciturnity, he ſeldom communicates his thoughts; but when his mind is agitated by matters of important concern, deſirous to paint forcibly, he expreſſes himſelf in bold and figurative language, accompanied with bodily ſigns and geſtures: his manner and ſtyle naturally, if not neceſſarily, aſſume the tone of animation. He delights in imagery and perſonification. Hence it is, that the compoſitions of rude and barbarous ages, tranſmitted to poſterity, are univerſally found to approach to the ſtyle and numbers of poetry. The diſtinction of two genders ſufficiently ſatisfies the mind

of primeval Man: the invention of a third gender is reſerved for that ſtage of ſociety when the underſtanding is much exerciſed, and the imagination and genius are not ſuffered to wanton in extravagance, but are reduced within the limits of preciſion, correctneſs, method, and rule.

THE diſtinction of male and female naturally claimed the earlieſt attention. The difference of ſex was denoted by two ſimple ſounds, which formed two diſtinct words in primitive language.

THE vowel *I*, with an aſpiration, ſignifies, *to eat*. The aſpiration being the termination of the ſound, it had in the mouths of many acquired the guttural pronunciation *Ich*. Both *I* and *Ich* are in common uſe. From *Ich* came *Ichc*, which ſignifies *compaſſion*; importing, that the moſt common relief from diſtreſs flowed from proviſion of food.

In

IT has been obſerved, that *E* is an exclamation of joy. The ſame ſound, with an aſpiration, is uſed as a word, ſignifying *a cry*. The ſame ſound, terminating in the conſonant *D*, formed the primitive word *Ed*, which ſignifies *food*. Hence Εδω, *Edo*, of the Greeks and Latins.

THE more we trace mankind to their primeval ſtate, we find them the more thoughtleſs and improvident. Their ſubſiſtence, like that of the greater part of other animals, depends upon the acquiſitions of the day. When the means of ſubſiſtence are precarious, and not commanded with certainty, the paſſion of joy and the poſſeſſion of food are cloſely allied. Hence a ſound or cry expreſſive of joy, came naturally to give a name to the cauſe that produced it.

AN exclamation of *Ed* or *Eid* is uſed upon diſcovery of any animal of prey or game: it is meant to give notice to the hunting companion

to

to be in readineſs, and prepare the means of conqueſt and poſſeſſion.

Ed is uſed in Ireland to ſignify *cattle.* In Scotland it is preſerved in many compound words. *Edal,* cattle, literally ſignifies the offspring or generation of cattle. *Edich**, clothes, literally the hide or ſkin of cattle. *Coed* or *Cued,* ſhare or portion of any ſubject of property; literally, common food. *Faoed,* hunting; literally, gathering of food. *Edra,* the time of the morning when cattle are brought home from their paſture to give milk; literally, meal-time. Theſe words tend to ſhew, that an etymological analyſis of the words of a primitive language may be of uſe in throwing light upon the ſituation and circumſtances of primeval Man; and may ſerve to mark the progreſs of the human mind from its ſimpleſt to its more enlarged conceptions in increaſing ſociety.

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* *Ed-ſheich. S* and *h* are quieſcent.

THE

THE firſt vocal expreſſions may with reaſon be ſaid to have been the language of paſſion, and to have conſiſted of thoſe ſounds or tones which are the natural effuſion of quick ſenſations. Thoſe ſounds or tones would be varied or modified according to the nature of the paſſion or ſenſation whence they aroſe.

IT has been obſerved, that *E* is an exclamation of joy, and that the ſame ſound is uſed as a word, and ſignifies *a cry*. Here ſimple imitation of a natural emiſſion of ſound, when the mind is peculiarly affected, ſerves to convey intelligence of ſome object that claims attention or notice. Nothing can be more natural than this mode of forming language. Cries are uſed by all animals which have the power of uttering ſounds; and it is obſervable, that many animals are capable of various modulations of voice, which they uſe to expreſs their wants, affection towards their young, or bodily pain and terror. The human voice is capable of a much greater

greater variety in theſe reſpects, than that of any other ſpecies of animal. Man's imitative talents would naturally be put in practice, for the purpoſes of communicating knowledge of incidents or events of ſufficient importance to rouſe attention. It is reaſonable to ſuppoſe that primitive language would conſiſt, firſt, of thoſe cries or ſounds which are natural to Man when his paſſions or affections are touched: ſecondly, of imitation of thoſe cries or ſounds, in order to convey intelligence of them to others: thirdly, of imitation of the cries of other animals; all which, accompanied by bodily ſigns, motions, and geſtures, of a great variety of which Man is alſo capable, would conſtitute the firſt language, or form at leaſt its elementary baſis.

TRACES of imitative language remain in all languages. The word uſed for *cow* in the Galic language is *Bo* *; plainly an imitation of

* The Greeks and Latins added a hiſſing termination, and formed it into Βους and *Bos*.

the

the lowing of that animal. The bellowing of a bull or cow is called *Bolich*; the bleating of a ſheep, *Melich*; the vowel *E* pronounced as *A* ſlender in Engliſh, which has a middle ſound between the open *A* and the *E*, as in *fate*, *date*, *late*, &c.; and in words ending in *ation*, as *creation*, *ſalvation*, &c. in Engliſh; or as the Greek H in the manner pronounced in Scotland, clearly imitative of the voice of the ſheep. The cry of a goat is called *Megadich*, expreſſive of the tremulous and broken voice of that animal. *Uai*, a cave, got its name from the hollow ſound generally heard on entering one.

BH, in Greek, ſignifies *vox ovium balantium**, the voice of bleating ſheep. Hence that ſpecies of animal got the name of Βηκα, and hence *to cry aloud* was expreſſed by Βηζω. The word BH, as denoting the bleating of a ſheep, affords a concluſive proof, that the ſound of *Eta* is not

* Hederici Lexicon.

that of the Engliſh *E*, but that of the Engliſh pronunciation of *A* ſlender, which is the proper Engliſh *A*; conſequently that the Scottiſh pronunciation of that vowel is juſt. Hence we may alſo infer, that the Greek pronunciation of *Alpha* was that of the Engliſh open *A*, or the proper *A* of the Scots. The ſound of the *Epſilon*, as pronounced in Scotland, is different from any ſound with which an Engliſh ear is acquainted.

Βοαω, *boo*, *clamo*, ſignifying *to low* or *bellow* like an ox or cow, alſo *to cry*, furniſhes another proof of the proper ſound of the Greek *Alpha*. The word being formed from an imitation of the lowing of a cow, determines the ſound of that vowel to have been that of the open Engliſh *A*. The cow and ſheep being deemed among a paſtoral people the moſt valuable animals, to whoſe ſafety and preſervation their chief care was directed, imitation of the voices of both was naturally employed as expreſſive of a cry.

It is obſerved by Dr. Gregory, in his "Comparative View of the State and Faculties of Man with thoſe of the Animal World," that a child has more to learn in the firſt three years of his life, than he has in thirty years of any future period. The vaſt acquiſition made by children during theſe years, with reſpect to language, diſcovers the wonderful flexibility of Man's organs of ſpeech, and the vaſt operation of his imitative faculty*.

Motion of tongue and lips being as natural to Man as utterance of ſound, it cannot well be maintained, that the language of primeval ſociety muſt have conſiſted of inarticulate cries alone. Articulation muſt have early taken place as a conſtituent part of language, and muſt have been coeval with the firſt eſſays towards the formation of words. It is difficult to exerciſe the voice, without beginning or terminating the ſound by an application or motion of the tongue, lips, or throat. In imitating the voices of other animals,

*On this ſubject, ſee what the very learned and ingenious Author of "The Origin and Progreſs of Language" has written.

Man's organs of ſpeech would naturally be exerted to make the imitation perfect. In this employment articulation was neceſſary. The language of nature may juſtly be allowed to have conſiſted of both ſimple and articulate ſounds, without any artificial combinations of primitive words. Human art and contrivance would, however, very early be diſplayed in rendering natural language more copious, and better adapted to communicate intelligence of wants and deſires. It is difficult, if not impoſſible, to determine by what rule men were guided in affixing certain names to inanimate things. It is equally difficult to conceive, that original names were merely arbitrary, and deſtitute of any imaginary connexion with the cries and articulate ſounds of natural language. This much, however, is certain, that whatever principles ſerved to determine original words and names, combinations of words were governed by properties and qualities belonging to the ſubject. The Galic language affords a

copious

copious and curious illuſtration of this propoſition.

THE imagination paſſes eaſily from the recollection of one object, to that of another with which the firſt is uſually connected. The intimate relation between objects of ſenſe leads the mind into a habit of aſſociating ideas; ſo that when an object which had once attracted attention becomes again the ſubject of reflection, its ordinary concomitant riſes to view, and preſents itſelf in its former ſhape and appearance to the mind. If the firſt operates as a cauſe, and the attendant as an effect, which from experience is obſerved uniformly to prevail, it will often happen, that the effect will figure as the object of greateſt importance, and become the ſubject of chief conſideration. Hence it is, that the language of primitive ſociety ſo much abounds with thoſe figures of ſpeech which transfer the name of one object to its uſual concomitant,

comitant, or the name of the proximate cauſe to its ordinary and natural effect.

THIS mode of forming language, and giving the appellation of one thing to another, ought not, in our opinion, to be aſcribed wholly to the penury of words in early ſociety: it is a mode of ſpeech which is found to be agreeable to the natural operations of the human mind in all ſtages of ſociety: it is reliſhed by the cultivated genius of the refined rhetorician, as well as by the rude mind of the barbarous and unpoliſhed orator. The deflection of words from their literal and primitive ſenſe, and the deviation of the terms of a ſentence from their plain meaning and common acceptation, are well known in the rhetorical ſchools by the names of tropes and figures. Theſe are ſuitable to the feelings of a warm imagination, as they give an animated air to language.

It ſeems to be an admitted propoſition, that the ſtructure of primitive language is highly pictureſque and figurative. Theſe qualities are aſcribed, by the elegant author * of the Critical Diſſertation on the Poems of Oſſian, to two cauſes; to the want of proper names for objects, and to the influence of imagination and paſſion over the form of expreſſion. His nice diſcernment and refined taſte have pointed out the excellencies of the Caledonian bard in the uſe of thoſe figures of ſpeech which are natural, in the age of wild freedom, to the glowing fancy of an animated poet.

In conſidering the preſent ſubject an obſervation occurs, that it ſeems to be a natural diſpoſition in the mind of primeval Man, to apply the name invented for one object to another between which and that object an intimate relation is obſerved to ſubſiſt. It would appear, that this transference

* Dr. Blair.

of

of appellation figures in his mind as a more intelligible and expreſſive term than any new word for that object. A few inſtances in ſupport of this idea may be acceptable.

*BE**, in the Galic language, ſignifies *life:* but it is uſed to denote the means of ſubſiſtence; which bearing obviouſly the moſt intimate relation to life, acquires, in a figurative ſenſe, the appellation proper, in its primitive acceptation, to life ſimply. When a ſtranger happens to enter the houſe of a modern Caledonian at meal-time, the landlord addreſſes him with the words *'S e do*† *bhe*, which literally ſignify, *It is*

* The vowel *E* ſounds like the Engliſh proper *A*.

† The word *do* is improperly uſed to ſignify *thy:* the proper word is *te*. The poſſeſſive pronouns *my*, *thy*, *his*, are expreſſed in Galic by *me*, *te*, *ſe*. In the firſt two the juſt orthography, from not attending to the pronunciation and regular analogy of the words, has been loſt ſight of, and retained only in the laſt. The original words are preſerved in the Latin language as the accuſatives of *ego*, *tu*, and *ſui*. In theſe Galic pronouns the *e* has the pronunciation of the French *e* in the article *le*.

thy

thy life, but import an invitation to come and partake of the family fare, or victuals, as the ſupport of life.

It may occur to the learned in the Greek language, that the Galic word *Be* is the root of the Greek noun Βιος, which ſignifies *life*, and alſo *ſuſtenance*. It will be remarked alſo, that Βιος is uſed to ſignify *a bow*, which was the chief inſtrument uſed by the primitive ſocieties of temperate climes in procuring the means of ſupporting life. The Greek word Βια, which ſignifies *ſtrength*, is uſed by the Caledonians to denote *victuals* *. Thus the word

* *Beo* ſignifies *alive*, and *Bas*, death. This laſt word is a compound of *Be*, life, and *As*, out. The Latin word *Cibus*, which ſignifies *victuals* or *food*, is derived from the Galic word *Cib* or *Caoib*, which ſignifies ſuch a portion of meat as a man could devour at a mouthful. A *portion* or *part* is expreſſed in Galic by the word *Mir*, ſynonimous to the Greek word Μερος, and is expreſſive of a larger portion than *Cib*.——It may be obſerved, that *meat*, and the *action of eating*, are expreſſed in the Greek language by the word Βρωσις, and that the verb Βρυτ∫ω and Βρυχω, ſignify *to eat* or *devour*. Theſe words are derived from *Bru* or *Bro*, which in Galic ſignifies *the belly*. *Bru* is the moſt common pronunciation, but *Bro* is not to be rejected; a proof of which is furniſhed by *Broinn*, which alſo ſignifies *belly*, and in its in-

Bia, which with the original inventors of the Celtic or Galic language denoted *victuals*, was by the Greeks uſed to ſignify *ſtrength*; a quality depending upon the poſſeſſion of the means of ſubſiſtence.

In the following ſheets ſome further obſervations will occur, tending to ſhew that the Greeks were originally of the Celtic ſtock, and that many of their primitives are genuine Galic; a variety of their combined words being capable of a ſatisfactory explanation, only by the analyſis of Galic roots.

It has been obſerved, that *Ed* in its primitive ſenſe ſignifies *food*. It came to be applied to denote *cattle*, when ſuch became the chief fund of ſubſiſtence. *Eallach* ſignifies *a burthen*; but it is uſed in Ireland to denote *a beaſt*. It re-

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flected caſes varies into *Bronn*; and the word *Brolean*, which ſignifies *the paunch*. The Greek word Βρομος, which ſignifies a *rumbling noiſe*, is compounded of two Galic words, *Bro* and *Fuaim*, which in the compound is *Brouaim*, contracted, is pronounced *Broim*, and ſignifies *crepitus ventris*.

ceived

ceived this name from the circumſtance of an animal fit for food being the moſt common and ordinary *burthen*, or that which attracted moſt attention in early ſociety.

We have before remarked, that *Re* ſignifies *diviſion*, and that in proceſs of time the word came to be applied to the effect of diviſion, which was *concord* or *agreement*. In like manner the word *Reinn*, which ſignifies one's *portion* or *diviſion*, is uſed to denote *any action*. If one ſhould aſk, if another had eaten his victuals, he would ſay, *An d'reinn e a bhia?* which is literally, *Has he divided his meat?* The verb *Reinn* correſponds with the Engliſh verb *to do* or *to make*. In like manner, the Greek word ῥεζω ſignifies *to do, to make*. The act of diviſion being originally of moſt frequent uſe, and of greateſt importance, came naturally to be uſed as a common appellation for any action. Many more examples of the like nature might be given.

We ſhall now take notice of a few combined primitives, which will ſerve to prove this propoſition, that in joining together original roots in the progreſs of improvement of language, and rendering it more copious, the combinations diſcover an admirable juſtneſs and preciſion of thought, which however thoſe who prize only the refinements of a poliſhed age may be diſpoſed to deny to the ſimplicity of primitive ſociety, muſt be admitted by thoſe who are in any degree converſant in the philoſophy of a primitive and uncorrupted language. It will be found on examination, that the Galic language, in its combination of words, ſpecifies with accuracy the known qualities, and expreſſes with preciſion the nature and the properties, which were attributed to the object denominated.

An appears to have been a word of frequent uſe in the Galic language, and ſeems to have been originally a name applied indefinitely to any

any object. It was uſed to ſignify *a planet* * : hence *the Sun* got the name of *Grian*, which is a compound of *Gri*, hot, and *An*, a planet. *Re* was the name originally given to *the Moon*. *Re* ſignifying radically *diviſion*, the propriety of the name is obvious. The changes of the Moon muſt have early attracted the notice of mankind: her gradual wane and increaſe, her regular exhibition of an enlightened orbicular ſurface, muſt have been uſed to mark periods, as ſoon as the diviſion of time came to be made matter of any reflection or conſideration. The word which is now commonly uſed for *the Moon* is *Gealach*; a name derived from her whiteneſs of colour: *Geal* ſignifies *white*. It has been obſerved, that the names by which the Sun and Moon are denominated in the ſacred Scriptures, expreſs the known qualities of theſe planets. *The Sun* is called *Schemes* and *Kammah*, which have an immediate relation to *heat* and *brightneſs*, the moſt ſenſible qualities of that ſplendid body.

* Bullet. Dictionnaire de la Langue Celtique.

The

The Moon is named *Labanah*, from the root *Laban*, which ſignifies *whiteneſs**. *Anait*, ſignifying *a place of worſhip*, is a compound of *An* and *Ait*, the laſt of which is the Galic word for *place*. The word imports, that there the Sun was worſhipped. *Ben* or *Bean*, a woman, is a compound of *Be*, life, and *An*. Here it is expreſſive of a perſon giving life. It is difficult to determine why *An* ſhould have been uſed to expreſs any object. It may be obſerved, that it is a monoſyllable of eaſy utterance. The word *Be* naturally derived its origin from the cries of children at their birth. A cry being a ſign of life, an imitation of that cry was naturally uſed to denote *life*. *Bli* ſignifies *milk*; *An* or *Uin*, time. *Blian* is literally *milk-time*, which is the Galic word for *year*. The ſubſtantive *Bli* is uſed by the Welch. In Scotland *Bli* is in common uſe only as a verb, and in its derivative *Bliac*. The periodical return of the ſeaſon in which cattle began to give milk, was

* Goguet's Diſſertation on the Names of the Planets.

an

an event of great importance to a paſtoral people: hence that momentous circumſtance marked the period of the annual revolution of the ſeaſons. *Inn* is the radical word, ſignifying *mind:* ſo *ſpeech* is expreſſed by *Bri-inn*, which ſignifies *the ſenſe or ſubſtance of the mind*; and *truth*, by *Fir-inn*, which ſignifies *true or real mind.* To purſue this ſubject all the length it might be carried, belongs to the province of a Lexicographer, who, in this view of our ſubject, might find ample materials in the Galic language for curious etymological analyſis.

We ſhall ſatisfy ourſelves with taking notice of a few Galic words, which we apprehend to be worthy of remark, becauſe they ſerve not only to prove the propoſition we have ventured to lay down, but becauſe they alſo tend to eſtabliſh another propoſition, That the Greek and Latin languages are of Celtic original; and that, in order to find the true etymon of many words in both, the Galic or Celtic roots muſt be conſulted,

conſulted, and their combinations analyſed. The honour of being the parent of ſuch an illuſtrious progeny, many of the admirers of the highly-refined languages of Greece and Rome will not, perhaps, be diſpoſed to beſtow on a language, barbarous, it may be ſaid, becauſe it lives, probably in greateſt purity, among the inacceſſible wilds of Caledonia, and the unmixed deſcendants of the antient Iriſh. It becomes not the learned to cheriſh prejudices. A well-informed mind will be inclined to examine every propoſition with candour and liberality.

