

CHAPTER V

THE DEVELOPMENT OF THE FEUDAL STATE

(a) THE GENESIS OF LANDED PROPERTY

WE now return, as stated above, to that point where the primitive feudal State gave rise to the city State as an offshoot, to follow the upward growth of the main branch. As the destiny of the city State was determined by the agglomeration of that form of wealth about which the State swung in its orbit, so the fate of the territorial State is conditioned by that agglomeration of wealth which in turn controls its orbit, the *ownership of landed property*.

In the preceding, we followed the economic differentiation in the case of the shepherd tribes, and showed that even here the law of the agglomeration about existing nuclei of wealth begins to assert its efficacy, as soon as the political means comes into play, be it in the form

of wars for booty or still more in the form of slavery. We saw that the tribe had differentiated nobles and common freemen, beneath whom slaves, being without any political rights, are subordinated as a third class. This differentiation of wealth is introduced into the primitive state, and sharpens very markedly the contrast of social rank. It becomes still more accentuated by settlement, whereby private ownership in lands is created. Doubtless there existed even at the time when the primitive feudal state came into being, great differences in the amount of lands possessed by individuals, especially if within the tribe of herdsmen the separation had been strongly marked between the prince-like owners of large herds and many slaves, and the poorer common freemen. These princes occupy more land than do the small freemen.

At first, this happens quite harmlessly, and without a trace of any consciousness of the fact that extended possession of land will become the means of a considerable increase of social power and of wealth. Of this, there is at this

time no question, since at this stage the common freemen would have been powerful enough to prevent the formation of extended landed estates had they known that it would eventually do them harm. But no one could have foreseen this possibility. Lands, in the condition in which we are observing them, have no value. For that reason the object and the spoils of the contest were not the possession of *lands*, but of *the land and its peasants, the latter being bound to the soil (glebæ adscripti* of our later law) as labor substratum and labor motors, from the conjunction of which there grows the object of the political means, viz., ground rent.

Every one is at liberty to take as much of *the uncultivated land* existing in masses as he needs and will or can cultivate. It is quite as unlikely that any one would care to measure off for another parts of an apparently limitless supply, as that any one would apportion the supply of atmospheric air.

The princes of the noble clans, probably from the start, pursuant to the usage of the

tribe of herdsmen, receive more "lands and peasants" than do the common freemen. That is their right as princes, because of their position as patriarchs, war lords, and captains maintaining their warlike suites of half-free persons, of servants, of clients, or of refugees. This probably amounts to a considerable difference in the primitive amounts of land ownership. But this is not all. The princes need a larger surface of the "*land without peasants*" than do the common freemen, because they bring with them their servants and slaves. These have, however, no standing at law, and are incapable, according to the universal concepts of folk law, of acquiring title to landed property. Since, however, they must have land in order to live, their master takes it for them, so as to settle them thereon. In consequence of this, the richer the prince of the nomad tribe the more powerful the territorial magnate becomes.

But this means that wealth, and with it social rank, is consolidated more firmly and more durably than in the stage of herdsman

ownership. For the greatest herds may be lost, but landed property is indestructible; and men bound to labor, bringing forth rentals, reproduce their kind even after the most terrible slaughter, even should they not be obtainable full grown in slave hunts.

About this fixed nucleus of wealth, property begins to agglomerate with increasing rapidity. Harmless as was the first occupation, men must soon recognize the fact that rental increases with the number of slaves one can settle on the unoccupied lands. Henceforth, the external policy of the feudal state is no longer directed toward the acquisition of land and peasants, but rather of peasants without land, to be carried off home as serfs, and there to be colonized anew. When the entire state carries on the war or the robbing expedition, the nobles obtain the lion's share. Very often, however, they go off on their own account, followed only by their suites, and then the common freeman, staying at home, receives no share in the loot. Thus the vicious circle constantly tends rapidly to enlarge with the increasing wealth of the

lands owned by the nobles. The more slaves a noble has, the more rental he can obtain. With this, in turn, he can maintain a warlike following, composed of servants, of lazy freemen, and of refugees. With their help, he can, in turn, drive in so many more slaves, to increase his rentals.