THE Θεος of the Greeks, and the *Deus* of the Latins, both ſignifying *God*, are compounded of two Galic words; *Ti*, a being, and *Tos* or *Tus*, equally common to denote *firſt* or *beginning*. In the compound, theſe two words are pronounced *Tios* or *Tius*, the firſt letter of the ſecond word being always thrown out. The letter *T* in the word *Ti* has a middle ſound, or ſoft pronunciation, between the *Theta* of the Greeks

Greeks and the *T* of the Engliſh, and is formed by application of the tongue to the teeth and roof of the mouth. Θεος ſignifies literally, *the firſt being*. In like manner, the *Venus* of the Latins is a compound of *Ben* and *Tus*, which literally ſignify *the firſt woman*. The letter *B*, in compounds and inflections, is always ſoftened into *V*; ſo that, in Galic, *the firſt woman* is properly denominated *Bhenus*, pronounced as if written *Venus*. Εδαϱ and Ειδαϱ ſignify *food*. Theſe words are compounded of the Galic words *Ed* or *Eid*, and *Ar*: the former ſignify *food* ſimply, and the latter, *ploughed land*. The word Εδαϱ, in ſtrict propriety of ſpeech, ſignifies that ſpecies of food which is produced from the culture of the ground, or from ploughed land. It will readily ſuggeſt itſelf to the learned, that the combined words of Εδαϱ form the roots of the Greek and Latin words Εδω, *edo*, Αϱοω, *aro*. Εδϱα, which ſignifies *a ſeat*, has an evident reference to food. The word is compounded of two Galic words, *Ed* and *Tra*, which literally

ſignify *meal-time :* the *T* is loſt in the compound. There is an intimate relation between the act of making a meal, and the place or ſeat where the early tribe or ſociety aſſembled and ſat down to eat. Ammianus Marcellinus ſays of the Alans, " Cumque ad graminea venerint in orbiculatam " figuram locatis Sarracis ferino ritu veſcuntur." When the wandering ſociety made a meal, they ſat in the form of a circle ; and though the author compares their manner of eating to that of wild beaſts, yet regularity and order muſt have been obſerved in the diviſion and diſtribution of their food. We ſhall have occaſion to conſider in another place the manner in which that matter was regulated. Εδος, which alſo ſignifies *a ſeat*, derived its name from the relation between eating of food and the place where it is eaten. The *Ædis*, or *houſe*, of the Romans, got its name from the important circumſtance of its being the place of reſort for the family or tribe at meal-time. Εδνα, which ſignifies *dona ſponſalia*, or preſents which a bridegroom made

to

to his bride, is a compound of two Galic words, *Ed*, and *No* or *Nua*, literally ſignifying *new food*. This word has a reference to the condition of primeval ſociety. When the objects of greateſt value conſiſted of the means of ſubſiſtence, an article of freſh or new food muſt have been in a high degree acceptable. When marriage came to be introduced, the preſents made by a new-married man to his bride ſtill retained the denomination of Εδνα.

FROM *Ar* there are many Greek derivatives. Αρουρα ſignifies *ploughed land*, alſo *crop of corn*. Αρτος ſignifies *bread*. In Galic, *a crop of corn*, and *bread*, are expreſſed by *Arbhar*, commonly pronounced *Arar* and *Aran*; all being equally derivatives of the root *Ar*. So the Greek and Latin words, Αροτος, *arabilis* arable; Αροτρον, *aratrum*, a plough; Αροτηρ, *arator*, a ploughman; and many others, are evidently derived from the ſame ſource.

It has been obſerved, that *Re*, in its primitive acceptation, ſignifies *diviſion*; in its ſecond acceptation, *concord*, the conſequence of diviſion or diſtribution of food. It alſo ſignifies *clear, without obſtruction*, which is the effect of concord. Thus the Engliſh word *Road* ſignifies, in Galic, *clear turf*; *Re-od*—contracted, *Rod*— a compound of *Re*, clear, and *Fod*, turf. The letter *F* is quieſcent in the compound. It may be obſerved, that Ρεα in Greek ſignifies *eaſily*, and Οδος ſignifies *a way*. Ανηρ, *vir*, a man, is a compound of the Galic words *An* and *Fer*, which in the inflected caſes are pronounced *Aner*, the man. *Fer* in the plural is *Fir*. The Latins, for the ſake of uniformity, changed the *e* in the ſingular number to *i*, and in the nominative plural added their regular termination of maſculine nouns of the grammarian's ſecond declenſion.

We recollect to have read ſomewhere a conjecture, that the *hand* was probably the firſt *comb*

comb made uſe of in primitive ſociety. The Greek word for *hand*, and the Galic word for *comb*, confirm the juſtneſs of that idea. The Greek word for *hand* is Χειρ; the Galic word for *comb* is *Cir*, and in the inflected caſes *Chir*; the Celts ſtill applying the original word for *hand*, being the natural *comb*, to that artificial inſtrument which was deſtined to be ſo highly neceſſary to the decoration of both ſexes in refined ſociety.

THE varied terminations of the Greek and Latin nouns and verbs have much obſcured the roots and combinations of the original language, which was the ſubject of that artificial ſuperſtructure diſplayed in ſo admirable a degree by thoſe moſt highly cultivated and refined languages. The groundwork, however, is not obliterated: the Celtic ſtamina are viſible, and remain a monument of the Celtic parentage of the renowned Grecian and Roman people.

ORIGIN

ORIGIN

OF

PROPERTY.

MAN is led to gratify his appetite for food from an inſtinctive feeling. No train of reaſoning was neceſſary to teach him, that the fruits and herbage which pleaſed his eye, and were grateful to his taſte, were intended by the Creator to ſupply him with nouriſhment; or that the pure ſtream which iſſued from the limpid fountain was deſtined to afford him ſalubrious refreſhment. His appetite he might indulge without control, while the means of ſubſiſtence afforded by the bounties of Nature, without the intervention of care or induſtry, art or labour, were more than ſufficient to ſatisfy the wants of the human race exiſting in a ſtate of primeval ſimplicity.

A SENSE

A SENSE of right to enjoy the fruits of the earth neceſſarily accompanied the gratification of appetite for food.* There ſubſiſts in the human mind a primary univerſal and permanent ſenſe or opinion of right, without any deduction of reaſon or reflection, in regard to the free uſe of every herb bearing ſeed which is upon the face of all the earth, and the fruit of every tree that is pleaſant to the ſight, and good for food.

THIS ſenſe or opinion of right could never have diſcovered itſelf by viſible effects, while there exiſted no occaſion for competition about the means of ſubſiſtence, or gratification of appetite. If a ſenſe of right accompanies the enjoyment of Nature's productions, there muſt neceſſarily ariſe in the mind a ſenſe of violation of that right, when any attempt is made to limit or reſtrain the wonted gratification of natural appetites and deſires. It is the nature of Man, to feel anger or reſentment when he is oppoſed or obſtructed

obſtructed in the purſuit of the means of ſelf-preſervation, or in the gratification of his natural wants. When his confident hope of natural enjoyment is fruſtrated by ſuperior force, cunning, or dexterity; a ſenſe of injury ariſes in his mind againſt the author of his diſappointment, and he is naturally led to remove, overcome, or deſtroy the obſtacle that oppoſed itſelf to the gratification of his deſires. If there had not exiſted a primary ſenſe of right to enjoy the fruits of the earth, and all the productions of nature, there could be no injury felt by the weak when obſtructed by the ſtrong in the purſuit of gratifying natural propenſities and deſires.

This ſenſe of natural right would often, in the earlieſt ſtages of ſociety, be violated by the ſtrong to the prejudice of the weak; but until the arrival of that period when property came to be underſtood as belonging excluſively to a tribe or community, any violation of natural right could be productive of no dangerous effects,

and could require no combined efforts of ſociety to check its progreſs. The natural inclination of men living in primitive ſociety leads them to ſhare their ſtock of proviſions freely with one another: any departure from this general diſpoſition could operate only as a rare and unimportant exception from a general rule.

THE regulation of property is the object of Juſtice. Prior to the eſtabliſhment of a ſyſtem of excluſive property, there was no occaſion for erecting a tribunal for the adminiſtration of juſtice: yet that an idea of property had exiſtence in primeval ſociety, we are led to conclude, from the intimate connection ſubſiſting between a perſon and a ſubject of frequent and neceſſary uſe.

JUSTICE, ſo far as it is made a ſyſtem, and enforced by the civil magiſtrate, may with propriety be ſaid to be founded in public utility; but its origin may be traced to a remoter and more ſimple ſource.

THE

THE idea expreſſed by the Roman poet* appears to be philoſophically correct:

Atque ipſa utilitas juſti *prope* mater & æqui:

meaning, that before the general utility of regulating property came to be underſtood, a ſenſe of juſtice and equity was not unknown to the human mind.

THE Galic language furniſhes no proper word to expreſs *poſſeſſion*†, as it is underſtood diſtinct

* Hor. Sat. lib. i.

† The word *Seilbh* is properly *cattle*. In the ſtricteſt ſenſe of the word, it is a generic name for *animals dropping a liquid ſubſtance*. *Seil* ſignifies, *to fall in drops*; and *Seilag*, a ſmall or inconſiderable portion of any liquid ſubſtance. It is the cuſtom of the Highlanders of Scotland, in the ſummer months, to remove, with their wives, children, the neceſſary houſhold furniture, and all their cattle, from their winter habitations (which are ſituated in the vallies, where their corn-fields are), to their paſture-grounds upon the higher and more diſtant mountains. There they remain, with their cattle, until the graſs of the lower grounds is fully grown. Then they return with their milch cattle only, leaving what they call their *ſeaſg* or *dry cattle* in the higher paſtures. The word *Sheil* is ſtill preſerved, among the people of the low country of Scotland, as a name for that ſpot of the paſture-grounds upon which the Highlanders

from property; which affords a proof that, according to the apprehenſion of primeval ſociety, poſſeſſion alone conſtituted the criterion of right to uſe any ſubject, and that Man formed no conception of a right of property in one perſon, and a right of poſſeſſion in another.

It can hardly be maintained, however, that no idea of ſingular appropriation was entertained in primitive ſociety. Although the means of ſubſiſtence procured by the united efforts, or preſerved by the joint care, of the community were deemed to be common to all; yet ſome ſubjects were ſo intimately connected with the uſer of them, that they muſt have been conſidered in ſome meaſure as his excluſive property. It cannot well be conceived that the bow, which

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build their ſummer huts. As the act of taking poſſeſſion was accompliſhed by putting cattle on the paſture-grounds, ſo the word *Seilbh* came to be uſed for *poſſeſſion* itſelf, by a very common and natural tranſition from one thing to another between which and that thing there is a neceſſary or uſual connection.

primitive

primitive Man carried either for his defence or perſonal ſafety, or for procuring ſubſiſtence; or the ſkin of the animal he had killed, and which ſerved to cover his body from the inclemency of the weather, could be conſidered as common to all the members of the community. There were ſome things which, from their natural uſe, were ſo neceſſarily connected with an individual as to be deemed an appendage of his perſon, and held to be his property while the attachment ſubſiſted. This idea of connection with, or appendage of, perſon, is curiouſly illuſtrated in the Galic language.

THE poſſeſſive pronouns *mine*, *thine*, *his*, *ours*, *yours*, &c. are all ſignificant of excluſive property. The correſponding words to theſe, in the Galic language, are regularly expreſſed by *leim*, *leut*, *le-e**, *leinn*, *lei*. To underſtand the

* The Galic ſcholar will perceive that, according to ſtrict regularity, *his* ſhould be expreſſed by *le-e*. *E* ſignifying *he* or *him*, *eſe* ſignifies *himſelf*. *Se* in Galic has the ſame force, and correſponds exactly, with *ſelf* or *ſelves* in Engliſh. It is eaſy to diſcover,

original import of theſe words, we muſt attend to their etymology. The firſt pronoun is compounded of *le*, with, and *mi*, I or me, in Engliſh. In pronunciation *i* is tranſpoſed, and placed before the letter *m*. The *i* has by common uſe acquired in this word the pronunciation of *u*. *Tu* ſignifies *thou*. The vowel *u* is tranſpoſed, and put before the *t*, for the ſake of eaſier pronunciation. So, inſtead of ſaying *lemi*, *letu*, they ſay *leim*, *leut*. Theſe words, correſponding to the *meum* and *tuum* of the Latins, literally ſignify *with me*, *with thee*; importing, that the original idea of property depended upon the cir-

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cover, that in the word *le-e*, where the ſame vowel occurs twice without a varied termination, the *ſe* was adopted for the ſake of a more diſtinct and forcible pronunciation. But inſtead of ſaying *le-eſe*, the word is contracted, and pronounced as if written *leſh*, commonly ſpelt *leis*. It may be obſerved, that in the word correſponding to *hers*, the *ſe* is not aſſumed, becauſe, the termination being in a vowel of a different ſound, the ear was ſatisfied with the combination of the ſimple primitives. It may alſo be noticed, that although the regular pronunciation of the words correſponding to the Engliſh *ye* and *yours* is *ſei* and *lei*, the pronunciation of theſe words is often, though unneceſſarily, cloſed with the ſound of *v*, written in Galic *ſeibh*, *leibh*.

cumſtance

cumſtance of a particular ſubject going along with, or attending, a particular perſon. That viſible connection made that ſubject *mine*, *thine*, or *his*.

THE pronouns *ours*, *yours*, imply a joint concern or property. *Ours* is expreſſed by the word *leinn*, which ſignifies literally *with us*, it being a compound of *le*, with, and *inn*, us. So *yours* is expreſſed by *lei*, which ſignifies *with you*. It is curious to obſerve, that *children*, *race*, or *generation*, are called *leinn*. The name is obviouſly derived from the circumſtance of the children being the attendants or followers of the tribe or ſociety. *Children* are commonly expreſſed by *cloinn*, compound of *co* and *leinn* or *linn*, common offspring. The vowel *o* is tranſpoſed, and put after the *l*, *euphoniæ gratia*. *A child* is called *leani*; compounded of *lean*, which ſignifies *to follow*, and *ti*, being or perſon. In the compound the *t* is quieſcent. *Lean* is literally *with one*, *along with one*. Hence property owed its origin to the habitual connection obſerved to

ſubſiſt

ſubſiſt between a principal object and its attendant or acceſſary; and this connection had ſo ſtrong an effect upon the imagination, as to impreſs upon the mind a ſenſe of *right* of poſſeſſion. Hence, too, any attempt made to deprive the poſſeſſor of a ſubject, in which a viſible connection with his perſon gave him a peculiar intereſt, would be the occaſion of diſpleaſure and reſentment. Hence a ſenſe of wrong or injuſtice.

ORIGIN

OF

GOVERNMENT.

THE firſt and moſt important object of primeval Man's attention was ſelf-preſervation. He entertained no notion of an intereſt in himſelf, ſeparate and diſtinct from that of the ſociety of which he formed a conſtituent member. With his fellows he was united in all meaſures for mutual ſafety. The means of ſubſiſtence were common to all. Excluſive property was altogether unknown. Even wives and children were the wives and children of the community. The excluſive uſe of any ſubject was natural only ſo far as it was directly connected with poſſeſſion, and unavoidably neceſſary in primitive ſociety.

THE cleareſt proofs remain of the community of goods among the antient Celts, who formed the rudiments of the Galic language. They had no word expreſſive of *excluſive property*; and the terms* uſed at this day to denote property are found, when analyſed, to be a proof of the propoſition, That excluſive property made no part of the ſyſtem of primeval ſociety.

As the productions of the earth were common to all, ſo the ſtock of proviſions acquired by a tribe or ſociety dwelling together, would be conſidered as a common ſubject deſtined to the uſe of all the members of that tribe or ſociety. The act of diſtribution of food would frequently be neceſſary; it would therefore be expedient to have ſome perſon appointed for performing that office. The perſon moſt expert in making proviſion for the community, and moſt reſpectable for age and uſeful qualities, would naturally

* *Coed* or *Coeid*, common food; *Coir*, common land.

aſſume

aſſume that employment. It is curious to obſerve, that the word by which *King* is expreſſed in the Galic language, literally imports a *Divider* or *Diſtributor*. *Rei* is a compound of *Re*, diviſion, and *Ti*, a being or perſon. The conſonant *t* is in the compound quieſcent.

WHERE it required any degree of art, induſtry, or labour, to procure the means of ſubſiſtence, the acquiſitions of the individual members would form a common ſtock, and would at ſtated times be diſtributed among the community, according to the judgment or will of the perſon entruſted with the office of *diſtributor*. This perſon would, in proceſs of time, acquire a conſiderable degree of authority among the members of the community; and upon occaſions of differences, diſputes, or contentions with regard to food or raiment, or the inſtruments employed for defence or procuring the means of ſubſiſtence, would naturally be applied to as umpire or arbiter between the parties: ſo that the office

of diſtributor of food would gradually riſe into higher power and dignity; and the acquieſcence of the community would, in the progreſs of ſociety, ſtamp upon his deciſions the efficacy of magiſterial authority.

It is not to be ſuppoſed, that the ſocieties or communities which were accuſtomed to aſſemble together and eat in common at ſtated meal-times, conſiſted of a great number of individuals. All the members of the great tribe or community of the ſame ſtock, who had united themſelves in one common intereſt, from conſiderations of convenience, affection, or policy, would hold themſelves equally intitled to the freedom of the territory traverſed by the tribe in procuring the means of ſubſiſtence, while as yet no excluſive property was underſtood. Yet in the act of providing food, the tribe would be ſeparated into ſmall troops or bands, keeping together, like one family, eating in common at ſtated times in the day, and lodging

lodging together in one common place of reſt at night.

THE original families of mankind conſiſted not of two parents, one male and one female, and their immediate deſcendants. They were compoſed of ſeveral males and females, herding together, eating in common, and ſleeping promiſcuouſly with their common offſpring. The Galic language furniſhes a curious proof of this propoſition. The two words denoting *family*, in that language, are *Coeidichc* and *Teadhlach**. Theſe two words, etymologiſed, ſignify literally, *eating in common*, and *reſort* or *rendezvous at night*. The pronunciation of the laſt of theſe words is in the compound a little varied from that of the original words. But the word is evidently compoſed of *Tadhal*, which ſignifies *reſort*, and *Oich*, night. Thus *family* derived its name from the two chief circumſtances which

* *Teadhlach* in the oblique caſes ends in *oich*. *Coeidichc* denotes alſo *any company*.

figured

figured moſt forcibly in the imagination as linking together a certain number of people. The characteriſtic marks of primitive family ſtill remaining, thoſe two words naturally continued to be applied to one man and one woman and their children, after marriage was introduced, and a permanent union of the ſexes eſtabliſhed. The origin of that inſtitution ſhall be conſidered in another place.

In each family, or little horde, there was a *Rei*, a divider or diſtributor of the common ſtock of proviſions; but his authority was of a very limited nature, and by no means extended over any other ſeparate or diſtinct horde or family.

Although the ſmall hordes ſlept and fed in common upon ordinary occaſions, yet upon days of public feſtivity and mirth, the whole tribe would be aſſembled to eat, drink, and dance together. Upon ſuch occaſions a *Rei*, or diſtributor,

butor, would be neceſſary. The office of diſtributor would be aſſumed by the *Sachem*, or great chief of the whole tribe, who thus would hold a more dignified place, and, for the time, a higher rank than any other member of the ſociety.

THE office of diſtributor, in primitive ſociety, at meals and feaſts, is not ideal or imaginary: its exiſtence in the cuſtoms of rude nations is evinced from their hiſtory.

FATHER Jerom Merolla, in his account of a voyage to Congo, deſcribes the cuſtoms of the inhabitants of that iſland, in their eating and drinking at feaſts, which they celebrated in great numbers.—"A great company being got toge-
"ther, they ſit round in a ring upon the green
"graſs; which having done, a large thick round
"wooden platter is placed in the midſt of them.
"This platter is called by them *Malorga*. The
"eldeſt of them, whom in their language they
"call

" call *Maculuntu* or *Cocolocangi*, is to divide and
" diſpenſe to every one his portion; which he
" performs with that exactneſs, that, if there
" happen to be a bit better than ordinary, that
" is likewiſe divided proportionally among the
" company. By theſe means there are no com-
" plaints or murmurs to be heard amongſt them,
" but every one is contented with what is
" allotted him. When they drink, they make
" uſe of neither cups nor glaſſes, to the end
" that every man may have what is judged
" ſufficient for him, and no more. The judge
" of this is the *Maculuntu*, who holds the
" *moringo*, or flaſk, to the perſon's mouth that
" drinks; and when he thinks he has drank
" ſufficient, he pulls it away. This is practiſed
" all along, even to the end of the feaſt. That
" which ſeems ſtrangeſt to me is, that if any
" perſon whatſoever, man or woman, great or
" ſmall, though not known to them, happens to
" paſs by where the gueſts are eating, he or ſhe
" thruſts into the ring, and has an equal ſhare
" with

" with the reſt, without the trouble of making
" any compliment, or ſpeaking a word. If this
" ſtranger happens to come after the portions
" are allotted, then is the carver to take ſome-
" thing from every man's meſs, to make up a
" ſhare for him. If it ſo chance that many un-
" invited gueſts come, they all have the afore-
" ſaid liberty, and may eat and drink as freely
" as if they had been invited. When the tra-
" vellers perceive the platter empty, they riſe
" up and go their ways, without taking any
" leave, or returning thanks to the company."

THE learned Father ſays of himſelf, " It has
" happened to me, that, being about to entertain
" ſome perſons who had been ſerviceable to me,
" at dinner-time, I obſerved the number of my
" gueſts greatly increaſed; whereupon, aſking
" who thoſe new-comers were, they anſwered,
" they did not know; which cauſed me to re-
" ply, 'Then do ye allow of thoſe to eat with
" ye, who have had no ſhare in your labour?'

" To which all the anſwer I could get from " them was, that it was the cuſtom ſo to do."

THE good Father adds: " This charity of " theirs ſeemed to me ſo commendable, that I " ordered their commons to be doubled, being " not a little pleaſed to find ſo great love and " amity even amongſt *Pagans*. If the like good " cuſtom were practiſed among us, we ſhould " not have ſo many poor indigent wretches die " in the ſtreets, and other places, merely for " want, as there almoſt daily do in all coun- " tries."

THE author's ſurprize was natural. His prior experience was limited to the obſervation of the manners and cuſtoms of a civilized people living under the influence of a ſyſtem of excluſive property. His reflections, however, diſcover more benevolence of heart, than knowledge of the natural commencement and progreſſion of ſociety.

COMMO-

COMMODORE Johnſtone, when Governor of Penſacola, viſited an Indian chief in friendſhip with the Britiſh government. The chief treated the Governor and his attendants with all the marks of kindneſs and hoſpitality of which the ſimplicity of his manners was capable. In particular, he preſented to his gueſts a beverage called the *black drink*, much eſteemed among the Indians. The Governor remarked it as a curious circumſtance, that not only the diſtribution of the drink was regulated by the chief, but the length of the gueſt's draught was meaſured by the duration of his whiſtle. The ſilence of the chief was a ſignal to the drinker for removing the cup from his mouth.

IT would appear from Homer, that the Greeks, in the heroic times, had none of thoſe implements which the refined luxury of modern ages finds ſo neceſſary to the arrangement and diſtribution of the neceſſaries as well as the delicacies of the table. When the heroic Greeks were preparing

to make a meal, a chief ſeized the animal to be ſacrificed, and killed him. Immediately his magnanimous aſſociates cut him in pieces, and prepared him for the broiling-ſpits. The diviſion and diſtribution of the animal were made the chief. It was a mark of diſtinction to be ſerved with a large piece of meat. In the Iliad we ſee, that Ajax was honoured by Agamemnon with the back of a bull*.

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* Οἱ δ' ὅτε δὴ κλισίῃσιν ἐν Ατρείδαο γένοντο,
Τοῖσι δὲ βοῦν ἱέρευσεν ἄναξ ἀνδρῶν Αγαμέμνων
Αρσενα, πενταέτηρον, ὑπερμενὲϊ Κρονίωνι·
Τὸν δέρον, αμφί θ' ἔπον, καί μιν διέχευαν ἅπαντα,
Μίσυλλόν τ' ἄρ' ἐπισαμένως, πεῖράν τ' ὀβελοῖσιν,
Ωπτησάν τε περιφραδέως, ἐρύσαντό τε πάντα.
Αὐτὰρ ἐπεὶ παύσαντο πόνυ, τετύκοντό τε δαῖτα,
Δαίνυντ', οὐδέ τι θυμὸς ἐδεύετο δαιτὸς ἐΐσης·
Νώτοισιν δ' Αἴαντα διηνεκέεσσι γέραιρεν
Ἥρως Ατρείδης, εὐρυκρείων Αγαμέμνων.

Hom. Il. lib. vii. v. 314.

A ſteer for ſacrifice the King deſign'd,
Of full five years, and of the nobler kind.
The victim falls: they ſtrip the ſmoking hide;
The beaſt they quarter, and the limbs divide;
Then ſpread the tables, the repaſt prepare;
Each takes his ſeat, and each receives his ſhare.

The

WE find Achilles killing a ſheep, and his companions occupied in cutting it up, and preparing it for the coals. Automedon, his charioteer, is entruſted with handing about the bread-baſket; but Achilles himſelf diſtributes the fleſh of the animal *.

The King himſelf (an honorary ſign)
Before great Ajax plac'd the mighty chine.

POPE.

The learned reader may obſerve, that Homer uſes the word Μίσυλλόν; intimating that the animal was cut into ſmall pieces. It may alſo be remarked, that the words importing that Ajax was ſerved with the back of the bull which was ſlain, are put in the plural number; and, if we are not miſtaken, are meant to expreſs, that Ajax was preſented with all the back pieces of the animal.

* Η, ϰ᾽ ἀναΐξας ὄϊν ἄργυφον ὠκὺς Αχιλλεύς
Σφάξ᾽· ἕταροι δ᾽ ἕδερόν τε ϰ᾽ ἄμφεπον εὖ ϰατὰ ϰόσμον,
Μίσυλλόν τ᾽ ἄρ᾽ ἐπισαμένως, πεῖράν τ᾽ ὀβελοῖσιν,
Ωπτησάν τε περιφραδέως, ἐρύσαντό τε πάντα.
Αὐτομέδων δ᾽ ἄρα σῖτον ἐλὼν ἐπένειμε τραπέζῃ
Καλοῖς ἐν ϰανέοισιν· ἀτὰρ ϰρέα νεῖμεν Αχιλλεύς.

Hom. Il. lib. xxiv. v. 622.

He ſaid; and, riſing, choſe the victim ewe
With ſilver fleece, which his attendants ſlew.
The limbs they ſever from the reeking hide,
With ſkill prepare them, and in parts divide.

Each

Mr. Carver, in his account of the American Indians, obſerves, that they eat in large parties, ſo that their meals may be properly denominated feaſts. They dance either before or after every meal. They are in the higheſt degree hoſpitable, kind, and free. They ſhare their proviſions with one another liberally, and ſtrangers are permitted to partake freely, if they happen to come in the way at meal-time. Though they do not keep one common ſtock, yet the community of goods is ſo prevalent, that

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Each on the coals the ſep'rate morſels lays,
And, haſty, ſnatches from the riſing blaze.
With bread the glitt'ring caniſters they load,
Which round the board Automedon beſtow'd.
The Chief himſelf to each his portion plac'd,
And each indulging ſhar'd his ſweet repaſt.

Pope.

From Pope's words the Engliſh reader would underſtand, that it was the attendants of Achilles who killed the ſheep intended to be dreſſed for his company; but the original informs us, it was Achilles himſelf that ſlew the white-fleeced animal. It may be obſerved, that in this poetical tranſlation, though exquiſitely beautiful, and admirably juſt upon the whole, ſeveral important circumſtances pertaining to antient manners ſeem not to have ſufficiently engaged the elegant tranſlator's attention.

they

they are in reality common to the whole tribe, and a right of excluſive property is not known. All public buſineſs concludes with a feaſt.

PUBLIC feaſts, which were always the occaſion of mirth and dancing, conſtituted a great part of the amuſements of primitive ſociety, and the office of *diſtributor* was frequently exerciſed by the chief. This office, though originally attended with little pre-eminence, came, in progreſs of ſociety, to lay the foundation of the moſt important diſtinctions known among men.

THE natives of Congo live in a ſtate of polygamy. The women perform the labour of the field, and ſow their beans, which are the chief article of their ſubſiſtence. They have two harveſts in the year. When harveſt is over, they put all the kidney-beans into one heap, the Indian wheat into another, and ſo on with other grains; and having given the *Macolonti*, or King, enough for his maintenance, and having laid

laid aſide what is deemed neceſſary for ſowing, the remainder is divided at ſo much to every cottage, according to the number of its inhabitants*.

WE are told by Cæſar and Tacitus, that the antient Germans paid little attention to agriculture; that no man among them held landed property by excluſive right of inheritance. The princes annually allotted to ſeparate bodies of the people herding together, ſuch a portion of territory as was ſufficient for their maintenance.

CÆSAR's words are theſe: "Agriculturæ non "ſtudent; majorque pars victus eorum in lacte "& caſeo & carne conſiſtit. Neque quiſquam "agri modum certum, aut fines proprios habet: "ſed magiſtratus ac principes in annos ſingulos, "gentibus cognationibuſque hominum *qui una* "*coierunt*, quantum & quo loco viſum eſt,

* F. Denis de Carli's Account of Congo, in Churchill's Voyages.

"agri

" agri attribuunt; atque anno poſt alio tranſire " cogunt *."

TACITUS expreſſes himſelf in the following words: " Agri pro numero cultorum ab univer- " ſis per vices occupantur, quos mox inter ſe ſe- " cundum dignationem partiuntur. Facilitatem " partiendi, camporum ſpatia præſtant. Arva " per annos mutant, & ſupereſt ager †."

THE act of diviſion of territory being exerciſed by the chiefs once in the courſe of every year, led to the moſt important conſequences. Their determinations being as yet influenced by no corrupt motives of gain, but directed by views of general good, received habitual acquieſcence. The uniform exerciſe of the power of diſtribution obtained the efficacy of legal right, and ſerved to impreſs

* Cæſar de Bello Gallico, lib. vi. cap. 20.

† Tacit. de Moribus Germanorum, cap. 26.

upon the minds of the people a ſenſe of obligation of ſubmiſſion to the will of the prince.

THE appropriation of any portion of the general ſtock of proviſions to the uſe of an aggregate body, family, or tribe of individuals, eaſily led to the appropriation of a certain portion to the uſe of the chief. This deſtination gave ſtability to his pre-eminence. Being in uſe to regulate the diviſion or diſtribution of the ſubjects of property belonging to the whole tribe, and among a paſtoral people to mark out the boundaries of their paſture-grounds; his authority naturally extended to the diviſion or diſtribution of landed poſſeſſions, when agriculture was become an object of attention, and the people depended upon the cultivation of the ſoil, as affording their principal fund of ſubſiſtence. The chief eaſily retained for himſelf a portion of territory correſponding to the acknowledged dignity of his ſtation.

IN

In that rude period of ſociety when men, deſtitute of the knowledge of taming cattle, and ignorant of the arts of agriculture, derive their ſuſtenance merely from the natural productions of the earth, and the arts of war practiſed againſt the beaſts of the field; the office of magiſtrate, veſted with the power of efficacious deciſion in any matter whatever, is unknown. The independence of the individual is ſo perfect, that he acknowledges no right in any man to direct his conduct. The chief's diſtinction originates in the diſplay of excellent perſonal qualities: theſe alone procure to him laſting reverence and eſteem.

In paſtoral life, the power of the chief is greatly enlarged. The reſpect and reverence paid to him, are not wholly governed by a ſenſe of his ſuperiority with reſpect to perſonal talents and abilities: a new ſource of influence ariſes from the particular appropriation to himſelf of an ex-

traordinary portion of the general ſtock of the tribe; which being under his command, and ſubject to his direction, paves the way for the eſtabliſhment of hereditary ſucceſſion, that moſt important revolution in the condition of Man. The æra of its commencement may be referred to paſtoral life. Among ſhepherds, it gains a conſiderable degree of vigour: a knowledge of agriculture ſuperadded to that of taming cattle gives it ſtability and permanency. It is in the paſtoral ſtate of ſociety that the human mind begins to be influenced by a blind admiration of the poſſeſſor of ſuperior fortune, and no longer views the chief with the correct eye of that rude untutored man to whom philoſophers apply the epithet of ſavage.

THE admiration in which the antient Germans held their princes, is painted by Tacitus with his uſual force and beauty: "Illum de-
"fendere, tueri, ſua quoque fortia facta gloriæ
"ejus

" ejus aſſignare, præcipuum ſacramentum eſt. " Principes pro victoria pugnant; comites, pro " principe *."

THEY eſteemed it a ſacred and inviolable duty, to defend their chief. By aſcribing to him the honour of their braveſt actions, they gratified their ambition of heightening the luſtre of his renown: their moſt valorous atchievements received an ample reward by the increaſe of his glory. Still, however, the individual felt a flattering conſciouſneſs of exaltation from the celebrity of the chief, which reflected fame and reputation on the whole body of the tribe.

THE actual poſſeſſion of a large portion of territory by the chief in his individual capacity, and his acknowledged right of diviſion of the paſture-grounds, derived from antient uſage,

* Tac. de Mor. Germ.

and

and confirmed by conſtant practice, induced men to entertain the momentous opinion, that the prince of every people is intitled, by indiſputable right, to regulate the diſpoſal of the landed property in poſſeſſion of his ſubjects.

HENCE it is, that, by the principles of the feudal ſyſtem, the whole territory of a kingdom is held to belong to the king, from whom all property is derived as the fountain of right.

THE Engliſh laws and cuſtoms were introduced into Ireland in the reign of Henry II. The abolition of the antient Iriſh cuſtoms, the Brehon law, and the law of Taniſtry, were objects to which the Engliſh government paid much attention. By a ſtatute made in a parliament held at Kilkenny in the reign of Edward III. the Engliſh are commanded to govern themſelves in all controverſies by the common laws of England; and whoever ſubmitted

mitted himſelf to the Brehon law was declared a traitor *.

NOTWITHSTANDING the ſeverity of the Engliſh laws upon that ſubject, the antient laws and cuſtoms of the Iriſh were not totally aboliſhed till the reign of James I. of England, when the law of *Taniſtry* was condemned *as a lewd and barbarous cuſtom*, by a final judgment in the King's Bench †.

BY the cuſtomary law of the antient Iriſh, the *Tanaiſter* (who was the next brother, or the blood relation ſecond in dignity, to the chief) had allotted to him a much larger portion of land than any other kinſman. Every deſcendant of the chieftain's family was underſtood to be intitled to the poſſeſſion of ſome part of the territory of the tribe. The right of tranſmiſſion

* Sir James Ware's Antiquities of Ireland, p. 69.

† Davis's Reports, Caſe of Tiniſtry, p. 28, &c.

of

of the chief's domain to any of his immediate deſcendants, was not acknowledged to be abſolutely veſted in him. He was ſometimes depoſed by the tribe for imbecillity and mal-adminiſtration; and the *Tanaiſter* was often elected and raiſed to his ſtation, preferably to any of his children. Yet the diſtribution of the lands and regulation of poſſeſſion among the kinſmen were in the hands of the reputed chief, by whom they were removable at pleaſure *.

* By an inquiſition taken before the Vice-Preſident of the province of Munſter, in the year 1594, by virtue of a commiſſion from the Lord Deputy and Council, it was found among other things, "that *Conoghor O-Callaghan, alias* the *O-Callaghan*, was "and is ſeized of ſeveral large territories in the inquiſition re-"cited in his demeſne, as *Lord* and *Chieftane* of *Poble-Callaghan*, "by the *Iriſh* cuſtom time out of mind uſed; that as *O-Cal-*"*laghan* aforeſaid is *Lord* of the ſaid country, ſo there is a *Taniſt* "by the cuſtom of the ſaid country, who is *Teig O-Callaghan*, "and that the ſaid *Teig* is ſeized as *Taniſt* by the ſaid cuſtom of "ſeveral plow-lands in the inquiſition mentioned; which alſo "finds, that the cuſtom is further, that every kinſman of the "*O-Callaghan* had a parcel of land to live upon, and yet "that no eſtate paſſed thereby, but that the *Lord* (who was "then *Conoghor O-Callaghan)* and the *O-Callaghan* for the time "being, by cuſtom time out of mind, may remove the ſaid "kinſmen to other lands; and the inquiſition further finds, "that

COMMON poſſeſſion of the cultivated ſoil, as well as of the paſture-grounds, by a collective number of individuals, is to this day known in the Highlands of Scotland. The arable grounds are divided into as many parts as there are tenants intitled to an equal ſhare of poſſeſſion. The ſtock of cattle belonging to each tenant is conſidered as equal: the advantages accruing to the ſeveral partitions from manure are deemed alſo to be equivalent: yet ſome portion of theſe diviſions ſhifts annually from one poſſeſſor to another, in ſuch manner, that, in a certain period of years, every tenant of the village has occupied and reaped crops from all the lands belonging to the village.

" that *O-Callaghan Mac-Dermod, Irrelagh O-Callaghan, Teig*
" *Mac-Cahir O-Callaghan, Donogho Mac-Thomas O-Callaghan,*
" *Conghor Genkagh O-Callaghan, Dermod Bane O-Callaghan,* and
" *Shane Mac-Teig O-Callaghan,* were ſeized of ſeveral plow-
" lands according to the ſaid cuſtom, ſubject nevertheleſs to
" certain ſeigniories and duties payable to the *O-Callaghan,*
" and that they were removable by him to other lands at his
" pleaſure." *Sir James Ware's Antiquities of Ireland,* p. 71.

THE eſtabliſhment of excluſive property in individuals, and the obſervance of marriage as a civil inſtitution intitling to certain benefits conferred by the favour of law, diſcovered the utility of a diviſion of that common ſubject which was in former times rendered productive by the joint labour of the whole community. After this revolution happened, it is evident that a certain qualification was requiſite in order to intitle one of the people to become a poſſeſſor of land in the character of a villager: he muſt be the proprietor of moveable ſtock equal to that of each of the other occupants. By this means he is diſtinguiſhed from the general maſs of the people, and ranked in a claſs with thoſe who had arrived at conſideration and reſpect. Hence we may learn the reaſon why the Galic phraſe *Duine coir* (which literally ſignifies *a man of equal land*, and was properly uſed to denote *a villager*) came to expreſs *a civil and humane man*, which is its preſent acceptation; importing, that the claſs

claſs we have been deſcribing conſiſted of men of greater circumſpection of behaviour, and of more chaſte and regular manners than were prevalent among the great body of the vulgar.