This process takes place, even where some central power exists, which, pursuant to the general law of the people, has the right to dispose of uncultivated lands; while it is, in many cases, not only by sufferance, but often by the express sanction of that authority. As long as the feudal magnate remains the submissive vassal of the crown, it lies in the king's interest to make him as strong as possible. By this means his military suite, to be placed at the disposal of the crown in times of war, is correspondingly increased. We shall adduce only one illustration to show that the necessary consequence in universal history is not confined to the well-known effect in the feudal states of Western Europe, but follows from these premises even under totally different surroundings:

"The principal service in Fiji consisted in war duty; and if the outcome was successful it meant new grants of lands, including therein the denizens, as slaves, and thus led to the assumption of new obligations."⁹¹

This accumulation of landed property in ever increasing quantity in the hands of the landed nobility brings the primitive feudal state of a higher stage to the "finished feudal state" with a complete scale of feudal ranks.

Reference to a previous work by the author, based on a study of the sources, will show the same causal connection for German lands;⁹² and in that publication it was pointed out that in all the instances noted a process takes place, identical in its principal lines of development. It is only on this line of reasoning that one can explain the fact, to take Japan as an example, that its feudal system developed into the precise details which are well known to the students of European history, although Japan is inhabited by a race fundamentally different from the Arians; and besides (a strong argument against giving too great weight to the

materialistic view of history) the process of agriculture is on a totally different technical basis, since the Japanese are not cultivators with the plow, but with the hoe.

In this instance, as throughout this book, it is not the fortune of a single people that is investigated; it is rather the object of the author to narrate the typical development, the universal consequences, of the same basic traits of mankind wherever they are placed. Presupposing a knowledge of the two most magnificent examples of the expanded feudal state, Western Europe and Japan, we shall, in general, limit ourselves to cases less well known, and so far as possible give the preference to material taken from ethnography, rather than from history in its more restricted sense.

The process now to be narrated is a change, gradually consummated but fundamentally revolutionary, of the political and social articulation of the primitive feudal state: *the central authority loses its political power to the territorial nobility, the common freeman sinks from his status, while the "subject" mounts.*

(b) THE CENTRAL POWER IN THE PRIMITIVE
FEUDAL STATE

The patriarch of a tribe of herdsmen, though endowed with the authority which flows from his war-lordship and sacerdotal functions, generally has no despotic powers. The same may be said of the "king" of a small settled community, where, generally speaking, he would exercise very limited command. On the other hand, as soon as some military genius manages to fuse together numerous tribes of herdsmen into one powerful mass of warriors, despotic centralized power is the direct, inevitable consequence.⁹³ As soon as war exists, the truth of the Homeric

*οὐκ ἀγαθὴ πολυκοιρανίη, εἷς κοίρανος ἔστω
εἷς βασιλεύς,**

is admitted by the most unruly tribes, and becomes a fact to be acted on. The free primitive huntsmen render to their elected chief unconditioned obedience, while on the war-path;

* "The rule of the many is not a good thing, over the many there should be one king."

the free Cossacks of the Ukraine, recognizing no authority in times of peace, submit to their *hetman's* power of life and death in times of war. This obedience toward their war-lord is a trait common to every genuine warrior psychology.

The leaders of the great migrations of nomads are all powerful despots: Attila, Omar, Genghis Khan, Tamerlane, Mosilikatse, Ketchwayo. Similarly, we find that whenever a mighty territorial state has come into being as the result of the welding together of a number of primitive feudal states, there existed in the beginning a strong central authority. Examples of this may be seen in the case of Sargon Cyrus, Chlodowech, Charlemagne, Boleslaw the Red. Sometimes, especially as long as the main state has not yet reached its geographical or sociologic bounds, the centralized authority is maintained intact in the hands of a series of strong monarchs, which degenerates, in some instances, to the maddest despotism and insanity of some of the Cæsars: especially do we find flagrant examples of this in Meso-

potamia and in Africa. We shall merely touch on this phase: the more so, as it has little general effect on the final development of the forms of government. This point should, however, be stated, that the development of the form of government of a despotism depends in the main, on what the *sacerdotal* status of the rulers may be, in addition to their position as war-lords, and whether or not they hold the monopoly of trade as an additional regalian right.