In the natural order of appropriation of territory, lands were not at firſt held in poſſeſſion by individuals, who were conſidered to be intitled to labour and cultivate diſtinct portions of the ſoil: they were allotted to ſmall ſocieties or communities; each of theſe to hold its diviſion as a ſubject of common uſe and poſſeſſion *. While the territory belonging to a rude nation is fully ſufficient to maintain the people, by means of a tranſient and deſultory application of labour to the cultivation of the ſoil; they, like their cattle, will lead a wandering life,

* The appropriation of land to tribes, before the excluſive right of poſſeſſion in individuals was acknowledged, eſcaped not the obſervation of the ingenious and well-informed Author of the "Diſſertation concerning the Antiquity of the Engliſh Conſti-"tution," and of the "View of Society in Europe, in its Pro-"greſs from Rudeneſs to Refinement."

changing their habitations as their herds change their paſtures. This ſtate of ſociety is highly pleaſing to the genius and diſpoſition of Man. It is calculated to gratify by turns the ſocial, the active, and the indolent qualities of his nature.

THE felicities of this age have much engaged the fancies of poets. Upon a cooler and more philoſophical view of the ſubject, it may be admitted, that as it favours the benignant qualities of the heart, and excludes the avaricious deſires of more advanced ſociety, it contributes in a high degree to the aggregate fund of Man's general happineſs *.

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* Hear how Juſtin expreſſes himſelf upon this ſubject in his account of the Scythians: "Aurum & argentum perinde aſ-
" pernantur ac reliqui mortales appetunt. Hæc continentia
" illis morum quoque juſtitiam edidit nihil alienum concu-
" piſcentibus. Quippe ibidem divitiarum cupido eſt ubi &
" uſus. Atque utinam reliquis mortalibus ſimilis moderatio,
" abſtinentiaque alieni foret; profecto non tantum bellorum
" per omnia ſecula terris omnibus continuaretur, neque plus
" hominum ferrum & arma quam naturalis fatorum conditio
" raperet. Prorſus ut admirabile videatur hoc illis naturam
" dare quod Græci longa ſapientium doctrina, præceptiſque
" philo-

THE increaſe of the human ſpecies in this ſtate of ſociety converts Man from a wandering to a ſtationary being: it fixes him down to a particular ſpot of the earth, which he is doomed to cultivate for his ſubſiſtence. Still, however, when ſocieties of mankind became fixed and ſtationary, the proceſs of agriculture was carried on at firſt, not by individuals upon their ſeparate account, but by ſmall bodies of men, with the aſſiſtance of their appendages, their women, children, and cattle; each man being underſtood to have right to an equal ſhare of the produce of the cultivated field. When the offſpring produced by thoſe ſmall communities increaſe ſo much as to render the allotment of each of them inſufficient for its ſupport, a new diviſion muſt take place, which is always regulated by the chief of the territory.

" philoſophorum conſequi nequeunt, cultoſque mores incultæ " barbariæ collatione ſuperari. Tanto plus in illis proficit " vitiorum ignoratio, quam cognitio virtutis." Lib. ii. cap. 2. Deſcriptio Scytharum.

With the multiplication of the ſpecies the difficulty of diſtribution of territory increaſes. This circumſtance muſt, in all early ages of landed appropriation, have produced great commotions among the people. To prevent encroachment and uſurpation, it became neceſſary to diſtinguiſh poſſeſſions accurately, and to fix their boundaries by landmarks. Theſe objects we accordingly find to have employed the attention of all the antient lawgivers and founders of ſtates of whom we have any hiſtory worthy of credit. Romulus made an equal diviſion of the lands among the citizens. Numa Pompilius, who appears to have been a wiſe legiſlator, found that the diviſion of land was an object that required his particular regard; and as, in a ſtate growing in ſtrength and increaſing in population, it was impoſſible to allot a portion of land to every citizen ſufficient for his maintenance, he divided all the lands into diſtricts, to which he gave the name of *Pagus*, and over each of them appointed governors and overſeers.

He

He altered the former diviſions of the people, and diſtributed them into claſſes, according to their arts and profeſſions. He encouraged trades and manual arts, and diſtinguiſhed the artificers from the labourers of the ground *. The firſt Incas of Peru employed themſelves in dividing and diſtributing the lands among their ſubjects †.

It may be made matter of wonder, how any individuals of the human ſpecies could uniformly have arrived at the poſſeſſion of ſo tranſcendent a power as kings enjoy over ſo many warlike and high-ſpirited nations as Europe at this day preſents to our view.

It was not by any public contract or agreement between a king and his ſubjects. By what faſcinating charm, then, did individuals in-

* Plutarch's Life of Numa.

† Hiſt. des Incas, p. 48. 188.

ferior

ferior in native powers and abilities to multitudes of their ſpecies in ſubjection to their commands, riſe into ſuch high and paramount diſtinction? It may be anſwered, By gradual ſteps founded in the cuſtoms of primitive ſociety. Acts of power conſiſtent with uſage, and naturally flowing from it, claſh not with the ſentiments of the people. Fears of the unhappy conſequences of arbitrary rule alarm not their unſuſpicious minds. Apprehenſions in regard to perſonal ſafety and political liberty, are not entertained from a contemplation of future evils. Theſe are diſcovered only when the abuſes of power are felt to counteract the natural ſprings of human action. At that critical period, ſalutary reſtraints and limitations neceſſary for the preſervation of the public welfare are, in free ſtates, impoſed on the ſovereign by the people; whoſe ſpirit, riſing indignant againſt tyranny, will not ſuffer itſelf to be cruſhed by arbitrary rule: whereas in thoſe regions of the earth where the people are endued with a more pliant

and

and paſſive diſpoſition, and are not ſo ſtrongly impreſſed with a ſenſe of the rights of nature, their liberties have uniformly fallen a ſacrifice to the poſſeſſors of exorbitant power.

"EVERY foot of land in the Mogul empire "is underſtood to belong to him; and even the "fortunes of individuals he diſpoſes of and diſtri-"butes at pleaſure. He is heir to all his ſub-"jects, and leaves to the widow and family "whatever portion of the effects of the dead he "is pleaſed to beſtow on them *."

THE principle of natural equality, which neither tyranny nor injuſtice can totally eradicate from the human breaſt, is borne down by the weight of deſpotic power, raiſed through a ſeries of ages upon the baſis of the primitive cuſtom of diſtribution of food in times of primeval ſimplicity.

* Sir Thomas Roe's Journal and Letter to the Archbiſhop of Canterbury.

ORIGIN

OF

JURISDICTION.

ORIGINALLY the ſubjects of property were common to all the people connected together by motives of ſelf-preſervation and mutual defence. That conception of right in certain diſtinguiſhed perſons to regulate the diſtribution of the common food, had, in its natural operation upon the human mind, a powerful tendency toward the eſtabliſhment of regular government. While the means of ſubſiſtence conſiſted of the ſpoils of the chace, and the natural productions of the earth, independent of culture or care, common property and common food * were ſyno-

* *Coed.*

nimous terms. In this reſpect, a material alteration in point of political arrangement happened, when mankind had learned the art of taming cattle, and derived from them the chief means of ſubſiſtence. Still the ſtock of the horde was common property. Every tribe or family lived together in cloſe confederacy, and moved in a body with their herds and flocks, which were the objects of their joint care and protection. In like manner, when ſocieties, becoming ſtationary, had attached themſelves to particular allotments or portions of territory, and depended for their maintenance partly upon the productions of the ſoil by application of labour, the crop raiſed by the joint exertions of the community muſt naturally have been conſidered as the property of the whole ſociety. Therefore a right of excluſive property in individuals, being as unneceſſary as it was inconſiſtent with the dictates of natural law, received no ſupport from the ſentiments of the people. The ſmall ſocieties into which the people were divided, poſſeſſing in common certain

tain tracts of territory limited by the *Rei*, or *Chief*; the ſubject of common poſſeſſion obtained among the antient Celts the name of *Coir*, or *common land.*

PRIOR to the eſtabliſhment of excluſive property, either in an individual or in a certain number of men formed into a community, no diſputes of a civil nature could have happened. Perſonal injuries and affronts, however, muſt have frequently exiſted. There being no tribunal to redreſs wrongs, every man was himſelf the judge of the degree of injury he received: the ſeverity of his vengeance was meaſured by his feelings of reſentment. The American Indian acknowledges no right in any individual of his tribe to direct or control his actions: there is no public authority eſtabliſhed to enforce puniſhment. The chiefs aſſume not the power of checking revenge, nor do they think themſelves intitled to moderate its exceſſive ſeverity. Every man enjoys the moſt perfect freedom. If a

chief

chief were to attempt to inflict puniſhment, the obnoxious perſon, attached to no particular place of reſidence, would fly into the woods, or join another tribe, and become the enemy of his natural friends: ſo that every individual is conſidered to be the avenger of the wrongs by which he is affected*. The governing law is the natural one of retaliation, which, it is expected by the offender, will be inflicted as ſoon as a favourable opportunity offers itſelf to the injured party.

THE diſcovery of the art of taming and rearing cattle, and the experience of the great increaſe of the means of ſubſiſtence thence derived, muſt have had the effect of converting much of the attention of the community to the cultivation of that art. The animal ſubdued into tameneſs was no longer the prey of the hunter, but became, with its offſpring, a

* See Carver's Travels.

freſh

freſh acceſſion of wealth to a particular ſociety.

PROPERTY being eſtabliſhed in a community, different ideas upon the ſubject of puniſhment began to prevail. When an act of violence was committed by a member of one tribe or family againſt that of another, by which great injury was ſuſtained, or death enſued; the law of retaliation fell into diſuſe: the extravagance of private revenge was checked by that mode of puniſhment which we find to have prevailed univerſally among paſtoral nations. An atonement for the loſs of a member of the community was made, not by the death of the offender, but by a fine or penalty paid in cattle; which being an acceſſion of wealth to the injured tribe, by an increaſe of the common ſtock of proviſions, was deemed a juſt compenſation for the loſs ſuſtained. Every tribe became anſwerable for the good behaviour of all its members; ſo that the commiſſion of crimes occaſioned the increaſe

increaſe of the ſtock of the injured tribe, and a correſpondent diminution of the ſtock of the tribe to which the aggreſſor belonged *. This view of the ſituation of paſtoral ſociety will enable us to underſtand theſe words of Tacitus: "Luitur etiam homicidium, certo armentorum "ac pecorum numero, *recipitque ſatisfactionem* "*univerſa domus.*"

* By the Brehon law of the Iriſh, "murders, rapes, and "theft were puniſhed by a fine called *Eric*, which was raiſed "out of the ſubſtance of the delinquent; or, for want of that, "out of the territory where the offence was committed."

Sir James Ware's Antiquities of Ireland, p. 70.

A remnant of this ſtate of antient manners continued in force among the Highlanders of Scotland down to the year 1746. Inſtances of it have occurred even of a later date. When cattle were ſtolen from any particular village or diſtrict, the inhabitants aſſembled in order to trace the route of the ſtolen cattle. At this buſineſs they were extremely expert. If the cattle were clearly tracked into the paſture-grounds of any other village or diſtrict, the inhabitants of that diſtrict were bound, by the law of antient uſage, to follow the track through their own territory, and point it out beyond its limits, or pay the damage ſuſtained by the owners. The track being ſhewn in the territory of another village or diſtrict, it was then ſolemnly delivered over (being the mode of expreſſion uſed) to the poſſeſſors of the conterminous ground. This was a wiſe and politic law, as it kept awake the attention of the people towards the repulſion or diſcovery of thieves and depredators.

In that period of ſociety when excluſive property in individuals is eſtabliſhed, and the permanent union of one male with one or more females is introduced, ſo that the father as well as the mother is known, the father becomes the head and governor of his houſe or family, veſted with the moſt unlimited and arbitrary juriſdiction. His wife is his ſlave, and the children are his property, which he can diſpoſe of at pleaſure; for his authority extends even to the power of life and death over his children *.

The *univerſa domus*, or *whole houſe*, of Tacitus could not mean a houſe compoſed of a father of a family poſſeſſing the moſt deſpotic authority, and of a wife and children who were deemed his ſlaves and ſubjects of property. The houſe mentioned by the Roman author conſiſted of the *gentes & cognationes hominum qui una coierunt*; for ſo the little ſocieties or families who

* See Mr. Millar's Origin of Ranks, chap. i. laſt edition.

herded together, and had certain portions of land annually aſſigned to them by the chiefs, are deſcribed by Cæſar. The antient German houſe conſiſted not of one man and one woman and their common offspring, but formed a body of men, women, and children, connected together not ſo eſſentially by conſanguinity or relation of blood, as by thoſe ties of mutual intereſt which conſiſt in a participation of the means of ſubſiſtence. Every individual was intereſted in the compenſation which was made as an atonement for the commiſſion of crimes.

THE deſcendants of the Caledonians have preſerved to modern times the idea of the antient German houſe. The Caledonian nation conſiſts of tribes. *A tribe* is called *Fine* *. Each tribe is divided into ſmaller branches or families. The word *Teadhlach*, which ſignifies *family*, is in a larger ſenſe, at this day, underſtood to

* Φυναι, to be born.

comprehend

comprehend every perſon connected by the relation of blood with a particular family, diſtinguiſhed by the name of the place of reſidence of the original ſtock of that family. The moſt conſpicuous deſcendant from the original ſtock, who, by the eſtabliſhment of excluſive property, came to poſſeſs the family territory by right of inheritance, was called *Cenn Tai*, or, *the head of the houſe*; and although the deſcendants of the original ſtock no longer reſide in one place, or herd together, yet they all eſteem themſelves to be members of the houſe from which they ſprung, and call the repreſentative of the family *the head of their houſe*.

UPON the commiſſion of a crime (for example, murder) by a member of one tribe or houſe againſt that of another, the natural atonement was the death of the offender. But revenge was completely appeaſed only by delivering up the offender to the injured tribe, that they might with their own hands inflict puniſhment. If

the perſon of the offender is protected by his tribe, and not ſurrendered to be made a ſacrifice to rancorous reſentment and cruel vengeance, dangerous feuds and animoſities became the infallible conſequence.

THE expedient deviſed for ſtaying the hand of violence was a conciliatory addreſs to the ſelfiſh principle, by a transference of a part of the ſtock of the offender's tribe, ſo as to become an acceſſion of wealth, and conſequently of power, to the injured tribe. It is a well-eſtabliſhed fact, that rude ſocieties of men living in the ſtate we have been deſcribing, are extremely tenacious of their property, and are ever ready to riſk their lives in defence of it. Voluntary atonement would rarely happen among a barbarous and warlike people. Hence feuds and animoſities would be extremely frequent between different tribes, and even between families or branches of the ſame tribe. "In Gallia," ſays Cæſar, "non ſolum in omnibus civitatibus, atque

"in

" omnibus pagis partibuſque, ſed pene etiam in " ſingulis domibus, factiones ſunt*."

MEN poſſeſſed of the freedom of action, ever arrayed in the weapons of war, would not readily ſurrender their natural rights, to be guided by the arbitrary will of any of their fellow-members of ſociety. The perſonal right of avenging wrongs and injuries continued to prevail in ſociety, until a right of excluſive property was generally underſtood and eſtabliſhed.

IT is laid down by an ingenious and learned author †, that criminal is in all countries of a much later date than civil juriſdiction. This opinion appears to us to receive no ſupport from thoſe circumſtances in the natural progreſs of ſociety which lead towards the eſtabliſhment of

* De Bello Gallico, lib. vi. cap. 7.

† Lord Kaims. Law Tracts, p. 19.

juriſdiction,

juriſdiction, and the formation of a ſyſtem of juriſprudence.

THE firſt eſtabliſhment of property was marked by the common poſſeſſion of a certain diſtrict, or territory, by the individuals of a family or tribe connected together by motives of mutual ſafety and convenience. A crime committed againſt any individual of a tribe, operated to rouſe the reſentment of all its members. Animoſities ſo deſtructive and dangerous were altogether inconſiſtent with the principles of any ſort of regular government. To ſubdue the minds of a rude and warlike people, to reduce them under the dominion of regularity and order, to prevail upon them to yield paſſive obedience to awards of puniſhment; was an arduous taſk, the accompliſhment of which required more than the efficacy of human authority.

IT ſeems to be a propoſition in a great meaſure admitted, that no tribes or ſocieties of men

men have been found totally deſtitute of the impreſſion of ſuperior beings and inviſible powers. The gratifications of men living in a primeval ſtate of ſociety are purely of a corporeal nature. Among them no temptation exiſts for putting in practice the deceptions of prieſtcraft: for no ſyſtem of religion is then eſtabliſhed. That notion of a future ſtate ſeems to be the moſt natural, which conſiſts in the belief of a more perfect indulgence in thoſe gratifications which are found to be the moſt pleaſant during life *.

* Cæſar informs us, that it was thought the diſcipline of the Druids had been firſt found in Britain, and from thence tranſlated into Gaul; and that, for the moſt part, thoſe who were ambitious of acquiring a perfect knowledge of their myſteries, travelled into Britain to learn them. "Diſciplina in Britannia re-" perta, atque inde in Galliam tranſlata eſſe exiſtimatur: et " nunc, qui diligentius eam rem cognoſcere volunt, plerumque " illo diſcendi cauſa proficiſcuntur." No doubt can be entertained, that the arts and learning of that much-famed order were cultivated among the antient Britons of the northern as well as ſouthern parts of Albion. From Cæſar's account of the Druids we learn, that they were not only the prieſts, but the philoſophers, legiſlators, and judges of the antient Gauls; that they ſtudiouſly taught the doctrine of the immortality and tranſmigration of ſouls; held diſputations concerning the ſtars and their motions,

THE introduction of excluſive property held up to view a tempting object for ſtirring up the

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motions, the magnitude of the heavens and the earth, the natures of things, and the might and power of the immortal gods. " In primis hoc volunt perſuadere: non interire animas, ſed ab " aliis poſt mortem tranſire ad alios;———Multa præterea de " ſideribus atque eorum motu, de mundi ac terrarum magnitu- " dine, de rerum natura, de deorum immortalium vi ac poteſtate " diſputant, & juventuti tranſdunt."

The celebrated tranſlator of the Poems of Oſſian, accounting for the total ſilence of the poet with reſpect to religion, informs us in his Diſſertation concerning the antiquity of thoſe poems, that the authority of the Druids, however great it might have been prior to the beginning of the ſecond century, began at that period to decline among the Caledonians; they having, in the time of Fingal's grandfather, commenced a war againſt the Druids, which ended in the almoſt total extinction of their order.

The learned tranſlator makes mention of a diſpute which Oſſian, in his old age, had been led into with a Culdee, or one of the firſt Chriſtian miſſionaries, who was deſirous of making him a proſelyte to the Chriſtian doctrine. From the terms in which that diſpute was couched, the tranſlator, with great propriety, remarks Oſſian's extreme ignorance of the Chriſtian tenets. Tradition has handed down, that it was St. Patrick, the tutelar Saint of Ireland, who undertook the pious taſk of converting Oſſian to the Chriſtian faith. This curious relict of antient compoſition, which has preſerved an account of the religious converſation of the pious with the heroic and poetic worthy, ſerves to ſhew, that Oſſian was not only ignorant of the Chriſtian tenets, but totally deſtitute of the knowledge of the religious doctrine and philoſophy of the Druids; and that his notions of a divinity and of a future life were thoſe of a primeval

the artifices of ſubtle ſpirits to work upon the minds of a ſimple people, in order to obtain

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primeval ſociety, whoſe religious conceptions had not been methodized into any ſort of regular ſyſtem.

Oſſian ſays to the Culdee, or St. Patrick:

Ciod an t ait i, 'n ear na 'n iar
Fhir ad a tha treun 's a ſgoil,
Nach co math ri Flathais De,
Mo dh'fhaoit innte fei a's coin?

In Engliſh thus:

"What place is it, from the Eaſt to the Weſt, thou "who art an expert ſcholar, that is not equally good with "the Heaven of God, if therein deers and dogs are to be "found?"

It appears from an antient poem, called *The Old Bard's Wiſh*, that, at a later period than the days of Oſſian, the ſame notions reſpecting the joys of a future ſtate prevailed.

The Bard, after enumerating thoſe paſtoral occupations and hunting ſcenes which had afforded him delight in the vigour of life, expreſſes the ſituation in which he wiſhed his body to be laid at his death. The words in the original are theſe:

O! cairibh mi ri grean tra noin
Fo 'n bharach aig ſiubhal an loin,
'S air an t ſheamraig 's ann ſan neoinein,
'N d' thig aiſlinn na h oige am choir?

Bioidh cruit a's ſlige lan ri m' thaobh,
'S an ſgia dhion mo ſhinſir ſa chath,
Foſglibh an tall am bheil Oſſian a's Daol
Thig am feaſgar a's cha bhi 'm Bard air bhrath.

poſſeſſion of the inſtruments of ſupereminent diſtinction and power. Superiority being naturally flattering to the mind, to dictate or deliver orders with authority became early an object of

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Ach o! mas tig e, ſeal ma'n triall mo cheo *,*
Gu teach na'm Bard air ard-bheinn as nach pill,
Thugibh dhomh a chruit 's ant ſhlige dh' iunſai 'n roid
An ſin mo chruit 's mo ſhlige grai, ſlan libh.

In Engliſh thus:

"O lay me before the ſun at noon, under the ſhade, among "the clover and the daiſy, where the elk doth paſs. Will the "dreams of youth approach me?

"Let a harp and a brim-full ſhell be by my ſide, and the "ſhield that covered my forefathers in battle. Open the "hall where Oſſian and Daol reſide. The evening will come, "and the Bard ſhall be no more.

"But, ah! before it comes, a little while ere my ſpirit ſhall "depart to the reſidence of the Bards upon Ardven †, whence "there is no return, give me the harp and the ſhell for the "road. My dear harp and ſhell being with me, to ye all "farewell!"

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* The word *Ceo*, which in common language ſignifies *miſt* or *cloudy vapour*, is here uſed to denote *the ſoul*. This informs us, that, according to the Caledonian notion of *ſpirit*, it was an airy ſubſtance capable of aſſuming a viſible form; that it exiſted in a ſeparate ſtate from the body, and enjoyed, in the region of the clouds, thoſe purſuits which gave it ſo much pleaſure when connected with the groſſer ſubſtance of the body.

† *Ardbheun*, high mountain.

ambition.

ambition. The hiſtories of all nations preſent us with evidence of the truth of the propoſition, That men of uncommon penetration and ſagacity have ever been ſucceſsful in accompliſhing their deſigns upon ſuperſtitious and credulous minds.

It has been obſerved, that ſavage nations have no violent attachment to their religion; that they give no vehement oppoſition to the propagation of new doctrines; but change with facility their own indigeſted opinions, for thoſe inculcated by the ſtudied ſanctity of zealous teachers. There is reaſon to conclude, that the eſtabliſhment of a religious ſyſtem followed cloſely the eſtabliſhment of excluſive property; and that it was the influence of religion that gave ſtability to regular ſubordination, and produced that uniformity of ſubjection to rule, which figured as a ſyſtem of civil polity.

The power of a chief in the ſtate of a total community of goods, extends no farther than to

the command of the tribe in the day of battle. His authority ceaſes upon the return of peace. But the influence of a chief among a people who have acquired the art of taming and rearing cattle, is more extenſive than in the primitive ſtate. The diſtribution and regulation of territory, with the excluſive poſſeſſion of a certain portion of the ſtock of the tribe, are ſuperadded to military command. Notwithſtanding this apparently arbitrary power, yet the authority of the chief is too weak to bring criminal offenders to puniſhment. How was this great object to be accompliſhed?

We are told by Tacitus, that capital accuſations were proſecuted before the great council of the nation, and puniſhments were inflicted more or leſs ſeverely according to the nature of the offence. Smaller crimes were puniſhed with the loſs of goods, which among a paſtoral people conſiſted of cattle. In the great council, perſons of eminence and diſtinction were choſen, and inveſted

inveſted with a delegated power to adminiſter juſtice in diſtricts and villages. Theſe delegates were aſſiſted by numerous attendants ſelected from the body of the people, who aided them with their advice, and furniſhed the ſtrength which carried their authority into execution. "Licet apud conci-
"lium accuſare quoque et diſcrimen capitis inten-
"dere. Diſtinctio pœnarum ex delicto; proditores
"et transfugas arboribus ſuſpendunt, ignavos et
"imbelles, et corpore infames cœno ac palude,
"injecta inſuper crate, mergunt. Diverſitas ſup-
"plicii illuc reſpicit, tanquam ſcelera oſtendi
"oporteat dum puniuntur, flagitia abſcondi.
"Sed et levioribus delictis pro modo pœnarum,
"equorum pecorumque numero convicti mulc-
"tantur: pars mulctæ regi vel civitati, pars ipſi
"qui vindicatur vel propinquis ejus exſolvitur.
"Eliguntur in iiſdem conciliis et principes, qui
"jura per pagos vicoſque reddunt. Centeni
"ſingulis ex plebe comites, conſilium ſimul et
"auctoritas, adſunt*."

* Tac. Germ. cap. 12.

AMONG

AMONG the antient Germans, the chief or prince was not always the general or leader in the day of battle. The introduction of exclusive property enabled the chief to procure hereditary rank, and to enjoy the reſpect thence derived, but not to command the eſteem of perſonal accompliſhments. "Reges ex nobili-"tate, duces ex virtute, ſumunt*." From the ſame admirable author we learn, that a hereditary diſtinction of ranks took place; that a conſtitution of ſtate was underſtood; and that fines and penalties inflicted for crimes were in part applied to the uſe of the king or the ſtate, and partly to the injured perſon and his relations. In this manner the whole community was intereſted to unite their efforts for the preſervation of order and the ſuppreſſion of crimes.

THEIR form of government was of a mixed nature: the free ſpirit of republicaniſm was its prevailing feature. "De minoribus rebus prin-

* Tac. Germ. cap. 6.

"cipes

"cipes conſultant, de majoribus omnes; ita "tamen, ut ea quoque quorum penes plebem "arbitrium eſt, apud principes pertractentur.—— "Ut turbæ placuit, conſidunt armati.——Mox "rex vel principes, prout ætas cuique, prout "nobilitas, prout decus bellorum, prout facundia "eſt, audiuntur, auctoritate ſuadendi magis quam "jubendi poteſtate *."

It is evident that the power of the kings or princes was limited, and ſubject to popular control. Every freeman went to the national aſſembly. He took his ſeat accoutred in his arms, and with unreſtrained freedom propoſed his opinion upon the ſubject matter of deliberation. The dictates of good ſenſe, derived from perſonal experience, tried abilities, and acknowledged reputation, determined national meaſures. The kings had no power to confine, or inflict corporal puniſhment or cenſure upon, any man.

* Tac. Germ. cap. 11.

The

The office of the prince carried no terrors to the minds of the people. The power of inflicting puniſhment was lodged in other hands.

THE antient Germans were not altogether ſtrangers to the cultivation of the ground. They all led a wandering life, and entertained no notion of permanent property in land. Their wealth conſiſted in herds and flocks. The office of prieſt was known among them. The eſtabliſhment of property and of a clerical order are intimately allied. The influence of that order, it will be found, is attended with a more powerful effect than that of any civil authority, in breaking the untamed ſpirit of rude minds, and rendering it ſubſervient to artificial rule.

THE aſſemblies of the German people exhibit a picture of rational freedom. As their deciſions were guided by motives of general good, a ready obedience and ſubmiſſion might be expected to be the natural conſequence. We find,

find, however, that the civil power determined public meaſures; yet they left the ſupport of them to the feelings of the people. "Ubi quis "ex principibus," ſays Cæſar, ſpeaking of the ſame people, "in concilio dixit ſe ducem fore; "*qui ſequi velint profiteantur*. Conſurgunt hi "qui et cauſam et hominem probant, ſuumque "auxilium pollicentur, atque ab multitudine col- "laudantur: qui ex iis ſecuti non ſunt in deſer- "torum ac proditorum numero ducuntur; omni- "umque iis rerum poſtea fides derogatur*."

A SENSE of duty, or a deſire of glory, excited to action. No compulſive meaſures were put in practice. The leader conducted a free and willing people. Diſgrace and infamy were the lot of thoſe who profeſſed themſelves willing to follow him, but deſerted his ſtandard: yet no corporal puniſhment was inflicted by the civil authority.

* Cæſar de Bello Gallico, lib. vi. cap. 23.

THE prieſts were conſtituent members of the aſſemblies of the people. Their authority was highly reſpectable. They ſeemed to hold the ſtation of preſidency. They commanded ſilence, and kept order. The power of correction was in their hands. "Silentium per ſacerdotes, quibus tum et coercendi jus eſt, imperatur *." —— "Ceterum neque animadvertere neque vincire, neque verberare quidem niſi ſacerdotibus permiſſum; non quaſi in pœnam, nec ducis juſſu, ſed velut Deo imperante †."

THE hiſtory of rude nations furniſhes ample teſtimony of the fact, that upon the firſt attempts towards the formation of a religious ſyſtem, thoſe who aſſumed the ſacred character of teachers of religious duty and hallowed obſervances, ever found means to inculcate upon the minds of the people, that they were the pecu-

* Tac. de Mor. Germ. cap. 12.

† Ibid. cap. 7.

liar

liar favourites of Heaven; and that to them alone the Deity diſpenſed a revelation of his will, and committed the ſacred truſt of executing his commands. Thus, it was the efficacy of the command of the Deity, and not that of Man's authority, which prevailed on the antient Germans to ſubmit to any degree of corporal puniſhment.

THE Gauls were much farther advanced in the practice of thoſe arts which are derogatory of the natural rights of the people; arts, whoſe tendency is to obliterate the feelings of original equality, to depreſs the mind by diminiſhing its freedom of action, to debaſe the ſentiments of the great body of the people by inculcating a ſenſe of inferiority, and upon this artificial fabric to raiſe the ſuperiority and importance of individuals beyond the ſtandard of natural right. The rights of nature being effaced by a ſyſtem of factitious reverence and reſpect, the ſpecies come to be divided into men

of dignity and men of debaſement. It is the province of the firſt to announce commands: the latter are deſtined to perform the mechanical office of carrying thoſe commands into execution. This ſyſtem was eſtabliſhed among the Gauls in the days of Cæſar: "Nam plebs pene ſervorum ha-" betur loco, quæ per ſe nihil audet et nulli ad-" hibetur conſilio. Plerique, quum aut ære ali-" eno, aut magnitudine tributorum, aut injuria " potentiorum premuntur; ſeſe in ſervitutem " dicant nobilibus: in hos eadem omnia ſunt " jura, quæ dominis in ſervos*."

THE Volcæ, of all the Gauliſh nations, preſerved the virtue of their anceſtors: "Ac fuit " antea tempus, quum Germanos Galli virtute " ſuperarunt, et ultro bella inferrent." Cæſar accounts for the preſervation of the virtue of the Volcæ, and its decay among the other Gallic nations, with a nervous brevity, in which, how-

* Cæſar de Bello Gallico, lib. vi. c. 13.

ever,

ever, that correctneſs of judgment, that beautiful ſimplicity of diction in which he excelled, are conſpicuous: "Volcæ Tectoſages occuparunt, "atque ibi conſederunt. Quæ gens ad hoc "tempus iis ſedibus ſe continet, ſummamque "habent juſtitiæ et bellicæ laudis opinionem, "nuncque in eadem inopia, egeſtate, patientia, "qua Germani permanent: eodem victu, et "cultu corporis, utuntur. Gallis autem provin-"ciæ propinquitas, et tranſmarinarum rerum "notitia, multa ad copiam atque uſus largitur: "paullatim aſſuefacti ſuperari, multiſque prœliis "victi, ne ſe quidem ipſi cum illis virtute com-"parant*."——"Viri quantas pecunias ab uxo-"ribus, dotis nomine acceperunt; tantas ex ſuis "bonis, æſtimatione facta, cum dotibus commu-"nicant. Hujus omnis pecuniæ conjunctim "ratio habetur, fructuſque ſervantur. Uter "eorum vita ſuperarit; ad eum pars utriuſque,

* Cæſar de Bello Gallico, lib. vi. c. 22.

"cum

" cum fructibus ſuperiorum temporum, per-
" venit *."

CÆSAR found the Britons who inhabited the maritime parts of the iſland which he viſited, to be ſimilar in manners to the Gauls, and he conceived them to be colonies of the Belgic nation. The uſe of money was known to them: " Utuntur aut ære, aut annulis ferreis ad certum " pondus examinatis, pro nummo. Naſcitur ibi " plumbum album in mediterraneis regionibus, " in maritimis ferrum; ſed ejus exigua eſt copia: " ære utuntur importato."——" Ex his omnibus " longe ſunt humaniſſimi qui Cantium incolunt; " quæ regio eſt maritima omnis; neque mul- " tum a Gallica differunt conſuetudine †."

THE inhabitants of the interior parts of Britain differed widely in manners, and in the

* Cæſar de Bello Gallico, lib. vi. cap. 17.

† Ibid. lib. v. cap. 10.

arts

arts of life, from thoſe inhabiting the maritime parts of the ſouthern end of the iſland. The firſt, ignorant of agriculture, lived on milk and fleſh, and were clothed in ſkins: "Interiores plerique frumenta non ſerunt, ſed lacte et carne vivunt; pellibuſque ſunt veſtiti *."

THE Gauls, it is evident, had in the time of Cæſar arrived at the knowledge not only of excluſive property in individuals, but were acquainted with the uſe of money, and were in ſome degree converſant with commercial dealings. It might be expected, that among ſuch a people the authority of civil magiſtrates would be ſo well eſtabliſhed, as to be ſufficient to preſerve order and enforce ſubjection to general rules. We find, however, that civil authority was too weak to reſtrain violence, too feeble to produce obedience even to civil awards, and altogether inſufficient for the ſuppreſſion of crimes. Theſe

* Cæſar de Bello Gallico, lib. v. cap. 10.

great

great objects of ſtate policy were accompliſhed by the power and authority of the ſacerdotal order.

CÆSAR, recounting the power and authority of the Druids, expreſſes himſelf in this manner: "Illi rebus divinis interſunt, ſacrificia publica ac "privata procurant, religiones interpretantur: "ad hos magnus adoleſcentium numerus, diſci- "plinæ cauſa, concurrit; magnoque hi ſunt "apud eos honore. Nam fere de omnibus con- "troverſiis, publicis privatiſque, conſtituunt: et, "ſi quod eſt admiſſum facinus; ſi cædes facta; "ſi de hæreditate, ſi de finibus controverſia eſt; "iidem decernunt. Præmia pœnaſque conſti- "tuunt. Si quis, aut privatus aut publicus, "eorum decreto non ſteterit; ſacrificiis inter- "dicunt. Hæc pœna apud eos eſt graviſſima. "Quibus ita eſt interdictum, ii numero impio- "rum ac ſceleratorum habentur; iis omnes de- "cedunt, aditum eorum ſermonemque defu- "giunt, ne quid ex contagione incommodi acci- "piant:

" piant; neque iis petentibus jus redditur, neque " honos ullus communicatur *."

HENCE we may learn, that the Druids not only preſided over all religious inſtitutions, but were the interpreters of the laws, which received execution from the efficacy of their authority. They judged in all cauſes, whether criminal or civil. Their ſentence was eſteemed ſo ſacred, that whoever refuſed to give it complete obedience, was excluded from aſſiſting at their religious rites; was held in the higheſt execration and abhorrence; and, in the midſt of ſociety, led the life of a perſon afflicted with a contagious diſtemper, who could not be approached without contamination and death. He was denied all manner of legal redreſs for either injury or injuſtice committed againſt him. The hope of enjoying any mark of honour or reputable diſtinction was cut off from him for ever.

* Cæſar de Bello Gallico, lib. vi. cap. 13.

SUCH were the calamitous effects of this direful proſcription, that one would imagine the great Cæſar was prophetically deſcribing the baleful excommunications and terrific anathemas launched forth in after-times by the Romiſh Pontiff, in the zenith of his deſpotic ſway over the conſciences of men. The purity and ſimplicity of the Chriſtian religion were not ſufficient, in times of ignorance and ſuperſtition, to guard againſt the unhappy influence of pious frauds.

WE find that the wiſeſt legiſlators of early times, and the ableſt reformers of rude manners, have uniformly employed the religious opinions and ſuperſtitious fears of the people as inſtruments to work out their deſigns. The princes of rude nations found it neceſſary, in order to enforce authority, to aſſume a ſacred character, and to unite in their perſons the offices of king and prieſt. The acknowledgment of the power of a prince over the ceremonies of religion, and the regulation

regulation of public worſhip, influenced the people to pay a ſacred regard to his civil inſtitutions, and taught them to reverence his laws, as the dictates of a mind endowed with wiſdom beyond the reach of human capacity.

RUDE nations leading wandering lives, are liable to frequent viciſſitudes of fortune. They command the means of ſubſiſtence, and enjoy repoſe, or contend with the hardſhips of war, and the diſtreſſes of want. The experience of the human mind naturally leads into a belief, that all motion proceeds from ſome being endued with the power of action. The ſtrength and energy of the inviſible agent are meaſured by viſible effects, which, if unhappy and calamitous, carry terror and diſmay. If the ſuperior being is angry, methods are deviſed to appeaſe his diſpleaſure, and turn away his wrath. Theſe conſiſt of obſcure ceremonials, words of flattery*,

* *The Praiſe of God*, by the *Senghael*, or old Caledonian, is curious; and as it is applicable to this ſubject, it is here given

or offerings of ſacrifices of the moſt valuable and eſtimable things among the people. The hiſtory

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as repeated in the Highlands of Scotland. It will be obſerved, that the Caledonian's notion of God was totally inconſiſtent with the Chriſtian creed, and that his conceptions reached no farther than the Deity's being in the moſt complete poſſeſſion of thoſe qualities which figured in his mind as the perfections of a corporeal and intellectual being.