The combination of Cæsar and Pope tends in all cases to develop the extreme forms of despotism; while the partition of spiritual and temporal functions brings it about that their exponents mutually check and counterbalance one another. A characteristic example may be found in the conditions prevailing among the Malay states of the East Indian Archipelago, genuine "maritime states," whose genesis is an exact counterpart of that of the Greek maritime states. Generally speaking, the prince has just as little power among these, as, shall we say, the king at the opening of the his-

tory of the Attic states. The chieftains of the clans (in Sulu the Dato, in Achin the Panglima), as in the case of Athens, have the real power. But where, "as in Tobah, religious motives endow the rulers with the position of a Pope in miniature, an entirely different phase is found. The Panglima then depend entirely on the Rajah, and are merely officials."⁶⁴ To refer to a well-known fact, when the aristocrats and chiefs of the clans in Athens and in Rome abolished the kingdom, they preserved at least the old *title*, and granted its use to a dignitary otherwise politically impotent, in order that the gods might have their offerings presented in the accustomed manner. For the same reason, in many cases, the descendant of the former tribal king is preserved as a dignitary, otherwise totally powerless, while the actual power of government has long since been transferred to some war chief; as in the later Merovingian Empire, the Carolingian Mayors of the palace (Major-domus) ruled alongside a "long locked king," *rex crinitus*, of the race of Meroweck, so, in

Japan, the Shogun ruled beside the Mikado, and in the Empire of the Incas, the commander of the Inca beside the Huillcauma, who had been gradually limited to his sacerdotal functions.*⁹⁵

In addition to the office of supreme pontiff, the power of the head of the state is frequently increased enormously by the trading monopoly, a function exercised by the primitive chieftains as a natural consequence of the peaceful barter of guest-gifts. Such a trade monopoly, for example, was exercised by King Solomon; and latterly by the Roman Emperor Friedrich II.†⁹⁶

As a rule, the negro chieftains are "monopolists of trading";⁹⁷ as is the King of Sulu.⁹⁸ Among the Galla, wherever the supremacy of a head chief is acknowledged, he becomes "as

* In Egypt we find a similar state of affairs, beside the bigoted Amenhotep IV., the Majordomus of the palace Haremheb, who "managed to unite in his hands the highest military and administrative functions of the empire, until he exercised the powers of a regent of the state." Schneider, *Civilization and Thought of the Ancient Egyptians*. Leipzig, 1907, page 22.

† Cf. *Acta Imperii*, or *Huillard-Breholles*, H. D. *Fred. II.*—Translator.

a matter of course, the tradesman for his tribe; since none of his subjects is allowed to trade with strangers directly.”⁹⁹ Among the Barotse and Mabunda, the king is “according to the strict interpretation of the law, the only trader of his country.”¹⁰⁰

Ratzel notes, in telling language, the importance of this factor: “In addition to his witchcraft, the chief increases his power by a *monopoly of trading*. Since the chief is the sole intermediary in trade, everything desired by his subjects passes through his hands, and he becomes the donor of all longed-for gifts, the fulfiller of the fondest wishes. In such a system, there lie certainly the possibilities of great power.”¹⁰¹ If, in conquered districts, where the power of government is apt to be more tensely exercised, there is added the monopoly of trade, the royal power may become very great.

It may be stated as a general rule, that even in the apparently most extreme cases of *despotism*, no monarchical *absolutism* exists. The ruler may, undeterred by fear of punishment,

rage against his subject class; but he is checked in no small degree by his feudal followers. Ratzel, in speaking of the subject generally, remarks: "The so-called 'court assemblage' of African or of ancient American chiefs is probably always a council. . . . Although we meet with traces of absolutism with all peoples on a low scale, even where the form of government is republican, the cause of absolutism is not in the strength of either the state or of the chieftain, but in the moral weakness of the individual, who succumbs without any effective resistance to the powers wielded over him."¹⁰² The kingdom of the Zulu is a limited despotism, in which very powerful ministers of state (Induna) share the power; with other Caffir tribes it is a council, sometimes dominating both people and chieftains.¹⁰³ In spite of this control "under Tshaka every sneezing or hawking in the presence of the tyrant, as well as every lack of tears at the death of some royal kinsman, was punished with death."¹⁰⁴ The same limitation applies to the West African kingdoms of Dahomy and Ashanti, notorious

because of their frightful barbarities. "In spite of the waste of human life, in war, slave trade, and human sacrifices, there existed at no place absolute despotism. . . . Bowditch remarks on the similarity of the system prevailing in Ashanti, with its ranks and orders, with the old Persian system as described by Herodotus."¹⁰⁵