O Dhe, tha' uſe mor, garbh, ladir. Tha do dhianadas co uamhaſach ri dianadas famh'ir. Tha t innleachdan coſlach ri innleachdan gaiſgaich. Tha thu co lua' ri fiadh air beinn, na ri breac 's a'n uiſge. Tha do chlaiſneachd co ma' ri claiſneachd na h earba. Tha do ſhuilin na ſgeara na ſuilin an fhirian, tha gun choimeas an ealt na ſpeuran.

Tranſlated it runs thus:

" O God, thou art large, robuſt, and ſtrong *. Thy " actions are as wonderful as the actions of a giant †. Thy

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* The learned commentator on the works of Horace for the uſe of the Dauphin has adverted to the word *Latro*, in one of his annotations, in theſe terms:

" *Latro.*] Nomen hoc alii deducunt, ſeu quod latenter inſidias ſtruat, ſeu " quod a latere adoriatur prætereuntes. *Iſidor. Feſt. Priſc.* Alii quod ferum ad latus habeat, perinde ac ſatellites regis aut principis latus ſtipantes, " qui inde *Latrones* olim dicti, quaſi *Laterones. Varro. Servius.* Alii etiam " aliter." *Lib.* I. *Sat.* iii. *l.* 106.

The philologiſts have been at a loſs, whence to derive the word *Latro*. Its original is evidently the Galic word *Lader*, which literally ſignifies *a ſtrong man*. The adjective *Laderan* is expreſſive of *a bold impetuous forwardneſs*. So *Latro*, in the Latin language, came to denote *a robber*, or a man whoſe ſtrength emboldened him to commit acts of plunder and depredation.

† *Fambhir*, a giant. Admiration is a pleaſant paſſion of the mind. To its gratification may perhaps be aſcribed the propenſity obſerved in mankind to exaggeration. In whatever light this may be viewed, we find among antient nations traditionary

of rude nations furniſhes the moſt ample teſtimony, that human ſacrifices were deemed among them the moſt acceptable to the gods. Reli-

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" Thy ſtratagems * are like the ſtratagems of a hero.
" Thou art as ſwift as a deer on the mountain, or a fiſh
" in the waters. Thy hearing is as good as the hearing
" of a roe; and thy eyes are ſharper than the eyes of
" an eagle, which is without a rival among the birds of
" heaven."

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traditionary accounts of the exiſtence of men of huge ſize and enormous ſtrength. In the Pentateuch, Moſes records, that " when men began to multiply upon the " face of the earth, and daughters were born unto them; the ſons of God ſaw " the daughters of men that they were fair; and they took them wives of all " that they choſe." He adds, " There were giants in the earth in thoſe days; " and alſo after that, when the ſons of God came in unto the daughters of men, " and they bare children unto them, the ſame became mighty men, which were " of old men of renown." *Geneſis*, chap. vi. ver. 1, 2. 4.

The men who were heads of the children of Iſrael, and whom Moſes had ſent to examine the land of Canaan and its inhabitants, made this report: " The land " through which we have gone to ſearch it, is a land that eateth up the inhabit- " ants thereof, and all the people that we ſaw in it are men of a great ſtature. " And there we ſaw the giants, the ſons of Anak, which come of the giants; " and we were in our own ſight as graſhoppers, and ſo we were in their ſight." *Numbers*, chap. xiii. ver. 32, 33.

The ſons of Titan and Tellus, according to antient fable, were giants of monſtrous ſize, who waged war againſt Jupiter and the gods. One of them, called Briareus, was feigned by the poets to have an hundred arms and fifty heads.— We find, that among the Caledonians a ſimilar tradition prevailed. A Briareus was not unknown in their legendary tales. But his heads were not ſo numerous as thoſe of the antagoniſt of Jupiter: the body of the Caledonian Briareus ſupported only five heads.

* This alludes to the qualities of cunning and artifice in war, which are eſteemed virtues among rude nations.

gious

gious frauds perſuaded men to ſubmit to death, to appeaſe an angry deity.

In the iſland of Formoſa, it is forbidden to bring forth children before the age of thirty-ſix or thirty-ſeven years. If a woman becomes pregnant before that period, a *prieſteſs* lays her upon a table, and preſſes her until ſhe parts with the child*. What ends cannot ſuperſtitious awe and religious terror accompliſh, when guided by the ſanctimonious arts and pious ſtratagems of the peculiar favourites of Heaven?

The power of the Druids among the Gauls was greater than that of the prieſts among the antient Germans; yet the prieſts among the latter preſided in the public aſſemblies of the people, and had the power of regulating and enforcing order. To them belonged the excluſive privilege of

* Candidius's Account of Formoſa, in Churchill's Voyages.

paſſing

paſſing cenſure, ordering confinement, and inflicting corporal puniſhment. What the joint efforts of the princes and people in their aſſemblies could not effectuate, was executed with facility by the prieſts. The authority of the chiefs and princes reached not the ſuppreſſion of crimes. Smaller offences were left to their deciſion, as has been before obſerved, with the aſſiſtance of a numerous body of the people.

THE Getæ paid ſo great a veneration to their high-prieſt, that he was eſteemed a divinity *.

WHERE prieſts have found means to eſtabliſh themſelves as religious teachers among the American Indians, they are regarded with the higheſt veneration. They too are poſſeſſed of ſupernatural powers, being, in the apprehenſion of the people, able to foretell future events †.

* Strabo, lib. vii.

† See Carver's Travels, p. 382.

The

The belief of this faculty of prediction, and of a familiar correſpondence and intercourſe with the worſhipped deities, muſt ever operate as a powerful engine of deſpotiſm over the minds of men.

It is curious to obſerve, that actions which cannot be accounted for from natural cauſes, and are therefore ſuppoſed to be the effect of ſupernatural agency, or communication with inviſible beings, are in the Galic language called *Druiachc*; intimating that ſupernatural power was held to be in a peculiar manner attached to the ſacred order of the Druids. A fiery meteor of uncommon magnitude and ſplendor appearing in the heavens, is called by the Caledonians *Drueg*, which literally means *the death of a Druid*; importing, that Nature herſelf, or the beings who were ſuppoſed to preſide over the material and animal world, were in a particular manner concerned about ſo great a cataſtrophe.

A POEM

A POEM ſtill rehearſed by many people in the Highlands of Scotland, preſerves ſatisfactory evidence, that the antient Caledonians believed the Druids to be endued with the ſpirit of preſcience, or a knowledge of future events. The ſubject of the poem to which we allude is the death of Dermid, a hero of the Fingalian race, who was killed at the hunting of a boar. The Galic words are:

Gun d' thu'airt na Druian gun tla
Gu'm bithidh do bhas aig a mhuic.

"That the Druids had foretold without
"pity, that your death ſhould be occa-
"ſioned by a boar."

THE univerſal perſuaſion, that the profeſſors of religion in early ages were endued with ſupernatural powers, and the ſpirit of divination, communicated to them ſo tranſcendent an influence over the human mind, as was fully ſufficient to

tame the ſpirit of wild men, to reduce them to order and regularity of conduct by working upon their ſuperſtitious fears, and thus terrify them into ſubmiſſion to the awards of judicial authority.

Silveſtres homines ſacer interpreſque Deorum
Cædibus et victu fœdo deterruit Orpheus;
Dictus ob hoc lenire tigres rabidoſque leones *.

ORPHEUS was a celebrated name in the fables of antiquity. Rivers ſtopped their courſe by the enchantment of his muſic. Rocks and ſtones moved at the harmony of his lyre. The charms of his melody ſoftened the fierceneſs of lions and tygers. The magic of his numbers reclaimed wild men, ſubſiſting as cannibals in woods and caves, from their inhuman courſe of life. But Orpheus was a particular favourite of Heaven; being to the people whoſe conduct he wiſhed to regulate, the ſacred interpreter of the will of the Gods.

* Horat. de Arte Poetica.

THE

THE great lawgiver of the Jews was endowed with ſupernatural gifts. He greatly ſurpaſſed in magical ſkill the wiſe men and ſorcerers of Egypt, that renowned land for ſcience. Being ſelected by the Deity as the leader and deliverer of his choſen people, and having his inſtructions communicated to him directly from Heaven, it was no wonder he had gained the confidence of the Jewiſh nation. "And Moſes went up unto God: and the Lord called unto him out of the "mountain, ſaying, Thus ſhalt thou ſay to the "houſe of Jacob, and tell the children of Iſrael: "Ye have ſeen what I did unto the Egyptians, "and how I bare you on eagles' wings, and "brought you unto myſelf. Now, therefore, if "ye will obey my voice, indeed, and keep my "covenant, then ye ſhall be a peculiar treaſure "unto me above all people: for all the earth is "mine. And ye ſhall be unto me a kingdom "of prieſts, and an holy nation. Theſe are the "words which thou ſhalt ſpeak unto the children "of Iſrael. And Moſes came and called for

" the elders of the people, and laid before their " faces all theſe words which the Lord com- " manded him. And all the people anſwered " together, and ſaid, All that the Lord hath " ſpoken we will do. And Moſes returned the " words of the people unto the Lord*." The people being thus prepared, received the ten commandments from Moſes, who came down from Mount Sinai, and ſpoke the words of God to the people.

FROM one of the verſes quoted above we may learn, that the prieſts or miniſters of religion were held in high veneration, and that their condition was the moſt enviable among the people. The promiſe of the Jews becoming a kingdom of prieſts, and a holy nation, enjoying the ſupremely happy privilege of a general communication and intimacy with the Deity, was held out as an irreſiſtible inducement for the

* Exodus, chap. xix. ver. 3—8.

nation's

nation's embracing with the moſt ſacred regard the laws then promulgated; the conſummate wiſdom of which ſufficiently beſpeaks their divine original.

THE method dictated to Moſes, as the ſervant of the true God, in order to impreſs upon the minds of the Jews, who were deſtined to be in after-times a ſegregated and peculiarly marked people, the beauty and utility of order and regularity, was, from the dictates of wiſe policy, adopted by the antient legiſlators of other nations, in whoſe favour a particular interpoſition of Providence was not neceſſary for accompliſhing the great purpoſe of the Creator of the univerſe.

ROMULUS, the founder of Rome, was the ſuppoſed ſon of Mars. When an infant, his life was miraculouſly preſerved by a ſhe-wolf which ſuckled him, and a wood-pecker which fed him. After his death he was conſecrated, and worſhipped as a god, under the name of *Quirinus*.

NUMA,

NUMA, the ſucceſſor of Romulus, was a moſt religious prince, and eſteemed to be moſt highly beloved of the Gods. He inſtituted ſeveral orders of prieſts, and ſettled the rites and ceremonies of religion, by the ſpecial direction of the goddeſs Egeria, to whom the female ſex ſuperſtitiouſly ſacrificed for her propitious regard in mitigating the ſorrow entailed upon womankind for the original diſobedience of our general mother.

PLUTARCH, in his Life of Numa, ſays, there is no abſurdity in the account which ſome give of the proceedings of Lycurgus and Numa, and other famous men; who being to manage the intractable and perverſe diſpoſition of the multitude, and deſigning to introduce great innovations in their political eſtabliſhments, pretended a divine authority for their actions, entirely from a regard to the welfare of thoſe who were thus to be deceived into their own happineſs. In another place this valuable author, after mentioning that the city of Rome was a receptacle

of

of men of the moſt daring and warlike ſpirit, who had, by frequent incurſions upon their neighbours, increaſed in numbers, and riſen into power, ſo that they became turbulent and licentious, adds: Numa, judging that it was no ſlight undertaking to civilize the furious and unruly ſpirit of this people, called in the aſſiſtance of religion; and chiefly by the ſacrifices, proceſſions, and religious dances, which he appointed, at which he officiated in perſon, and in which an agreeable amuſement was mixed with ſolemn devotion, he ſoothed the minds of the people, and rendered their fiery martial temper more cool and ſedate; and ſometimes he filled their imaginations with religious terrors, pretending that ſtrange apparitions were ſeen, and dreadful voices heard; whereby he ſubdued their minds, and rendered them ſubmiſſive by ſuperſtition.

THE diſpenſation of juſtice by the miniſters of religion ſtill prevails among rude nations, of

of whom modern voyagers have given accounts *.

THE inhabitants of the Friendly Iſlands, in the Pacific Ocean, have made a conſiderable progreſs in the arts of civilization. They have brought agriculture to ſome degree of perfection. Their women manufacture cloth, and other articles of convenience and ornament, which they finiſh with great neatneſs and taſte. With regard to their form of government, our late navigators † obſerved that a ſubordination, reſembling the feudal ſyſtem of our anceſtors in Europe, was eſtabliſhed among them. They were informed, that the king's power was unbounded; and that he had the abſolute diſpoſal of the lives and property of his ſubjects. Beſides the great king, there are ſeveral petty ſovereigns, or chiefs, whom the people denominate lords of the earth, and alſo of the ſun and ſky. The royal family

* Goguet. Origin of Laws, book i. art. 1.

† Captains Cook, Clerke, and Gore.

aſſume

aſſume the name of *Futtafaihe*, from the god diſtinguiſhed by that appellation.

THE natives frequently cut off one or both of their little fingers, which they offer as a propitiatory ſacrifice to the Deity, in order to procure their recovery from dangerous maladies. In like manner, it is common for the lower claſs of people to cut off a joint of one of their little fingers, on account of the ſickneſs of the chiefs to whom they reſpectively belong *.

IT cannot be doubted, that the prodigious reſpect and reverence with which theſe ſimple people regard their king and chiefs, ariſe from their ſuppoſed participation of the nature and excellence of the deities whom they worſhip.

GREAT veneration has been paid, in all ages, to the miniſters of religion. In times of ſimplicity

* Captain Cook's laſt Voyage to the Pacific Ocean, chap. xi.

and ignorance, they were regarded with the moſt ſacred awe and the moſt ſuperſtitious reverence. The diſpenſation of juſtice was readily conceded to perſons believed to be endowed with divine authority. The hand of the civil magiſtrate acquired ſtrength by the ſuppoſed co-operation of the deities of the people. A ſyſtem of ſubordination ripened into regular form by ſlow degrees. The exerciſe of power eſtabliſhes authority. The execution of acts of juriſdiction implies poſſeſſion of the engines of coercion. The influence of the clerical body arrived at its higheſt pitch of predominancy, at that period when the minds of the people were moſt abſorbed in dark ignorance and blind ſuperſtition. Their power diminiſhed, with every additional ray of light which beamed truth upon the human mind. As the power of the lay chieftain or prince gained ground in the eſtabliſhment of civil government, and men's attention became more engaged in enforcing regularity by civil ordinations, clerical influence decreaſed in efficacy,

cacy, and conſiderations of a temporal nature occupied in great part the place of religious awe and ſuperſtitious terrors. At length mankind, become inured to obedience, yield ſubmiſſion to the dictates of the civil magiſtrate, without the impreſſion of divine command: the great body of the people combine to ſupport civil authority, from a general ſenſe of the neceſſity of ſuppreſſing crimes, and of the utility of a regular adminiſtration of juſtice.

OF

CONTRACTS.

AUTHORS of high credit and reputation have differed in their accounts reſpecting the regard paid by rude nations to the principles of equity and juſtice. Herodotus ſays, that the Arabians were remarkably tenacious of their contracts*. The barbarous nations who ſubverted the Roman empire, it has been affirmed, were rigid obſervers of their promiſes, and that veracity conſtituted one of their moſt remarkable qualities. Thence Monteſquieu† derives many of our ideas of modern honour. The barbarous nations reproached the Romans with lying and falſity. When they wanted to expreſs their opinion of the bad qualities of an

* Herodot. lib. iii.

† Eſprit des Loix, l. xxviii. c. 20.

enemy,

enemy, falſehood particularly, they called him a Roman *. Kalm, in his Travels to North America †, and Ulloa, in his Voyage to South America ‡, agree, that fidelity and veracity are remarkable qualities in modern ſavages. Strabo § ſays, that the Maſſagetæ paid a ſtrict regard to their agreements, and avoided fraud and deceit.

On the other hand, ſeveral authors have accuſed rude nations of inconſtancy and want of faith. Livy || ſpeaks of Haſdrubal as ſkilled in the perfidy of thoſe barbarous nations among whom he had waged war for ſo many years: "Peritus omnis barbaricæ, et præcipue omnium "earum gentium in quibus per tot annos mili-"tabat, perfidiæ." "Ingenia barbarorum" he

* Robertſon's Hiſt. vol. I. chap. v. note 2.

† Vol. I. p. 77. 8vo edit. Lond. 1772.

‡ Book viii. chap. 9.

§ Lib. xi.

|| Lib. xxv. cap. 33.

calls,

calls, in another place, "vana et mutabilia." Ammianus Marcellinus, in his deſcription of the Huns, aſcribes to them inconſtancy and deceit: "Per inducias infidi, inconſtantes." "Fluxa, ut "eſt barbaris, fide*," are the words of Tacitus.

IT would ſeem, from the apparent contrariety of opinions delivered by theſe authors with reſpect to the virtues of rude nations, that their qualities are not uniformly alike in ſimilar ſituations and circumſtances. We are inclined, however, to think, that theſe accounts are not altogether incapable of reconciliation.

MAN living in that ſtate which has got the name of ſavage, is a political animal. The barbarian partakes of a mixed character. The former is unacquainted with the corruptions of excluſive property: the mind of the

* Taciti Hiſt. l. iii. c. 48. See Falconer's Influence of Climate, &c. book vi. chap. 1.

latter

latter has learned to ſeparate his intereſt from that of the public. In proportion as the ſelfiſh principle operates on the human will, the love of equality, which forms a diſtinguiſhing characteriſtic of ſavage tribes, ſuffers a decay. The engagements of a ſavage tribe, being of a public nature, are obſerved with fidelity by all its members. The intereſt of the individual is never ſeparated from that of the community at large. No avaricious views interfere with his principles of action. The delivery of ſymbols of agreement binds him to the obſervance of the articles of treaty, until the compact is diſſolved by public determination.

THE diviſion of a great tribe into ſmall communities or families, and the allotment of a ſeparate ſtock to each of theſe communities, produced an important alteration in the manners of the people. Accordingly we find, that all barbarous nations are addicted to robbery and plunder. They are much corrupted in their

their political capacity. They have an inſatiable deſire of poſſeſſing themſelves of the ſubjects of property belonging to others. Piracy and robbery were not employments of reproach, but of honour, among the antient Greeks. The Arabs have been from the earlieſt accounts eſteemed a nation of thieves. The antient Scythians, the Saracens, and the Alans, were of a ſimilar diſpoſition. The northern barbarous nations bore a ſimilar character *. Beyond the frontier of their ſtates the Gaul and the German were thieves and robbers. To make incurſions into the territory of neighbouring nations, carry off their cattle, and lay waſte their country, were deemed actions of valour and renown. Cæſar ſays of the Suevi: "Civitatibus maxima laus "eſt quam latiſſimas circum ſe vaſtatis finibus "ſolitudines habere. Hoc proprium virtutis exiſti-"mant; expulſos agris finitimos cedere, neque

* See Falconer's Remarks on the Influence of Climate, &c. book vi. chap. 2. and the authors there quoted.

"quemquam prope ſe audere conſiſtere *." Pomponius Mela gives a ſimilar account of the Germans †. The Caledonian tribes, down to a late period, were addicted to predatory excurſions. Dr. Stuart, in his "View of Society in Europe ‡," has, with his uſual acuteneſs, produced irrefragable evidence of this trait of barbarous manners. He quotes an ordinance in the Gentoo laws, which ſpecifies the ſhare of booty or plunder due to the magiſtrate, by whoſe command and aſſiſtance depredations had been committed upon another province.

THE ſavage, though ignorant of private property, underſtands his political intereſt. To him no inducement preſents itſelf for infraction of treaty, but what is derived from ſtate policy. A people acknowledging rights of excluſive pro-

* Cæſar. Comment. lib. vi. cap. 21.

† Pomp. Mela. Deſcriptio Germaniæ.

‡ Page 165, 2d edit.

perty,

perty, feel themſelves affected by various motives for departing from the faith of engagements. The introduction of excluſive property ſtirs up new principles of action. It eſtabliſhes an influence independent of perſonal talents. It aſſumes the place of merit, and lays the foundation of a permanent though artificial ſuperiority. The acquiſition of property, which commands not only the means of gratifying corporeal appetite, but brings to the poſſeſſor laſting marks of diſtinction, becomes an object of much moment, and of earneſt purſuit. That ſenſe of political juſtice, which is ever alive in the breaſt of the ſavage, is in the barbarian perverted by covetouſneſs, with its attendant vices. Here, however, it behoves us to diſtinguiſh between that ſtage of ſociety when rude tribes, having acquired the knowledge of taming and rearing cattle, had formed themſelves into ſmall communities or families, linked together by a common intereſt, and poſſeſſing their herds and flocks in common, and that later period of ſociety, when, by

the eſtabliſhment of private excluſive property in individuals, the intereſt of each is contracted into conſiderations of perſonal advantage.

In the ſituation where private property is unknown, the barbarian partakes more of the political than of the ſelfiſh animal. His chief attention is directed towards the preſervation of his herds and flocks, the common ſtock of the ſociety. As he has not learned to appropriate to himſelf excluſively any part of thoſe ſubjects which conſtitute the wealth of the community, he is as yet unacquainted with the arts of traffic. His actions are determined by a ſenſe of general approbation. His rule of conduct is the general will. Like the ſavage, he derives his chief felicity from the applauſe of his tribe. To gain their eſteem, is his moſt ardent ambition. Hence it is, that Man, in the firſt ſtage of barbariſm, is attentive to the dictates of natural juſtice, within the limits of the territory of his tribe: beyond theſe, he is a thief, a robber,

robber, and a plunderer. The more dexterity, cunning, and addreſs, he diſplays in the occupation of a robber, he is regarded as the more eſtimable member of the community.

It is worthy of remark, that in the Galic language the word *Cieall*, which ſignifies *common ſenſe*, is compounded of *Co*, common, and *Feall*, ſtratagem or deceit; thoſe qualities in which conſiſted the wiſdom of the barbarian.

We are inclined to think, that the barbarian, in the firſt ſtage of his departure from the ſtate of the ſavage, is, like him, diſpoſed to pay a punctilious reverence to his engagements. View him upon the eſtabliſhment of private property in the individual, and his public virtues are not ſo conſpicuous. A ſtrong deſire of gain ſeizes his heart. He diſregards the obligations of promiſes, contracts, or agreements, if they bring not immediate advantage. To outſtrip his party in negotiation, to over-reach his fellows in

in contracts or agreements of a commercial nature, gratifies at once his paſſion of avarice, and flatters his conceit of his own excellence. He prides himſelf upon his endowments of ſuperior cunning and addreſs. His obſervance of engagements laſts no longer than a favourable opportunity of catching ſome immediate advantage offers itſelf. Plutarch * ſays of the Gauls, that they were moſt inſatiable as to the deſire after riches: Οι δε Γαλαται γενος ἀπληστοτατον χρηματων οντες. Ammianus Marcellinus ſays of the Huns, that their paſſion for the precious metals was unbounded: "Auri cupiditate immenſa flagrantes." Rude in their manners, fierce in their diſpoſitions, the utility of diſtributive juſtice makes too weak an impreſſion to prove a reſtraint upon their deſires. The barbarian practiſing the ſyſtem of excluſive property, unwillingly acknowledges any general ſtandard for guiding his actions. Submiſſion to general rules is re-

* Life of Pyrrhus.

ſerved

ſerved for that æra of ſtate policy when the hand of the magiſtrate wields the terrific trident of the gods; and when, by the eſtabliſhment of a ſolemn and public worſhip, the minds of men are enured to the obſervance of ſacred rites; which begetting the habit of obedience, operates moſt powerfully in bringing men to acknowledge the authority of government, and to yield ſubmiſſion to the temporal as well as the ſpiritual ordinances of the magiſtrate.

WHILE property was poſſeſſed in common by the members of a tribe or family, few diſputes could have ariſen concerning matters of civil right. Any difference which might have ſubſiſted in relation to contracts or engagements of a civil nature, could rarely have been deemed of ſo great importance as to require the interpoſition of the temporal and ſpiritual magiſtrates to enforce juſtice.

PERSONAL

PERSONAL injuries were redreſſed, to prevent dangerous feuds and animoſities; but promiſes or engagements relative to the exchange of commodities, in which conſiſted the commercial dealings of mankind before the invention of money, were left to be fulfilled at the will of the contracting parties. Right of excluſive property muſt have been well underſtood; and that ſort of traffic which conſiſted in the exchange of one commodity for another, muſt have been frequently put in practice, before the eſtabliſhment of civil judges veſted with public authority to adminiſter juſtice. It cannot be made matter of doubt, that, before the eſtabliſhment of civil courts, contracts and agreements took place with regard to the transference of moveable ſubjects from one hand to another. But if thoſe agreements were not enforced by any civil magiſtrate, how were ſuch matters regulated?

In the infancy of traffic, men could not enforce the performance of covenants. It depended upon the joint will of the contracting parties, whether their agreement ſhould have effect. Failure in regard to engagements would often be attended with inconvenience, or loſs, to one or the other of the parties concerned. If the power of the chiefs or princes was not ſufficient to command performance, or if civil tranſactions were conſidered as matters of too little moment to call forth the exertions of the chiefs and aſſemblies of the people, breach of covenant muſt have remained without remedy. Some method muſt have been deviſed to ſecure the execution of civil contracts. A moſt natural, and at the ſame time a moſt effectual one, was adopted, which was ſufficient, without the aid or intervention of a judge, to prevent loſs through breach of agreement. This purpoſe was accompliſhed by means of a pledge, which was a ſubject of value depoſited by the obligee as a ſecurity of performance of his engagement to the obligor. The regula-

tion of this mode of ſecurity was a matter of great moment in the earlieſt ſtate of traffic.

THAT a paction, or an agreement which conſiſted in words, was not conſidered as effectually binding upon the parties in early ſociety, we are furniſhed with evidence from the antient law of the Romans. If a paction, or mutual agreement between two parties, conſiſted merely in words, "in nudis placiti vel "conventionis finibus," without the delivery on either ſide of any commodity or ſubject of uſe, the power of the judge was not deemed ſufficient to reach the caſe. In a more advanced ſtate of juriſprudence, when the judge found his authority gaining more ſway over the minds of the people, a certain form of words, which got the name of *Stipulation*, was preſcribed. That form being uſed, the judge declared he would hold it as a binding contract. By this time ſociety was conſiderably advanced in the arts of civil polity: judicial proceedings had acquired reſpect: laws

laws had obtained authority among the people: their minds were impreſſed with the conviction, that the judge could call forth the combined force of the ſtate, in order to execute his decrees.

WE are furniſhed with evidence from the ancient Roman laws of the Twelve Tables, that even after the eſtabliſhment of civil judges, there was no citation or ſummons iſſuing from the court, commanding the attendance of any party. The citation was made by private authority. It depended upon the ſuperior ſtrength of the plaintiff or defendant, whether the judge was to pronounce ſentence in the caſe *.

COMMERCIAL dealings muſt have become frequent, before the authority of courts of juſtice was ſufficiently eſtabliſhed to procure obedience to their citations. There is good reaſon for

* Aul. Gell. Noct. Atticæ.

concluding, that in the infancy of the juriſprudence of all nations, promiſes, pactions, covenants, and agreements of every denomination, were rendered effectual merely by the efficacy of motives of private convenience and intereſt. If either of theſe conſiderations ſhould, by any of the contracting parties, be found to be wanting, he might reſile, or depart from the agreement; which conſiſting in words, without the intervention of things, was held to be ineffectual, or not deemed worthy of legal compulſion.

THE accounts given by antient authors with regard to the love of juſtice obſerved among early ſocieties of mankind, ought to be viewed with caution. For a conſiderable time after private property is acknowledged, and rights of excluſive uſe eſtabliſhed; a mere regard to the virtues of faith, honeſty, and veracity, in civil tranſactions, has little influence on the minds of rude men. The beauty of thoſe virtues, which are ſo much cheriſhed, and made the objects of eulogy,

eulogy, in civilized times, does not outweigh, in that ſtate of ſociety which is denominated barbarous, conſiderations of immediate convenience or profit. The barbarian being improvident with regard to futurity, diſtant proſpects of advantage make but a faint impreſſion upon his mind. Unable or unwilling to carry his reaſonings beyond the immediate occurrence, he readily ſeizes the gratification of the moment, and conſiders himſelf as bound by no tie which contributes not to a viſible and nearly approaching benefit.

In civilized ſociety, a promiſe is as binding upon a man of honour and reſpectability of character, as an obligation guarded by the moſt formal ſolemnities. A faithful adherence to engagements figures ſo powerfully in the minds of all men who feel in their juſt extent the relative duties which one citizen owes to another, that a departure from conſenſual engagements is held to be an unequivocal teſt of a depraved character,

character, the contamination of which is ſtudiouſly avoided by every man of fair reputation. The beauties of the virtues of fidelity, integrity, and veracity, can give delight, and be reliſhed as a pure ſentimental enjoyment by men of nice perceptions and delicate ſentiments, who can ſympathiſe with the ſelf-approved feelings of conſcious worth. The dull, the cold, and the phlegmatic confirm, by expreſſions of approbation, the utility of thoſe moral qualities which conſtitute rectitude of conduct. Perſons of every deſcription combine in beſtowing praiſe on the poſſeſſor of thoſe virtues which merit the confidence of men. Whatever qualities mankind, from the natural manners of the particular ſtate of ſociety in which they exiſt, are diſpoſed to exalt as objects of praiſe, will in the firſt degree gain the attention of men of the moſt valuable characters. The motives which excite a rude man, in the firſt ſtages of barbariſm, to acquire the reputation of the moſt diſtinguiſhed thief and robber, would,

in

in refined ſociety, operate upon the ſame mind as incitements to the practice of the moſt approved virtues.

WHILE men lived in ſmall communities, enjoying in common the produce of a definite portion of the ground which they poſſeſſed, the nature of their condition could give little occaſion to any ſort of traffic. As ſoon as ſubjects of uſe came to be conſidered as the property of individuals, that ſpecies of commerce which conſiſted in barter or exchange of commodities, took place. This mode of negotiation made the agreement efficacious at the time it was entered into, as the reciprocal cauſes of the contract were immediately attended with their deſigned effect. But a contract which conſiſted in barely a mutual promiſe, and amounted only to a verbal agreement, was deſtitute of the efficacy of what the civilians term a real contract. The utility of enforcing verbal covenants appeared not

not to be of ſufficient magnitude to engage the attention.

THE ſenſe of thoſe ſo much and ſo juſtly prized moral qualities, which preſerve civilized ſociety from anarchy and confuſion, was inadequate to procure performance of verbal obligations. The Galic language furniſhes a curious proof of this propoſition. The word uſed to denote *pledge*, *depoſite*, *wager*, and *promiſe*, is *Geall*. When expreſſed to ſignify *promiſe*, it is pronounced with an aſpiration, as if written *Gealla*. The verb *Geall*, which ſignifies *to promiſe*, is pronounced without any aſpiration. Hence it is evident, that among the antient Celts a promiſe was not held to be a binding obligation, and that verbal contracts were deemed ineffectual without the intervention of a pledge; ſo that the obligatory ſenſe of words derived its ſole efficacy from the ſubject pledged in ſecurity of performance. This notion

notion of early manners is farther confirmed by the proverbial expreſſion, *Cha chuirar gad air gealla*, "A promiſe is not to be tied with a "withe." The Greek language has alſo preſerved evidence of the inefficacy of verbal obligations. Πίϛις ſignifies *faith* or *confidence*, alſo *a promiſe*; and Πιϛὸν ſignifies *a pledge*; plainly importing the inſufficiency of faith in conſenſual engagements, without the intervention of ſome ſubject of real uſe.

NUMA built a temple to Faith and to Terminus, and taught the Romans, that to ſwear by Faith was the moſt ſolemn of all oaths: "and this oath," ſays Plutarch*, "they conti-"nue to uſe to this day." Πρῶτον δέ φασι και Πίϛεως και Τέρμονος ἱερὸν ἱδρύσασθαι, και την μεν Πίϛιν ὅρκον ἀποδειξαι Ῥωμαίοις μεγιϛον. ᾧ χρώμενοι μέχρι νῦν διατελευσιν.

THIS notion of early manners may be farther illuſtrated by the antient Welſh laws. In Wotton's

* Life of Numa.

collection of theſe laws it is expreſsly laid down, that a paction or agreement which took not immediate effect, was of no avail without an arbiter; that is to ſay, ſuch a paction produced not an action at law for making it effectual. An arbiter is explained to be a perſon of credit, who was capable of giving teſtimony concerning the agreement of parties. Whoever, therefore, were diſpoſed to enter into a paction or ſtipulation binding in law, muſt have followed a particular ſolemnity preſcribed in all verbal contracts. The contracting parties were ordered to appear before a reſpectable perſon as arbiter, or witneſs of the agreement; and after expreſſing in his preſence the terms of their agreement, they uſed the ceremony of putting their hands between thoſe of the arbiter, promiſing in that ſituation to perform their reſpective obligations.

" § 2. QUICUNQUE ſtipulationem legitimam " facere voluerint, invicem congredientur, et " pactionem eo quo velint modo præſtari expo-

" nent,

" nent, et manibus ſuis inter arbitri manus im-
" poſitis *promittent* ſe partes ſuas invicem eo quo
" polliciti fuerint modo expleturos.

" § 3. CAUSA de pactis conventis inutilis eſt
" ſine arbitro."

IN a note, *Arbiter* is explained to be, " qui
" teſtimonium dare poſſit pacti initi *."

IN contracts of greater moment, a more ſolemn ceremony was uſed. The parties met in a church; and there the junction of hands was performed.

" § 3. SI controverſia oriatur de pacto, ad
" quod ratum faciendum fidem ſuam aliquis ad-
" ſtrinxerit, lex ſtatuit tale pactum inutile eſſe
" niſi tres manus jungantur in eccleſia; quod
" idem de fidejuſſionibus pro debito et de cuſto-
" dia et exhibitione reorum affirmandum eſt.

* Leges Wallicæ, lib. II. cap. vi. § 2, 3, de pactis conventis.

" § 4. ECCLESIÆ et regis officium eſt cogere " homines *pactum Briduw dictum* obſervare; " cum enim Deus pro ſponſore accipiebatur, ideo " eccleſiæ eſt reum excommunicare, et regis eſt " debitum exigere *."

THE paction conſtituted in this ſolemn manner was called *Briduw*, which, in the gloſſary annexed to the collection of Welſh laws mentioned above, is explained to be " juramenti " ſpecies, quo is qui ſub juramento aliquid af- " firmat, ſe Chriſtianum eſſe profitetur, et per " fidem in baptiſmo profeſſam, ſe non mentiri. " Noſtri dicerent, *ſwearing by one's faith*. " Uſurpatur hæc formula in cauſis empti et " venditi, &c."

REGULATIONS concerning ſureties and pledges formed a conſiderable branch of the laws of nations beginning to practiſe a regular ſyſtem of

* Leges Wallicæ, lib. II. cap. v. § 3, 4, de contractibus per fidem factis.

juriſ-

juriſprudence. The ſubject pledged as a ſecurity for performance of the terms of a contract, where a ſurety interpoſed, was depoſited with him. He was intitled, failing the obligor's or debtor's fulfilment of the terms of his agreement, to deliver the pledge to the creditor in ſatisfaction of the debt: or if no depoſite was made in the hand of the ſurety, he was intitled to ſeize upon as much of the debtor's effects as would fully ſatisfy the obligee's claim *.

THE Welſh laws furniſh ſatisfactory evidence, that even after regal authority is eſtabliſhed, and a ſyſtem of eccleſiaſtical diſcipline is put in practice, pactions the efficacy of which depended upon future performance, required the united powers of the church and of the ſtate to render them effectual. The ſimple authority of a civil judge was not ſufficient to enforce compliance.

* Leges Wallicæ, lib. II. cap. iv.

We are inclined to believe, that in the earlier ſtages of juriſprudence, when a defendant was brought before a judge, and the claim of debt eſtabliſhed by proof, ſomething more ſubſtantial than a mere verbal decree was neceſſary to procure ſatisfaction to the creditor. There is reaſon for thinking, that the judge's decree was rendered effectual by a depoſite, if immediate performance was not in the power of the defendant. The Galic word *Regheall*, which in its preſent acceptation conveys the ſame meaning as its Latin derivative *Regula*, rule or order, in its original radical ſenſe ſignifies *the pledge of agreement*. The ſentence* of the judge determined the dif-

* The ſentence of a judge is expreſſed in the Galic language by the word *Bre*, which is a compound of the radical words *Be* and *Re*, ſignifying *life* and *diviſion*. The word imports literally, *diviſion of life:* in its figurative ſenſe, *diviſion of the means of ſubſiſtence*. A judge is hence called *Brethi*; compounded of *Bre*, judgment, and *Ti*, a being or perſon. In the compound the *t* is quieſcent.——*Breag*, in Welſh, denotes *breach of covenant*. In Galic, it is uſed to ſignify *a lie*. Its literal ſignification is, *a departure from judgment*; the word being compounded of *Bre*, judgment, and *Fag*, to leave or to depart. In the compound, *f* is quieſcent, and forms *Breag*.

ference

ference between the parties; and the pledge depoſited in conſequence of that ſentence, might with propriety be called *Regheall.* This depoſite was productive of order and regularity. Hence is to be derived the common acceptation of the word in the Galic and Latin languages.

It cannot be made matter of doubt, that among men in an age of rude manners diſobedience to the ſentences of judges was frequent. The arbiter, in whoſe preſence a covenant was made, in the manner we have ſeen in practice among the antient Welſh, was the judge naturally to be reſorted to, in caſe of variance between the parties in regard to the terms of their agreement. The arbiter's conception of the nature and extent of their obligation, aſcertained, in the judgment of the people, the terms of the contract. The party who refuſed to give effect to the arbiter's teſtimony and judgment, was held to commit a breach of covenant; which, from the acceptation of the word in the Galic language,

language, we learn was deemed a matter of reproach.

" THE inhabitants of the iſland of Formoſa " carry on a traffic with the Chineſe. The " iſlanders come to them in boats, and exchange " their commodities, taking with the right hand " what they are to have, whilſt they give with " their left their portion to the Chineſe; and " they are ſure not to let go their hold until " they are ſatisfied in the other, ſo jealous are " they of one another*."

" THE Indians of the Philippine Iſlands uſed " formerly to ſwear before a wild beaſt or a " lighted candle; wiſhing they might be de- " voured by ſuch a beaſt, or conſumed like the " candle, or be torn to pieces by a crocodile, " or ſwallowed up by the earth, if they broke " their promiſe †."

* Candidius's Account of the Iſland of Formoſa, in Churchill's Voyages.

† Gemelli Careri's Account of the Philippine Iſlands. Ibid.

HERO-

HERODOTUS relates the ceremonies uſed by the Scythians in their contracts. They poured ſome wine into an earthen veſſel, into which the contracting parties were to mingle ſome of their own blood, which they drew by a ſlight inciſion made in a finger, hand, or ſome part of their bodies, as they previouſly agreed. They then dipped into the mixture the point of ſome warlike weapons, ſuch as a cimeter, arrow, dart, javelin, or battle-axe. The parties then uttered ſome dire imprecations on the firſt breaker of the covenant; and each of them having taken a draught of the liquor, they deſired ſome of the moſt conſiderable among the by-ſtanders to pledge them, and to be witneſſes of the contract; which being uſually complied with, the bargain was accounted ſo ſacred, that they thought no puniſhment ſevere enough, either in this life or the next, for the breaker of it*.

* Herodot. l. iv. c. 70. Ant. Univerſ. Hiſt. book I. chap. xii. § 6.

MANKIND ſurrender not without compulſion any portion of their natural freedom. The obſervations which have been made, tend to eſtabliſh two propoſitions: That, in the formation of a regular ſyſtem of government, the ſuppreſſion of crimes was the primary object of the attention of the ſupreme power in the ſtate: and, That the enforcement of civil contracts or agreements was reſerved for that period of ſociety, when an excluſive right of property in individuals was well defined and aſcertained. A religious creed formed a component part of the firſt importance in every ſyſtem of civil policy. The efficacy of both religious and civil inſtitutions united, was neceſſary to accompliſh the entire ſubjection of the people to the authority of civil laws. Regular obedience to the citations of courts of juſtice is the ſtrongeſt teſt of ſubjection to government.

FROM thoſe traits which we have obſerved in the hiſtory and manners of early ſociety, incon-

inconſtancy, and want of faith in dealings and contracts of a commercial nature, ſeem to be characteriſtic qualities of rude nations. The love of juſtice ſways only the minds of thoſe who have a lively ſenſe of its beauty and utility; while, even in refined ſociety, the great part of the vulgar are reſtrained from the violation of juſtice by fear of the chaſtiſement of the law.

ORIGIN

OF

MARRIAGE.

TACITUS has given us an account of the *Fenni*, a German nation, as he inclined to think, whoſe mode of life appeared to be little removed from that of the gregarious animals of the field: "Fennis mira feritas, fœda paupertas, "non arma, non equi, non penates: victui "herba, veſtitui pelles, cubile humus. Sola in "ſagittis ſpes, quas inopia ferri oſſibus aſperant. "Idemque venatus viros pariter ac feminas alit. "Paſſim enim comitantur, partemque predæ pe- "tunt. Nec aliud infantibus ferarum imbrium- "que ſuffugium, quam ut in aliquo ramorum "nexu contegantur. Huc redeunt juvenes, hoc

"ſenum

"ſenum receptaculum *." This race of people lived chiefly by hunting: their ſubſiſtence depended upon their daily acquiſitions. They fed partly upon herbs. They clothed themſelves with the ſkins of beaſts, and ſlept upon the ground. Their arrows, being their only weapons, were pointed with bones. They knew not the uſe of horſes. They worſhipped no deities. A covering made of boughs ſheltered their infants from the weather, and defended them from beaſts of prey. Theſe were the receptacles of their young and old of both ſexes. The Ichthiophagi, a people of Arabia Felix, went naked. They lived on fiſh, and dwelt in rude houſes made of the bones of fiſhes and of ſhells. Their wives and children were in common among them †.

THE accounts given of theſe nations by antient authors, have obtained no high degree of

* Tac. Germ. c. 46.

† Diodor. Sic. lib. iii. Strabo, lib. xv. Arrian. Hiſt. Ind.

credit

credit even from the learned of modern times. The exiſtence of human beings living in ſuch a ſtate of wildneſs, nearly upon a level with the herding animals of the brute creation, has been conſidered to be more indebted to imagination than to reality.

THE diſcoveries of modern times have put beyond doubt the exiſtence of ſocieties of the human race living in a ſimilar ſtate with thoſe deſcribed by the Greek and Roman authors. The inhabitants of Terra del Fuego, in South America, live in a ſtate nearly ſimilar to the Ichthiophagi, and equally wild and free *.

IN that part of New Holland to which our navigators have given the name of South Wales, " both ſexes go ſtark naked, and ſeem to have " no more ſenſe of indecency in diſcovering the " whole body, than we have in diſcovering our

* Banks's and Cook's firſt Voyage.

" hands

" hands and face. Their ſkins were ſo uni-
" formly covered with dirt, that it was very
" difficult to aſcertain their true colour. We
" made ſeveral attempts, by wetting our fingers
" and rubbing it, to remove the incruſtation,
" but with very little effect. With the dirt,
" they appear nearly as black as a negro.
" They appeared to have no fixed habitations;
" for we ſaw nothing like a town or village in
" the whole country. Their houſes, if houſes
" they may be called, ſeem to be formed with
" leſs art and induſtry than any we had ſeen,
" except the wretched hovels at Terra del Fue-
" go; and in ſome reſpects they are inferior
" even to them. At Botany Bay, where they
" were beſt, they were juſt high enough for a
" man to ſit upright in, but not large enough
" for him to extend himſelf in his whole length
" in any direction. The door is nothing but a
" large hole at one end, oppoſite to which the
" fire is made, as we perceived by the aſhes.
" Under theſe houſes, or ſheds, they ſleep coiled

" up

" up with their heels to their head. In this poſi-
" tion, one of them will hold three or four per-
" ſons. As we advanced northward, and the
" climate became warmer, we found theſe ſheds
" ſtill more ſlight. None of them were more
" than four feet deep, and one ſide was entirely
" open. Oppoſite to the open ſide was the fire.
" Under theſe hovels it is probable that they
" thruſt only their heads and the upper part of
" their bodies, extending their feet towards the
" fire. They were ſet up occaſionally, by a
" wandering horde, in any place that would fur-
" niſh them for a time with ſubſiſtence, and left
" behind them when, after it was exhauſted,
" they went away; but in places where they
" remained only for a night or two, they ſlept
" without any ſhelter, except the buſhes or graſs,
" which is here near two feet high*."

* Hawkeſworth's Voyages, vol. III. book iii. chap. 8.

WE can no longer reaſonably entertain a doubt of the exiſtence of that ſimpleſt, and to primitive Man moſt natural, ſtate of ſociety, in which the human ſpecies live promiſcuouſly, without the knowledge of a permanent union between any individuals of the ſexes.

CAPT. Cook, in the narrative of his laſt voyage to the Pacific Ocean, deſcribes that part of New Zealand to which he gave the name of Queen Charlotte's Sound, as uncommonly mountainous, riſing immediately from the ſea into large hills. At remote diſtances are vallies, each terminating towards the ſea in ſmall coves. The inhabitants live in thoſe coves, ſometimes in companies of forty or fifty perſons. Their huts are built contiguous to each other. In theſe they ſit down round a ſmall fire, and ſleep in the ſame ſituation without any other than their daily covering.

THE

THE accounts given by Cæſar* and Dio Caſſius, with reſpect to the community of wives among the antient Britons, have been called in queſtion by ſome authors. Endeavours have been made by others, to explain them conſiſtently with the ideas of conjugal fidelity of the ſexes united according to the divine inſtitution of Chriſtian marriage, or the union of one male with one female.

MEN living in a ſavage ſtate do not preſent to the enquirer a like picture of life and manners. There were ſocieties of mankind who originally lived upon roots and herbs ſolely, and continued to uſe that ſort of ſubſiſtence after the multiplication of the ſpecies had rendered neceſſary the arts of cultivation. Animal food is better calculated for cold than for hot climates. Accordingly we find, that the inhabitants of hot

* "Uxores habent deni duo-denique inter ſe communes, et "maxime fratres cum fratribus, parenteſque cum liberis."

climates live chiefly, ſome altogether, upon vegetable diet. This circumſtance would have occaſioned ſome variety in the mode of life and manners of mankind living in primeval ſimplicity. Where the chief ſubſiſtence of the human ſpecies depends upon the ſpoils of the chace, or the arts of hunting, the acquiſition of food would be effected by the joint efforts of ſmall bands of men; or it would be accompliſhed by expeditions of ſingle men. The game, or veniſon, however, would all be brought home for the common uſe of the ſociety. Where it was neceſſary to range over a great extent of ground, in purſuit of the neceſſary means of ſubſiſtence, it would be found more eligible for the hunters to purſue their object ſeparately, than in bands, as in this way more game would be found. This circumſtance would very naturally give origin to the idea of the union of one male and one female. Marriage would be inſtituted from motives of utility only.

THOSE Indians of America whoſe ſole ſubſiſtence depends upon ſuch animal food as they can procure by their ſkill and dexterity in hunting, may be allowed to live in what is termed the ſavage ſtate of ſociety. Though not the moſt ſimple or leaſt improved ſtate in which the human ſpecies have been found to exiſt, yet they live without any regular form of government, or excluſive property in individuals. Among theſe Indians, however, the inſtitution of marriage is known: but no male is deemed worthy of entering into the matrimonial ſtate, until he has attained to the age of manhood, and is held to be qualified, as a good hunter, to procure food for one woman and her offſpring. When he arrives at that reſpectable condition, he is, in the opinion of the tribe, bound in duty to undertake the offices of a huſband. Every member of the community muſt bear his ſhare of the burthen of the ſtate. But although there is an apparent union of one man and one woman, it is not the effect of predilection or favour

favour for any particular female of the tribe. The young Indian feels no concern about the matter. The buſineſs is conducted by other members of the tribe, and the marriage is completed with the moſt perfect indifference on both ſides*. The connection raiſes the female to no new dignity. The parties ſtand to each other in the ſtation of maſter and ſlave. The huſband, when not engaged in warlike exerciſe, indulges himſelf in idleneſs, while the wife is ſubjected to every ſpecies of toil and drudgery. The huſband frequently leaves the animal he has killed, upon the ſpot where it fell. The wife muſt ſet out, at the command of her maſter, and trace his footſteps through wayleſs woods to the place where the game was left; from whence ſhe bears upon her back the ponderous burden to the hut of her huſband, who receives it without the ſmalleſt degree of commiſeration for the unhappy female's diſtreſſes.

* Millar's Origin of Ranks, p. 26, third edition.

Thus,

Thus, then, it is evident, that the marriage of the North American Indian is purely an union of policy, unaccompanied with any paſſion in the leaſt degree allied to feelings of ſentimental tenderneſs.

AMONG primitive ſocieties living in a country abounding with vegetable food, it will be found, that the inſtitution of marriage is leſs ſtrictly regarded than in thoſe regions of the earth where the means of ſubſiſtence, conſiſting of animal food, are to be procured by toil and dexterity. In hot climates the intercourſe of the ſexes is much more looſe, and leſs ſubject to any determinate rule, than in cold climates. In the former, polygamy is ſtill found to prevail: a man is allowed to keep as many wives as he can afford to maintain.

WHEN the art of taming cattle is known, and the means of ſubſiſtence are more amply ſecured to ſavage tribes, the union of the ſexes becomes

becomes more aſſimilated to the natural uſages of the primitive ſocieties of hot climates. In the firſt ſtage of this change, the tribe is divided into ſmall communities, ſuch as thoſe of the antient Britons deſcribed by Cæſar. Every individual has a common intereſt in the ſtock of the ſociety. The utility of a permanent union of one male with one female ceaſes, and marriage becomes an extremely ſlender tie *. This ſtep of advancement towards the eſtabliſhment of property, is a favourable circumſtance in the condition of the female ſex. Among any number of the human ſpecies linked together in one common intereſt, the inſtitution of marriage, as a contract uniting permanently one male and one female, was neither natural nor neceſſary.

* By the cuſtom of *Gavelkind* * among the Iriſh, the inheritance of the deceaſed, if he were below the degree of a Taniſt, was equally divided amongſt the ſons, whether baſtards or legitimate. *Sir James Ware's Antiquities of Ireland*, p. 73.

* With regard to the etymology of this word, writers have held different opinions. Its derivation from the Welſh *Gafael Cennedh*, which imports *the holding or tenure of a tribe*, appears to be juſt. *Gabhail Cinneadh*, in Galic, conveys the ſame meaning.

The

The females muſt be ſupported by the common ſtock of the ſociety. To them belong the rearing as well as the bearing of the children of the community. The little hordes move as their cattle change their paſtures. The children are left to the care of the women. Their fathers pay them little more than thoſe attentions which are neceſſary for the preſervation of their lives. "Omnes enim ſine ſedibus fixis, abſque lare vel "lege, aut ritu ſtabili diſpalantur, ſemper fugien-"tium ſimiles, cum carpentis in quibus habitant: "ubi conjuges tetra illis veſtimenta contexunt, et "coeunt cum maritis, et pariunt et ad uſque "pubertatem nutriunt pueros*."

In this ſtate of ſociety, women ſometimes arrive at a high degree of reverence. The mother of children riſen into eſteem from the poſſeſſion of thoſe talents which draw forth the admiration of the barbarian, will be regarded with more than

* Ammian. Marcell. lib. xiv. c. 5. Deſcript. Hunn. et Alanor.

common reſpect. The circumſtance of a woman's being the mother of male children, will procure to her ſome degree of general attention. We learn from the hiſtory of rude nations, that women have at times acquired great influence and authority among them *.

In the proportion that men depart from the ſtate of the communion of goods, and come to poſſeſs property as a private right, marriage will be held to be an important union, or binding contract, and infidelity will be cenſured or puniſhed with more or leſs ſeverity. The inſtitution of marriage figured as an object which claimed the particular attention of the antient legiſlators and founders of ſtates. Moſes decreed certain privileges in favour of a new-married man: "When a man hath taken a new wife, "he ſhall not go out to war, neither ſhall he

* This ſubject is treated with much ingenious ability by Dr. Stuart, in his View of Society in Europe, and by Mr. Millar, in his Origin of Ranks.

"be

" be charged with any buſineſs; but he ſhall be " free at home one year, and ſhall cheer up his " wife which he hath taken†."

By the laws of all civilized nations, the regulation of marriage has been eſteemed a matter of the higheſt importance. Independent of particular civil regulations which have obtained in different nations, the ſtrictneſs of this union is modified by the eaſe or difficulty with which the means of ſubſiſtence are obtained. In all ſtages of ſocial exiſtence, thoſe who procure the neceſſaries of life by laborious induſtry, accompanied with care and aſſiduity, preſerve moſt entire their fidelity in the matrimonial ſtate. Men poſſeſſed of accumulated wealth, if not reſtrained by feelings of affection, and a ſenſe of duty, or impreſſed by the utility of complying with the notions of virtue entertained by the great body of the people, are apt to give way to promiſcuous enjoyment.

† Deut. chap. xxiv. ver. 5.

In improved ſociety, mankind are more diſtinguiſhed by a greater variety of uſeful qualities, and agreeable talents, than are to be found to exiſt in times of rudeneſs and barbariſm. Manners are more complicated, and the objects of ſentiment more diverſified. Various cauſes of attraction ſubſiſt, which were totally unknown to rude ages, or in times of primeval ſimplicity.

That beautiful picture of Eve, which the immortal Milton* deſcribes as Adam's relation to the angel Raphael of his firſt meeting and nuptials with the mother of human-kind, could have been held up to view, only by the imagination of a poet, who was capable of obſerving thoſe varieties of graceful embelliſhments, and qualified to feel the influence of thoſe tender affections, thoſe delicate ſentiments of moral duty, which conſtitute the real ornaments of the human character in civilized ſociety; ornaments

* Paradiſe Loſt, book viii.

which

which are diſcovered to be happy properties of the human mind, only by the arts of cultivation practiſed in the ages of improved taſte and ſtudied refinement:

> Grace was in all her ſteps, heav'n in her eye,
> In ev'ry geſture dignity, and love! . . . .
> . . . . . .
> Neither her outſide form'd ſo fair, nor aught
> In procreation common to all kinds,
> So much delights me, as thoſe graceful acts,
> Thoſe thouſand decencies that daily flow
> From all her words and actions, mix'd with love,
> And ſweet compliance, which declare unfeign'd
> Union of mind, or in us both one ſoul;
> Harmony to behold in wedded pair!
> More grateful than harmonious ſound to th' ear.

THE powers of art are employed to heighten the native charms of agreeable mental qualities. Nature and art combine their effects to influence the human will. Qualities inviſible to one eye, ſtrike another with ſuch force and energy, as to engroſs the whole powers of the ſoul, and faſcinate the operations of the heart; as if the human frame were affected by ſome ſweet ſpell or pleaſing enchantment. The arts of elegance and

and taſte in exterior decorations and ornamental beauties, exhibit human forms arrayed in graces and allurements which ſerve to captivate the ſenſes, and to blunt the perception of that inanity of character ſo often connected with them; which though diſcovered, will not always obliterate the deluſive beauties of an enchanting figure adorned in the delicacies of taſte and refinement of art.

MANKIND, in the earlieſt ſtages of ſociety, are deſtitute of thoſe nice and delicate ſenſibilities which characterize cultivated minds*. They are univerſally found to be little concerned about the cleanlineſs of their perſons or of their food†.

* "Cujus rei nulla eſt occultatio; quod et promiſcue in flu-
"minibus perluuntur; et pellibus, aut parvis rhenonum tegu-
"mentis utuntur; magna corporis parte nuda." Cæſar de Bello Gallico, lib. vi. cap. 19.

† "Victus aſper et munditiis carens." Pompon. Mela. Deſcript. Africæ interioris.

"In omni domo nudi ac ſordidi, in hos artus, in hæc corpora
"quæ miramur, excreſcunt———Inter eadem pecora; in ea-
"dem humo degunt; donec ætas ſeparet ingenuos, virtus ag-
"noſcat." Tac. Germ. cap. 20.

Guided

Guided ſolely by ideas of immediate convenience, they are unqualified for carrying on any regular train of reaſoning, or to provide againſt future contingencies. Naturally thoughtleſs, improvident, indolent, immerſed in ſordidneſs, inſenſible to delicate feelings, the union of the ſexes among them is, like their other actions, governed by immediate impulſe.

AMONG tribes acknowledging the right of excluſive property in individuals, the union of the ſexes, though ſubject to no determinate rule, will aſſume a new appearance. The preſervation of property requires the ſervices of the female as well as of the male part of the ſociety. The intereſt of both is moſt ſucceſsfully promoted by uniting their views of conduct, and their purpoſes of employment through life Their union will now be ſtamped with a ſenſe of duty and permanency. The regulation of it becomes an object of ſtate policy. Religious ceremonies ſhed ther influence,

ence, to render it ſacred. The ties of marriage are defined, and the ſtate of children is aſcertained. Thus property, and the inſtitution of marriage, mutually confirm each other. Regulaions relative to both are found to be equally neceſſary in the conſtitution of every civilized ſociety; the health and vigour of which depend upon a reſpectful obſervance of thoſe engagements into which mankind enter to gratify their real or imaginary wants and deſires.

FINIS.