One must be very careful, and this may again be insisted upon, not to confuse despotism with absolutism. Even in the feudal states of Western Europe, the rulers exercised, in many cases, power of life and death, free from the trammels of law; but nevertheless such a ruler was impotent as against his "magnates." So long as he does not interfere with the privileges of the classes, he need not restrain his cruelty, and he may even occasionally sacrifice one of the great men; but woe to him were he to dare to touch the economic privileges of his magnates. It is possible to study this very characteristic phase, completely free, from the standpoint of law, and yet closely hemmed in by political checks, in the great East African

empires: "The government of Waganda and Wanyoro is, in theory, based on the rule of the king over the whole territory; but in reality this is only the semblance of government, since, as a matter of fact, the lands belong to the supreme chieftains of the empire. It was they who represented the popular opposition to foreign influences, in the time of Mtesa; and Muanga did not dare, for fear of them, to carry out any innovations. Although the kingship is limited in reality, yet in form it occupies an imposing position in unessentials. The ruler is absolute master over the lives and limbs of his subjects, the mass of the people, and feels himself restrained only in the narrowest circle of the chief courtiers." ¹⁰⁶

Precisely the same statement applies to the inhabitants of Oceania, to mention the last of the great societies that created states: "At no place does one find an entire absence of a representative mediation between prince and people. . . . The aristocratic principle corrects the patriarchal. Therefore, the extremes of *despotism* depend more on class and caste

pressure than on the overpowering will of any individual." ¹⁰⁷

(c) THE POLITICAL AND SOCIAL DISINTEGRATION OF THE PRIMITIVE FEUDAL STATE

Space forbids our detailing the innumerable shadings under which the patriarchal-aristocratic (in some cases plutocratic) mixture of form of government in the primitive feudal state is shown in either an ethnographic, historical or juristic survey. This is likewise of the greatest importance for the subsequent development.

It is indifferent how much power the ruler may have had at the beginning, an inevitable fate breaks down his power in a short while; and does this, one may say, the faster, the greater that power was, i. e., the larger the territory of the primitive feudal state of higher grade.

Taking into account the process already set forth, which, through the occupation and settlement of unused lands by means of newly acquired slaves, made for the increase of power

of the separate nobles, a result came about which might prove uncomfortable for the central power. Mommsen in speaking of the Celts says: "When in a clan numbering about eighty thousand armed men, a single chieftain could appear at convocation with ten thousand followers, exclusive of his serfs and debtors, it becomes clear that such a noble was rather an independent prince than a mere citizen of his clan."¹⁰⁸ And the same may apply to the "Heiu" of the Somali, where a great landed proprietor maintained hundreds of families in dependence on his lands, "so that conditions in Somaliland tend to recall those existing in mediæval Europe during feudal times."¹⁰⁹

Although such a preponderance of isolated territorial magnates can come about in the feudal state of low development, it nevertheless reaches its culmination in the feudal state of higher grade, the great feudal state; this happens by reason of the increased power given to the landlords by the bestowal of *public official functions*.

The more the state expands, the more must

official power be delegated by the central government to its representatives on the borders and marches, who are constantly threatened by wars and insurrectionary outbreaks. In order to preserve his bailiwick in safety for the state, such an official must be endowed with supreme military powers, joined with the functions of the highest administrative officials. Even should he not require a large number of civil employees, he still must have a permanent military force. And how is he to pay these men? With one possible exception, to be noted hereafter, there are no taxes which flow into the treasury of the central government and then are poured back again over the land, since these presuppose an economic development existing only where money is employed. But in communities having a system of payments in kind, such as these "territorial states" all are, there are no taxes payable in money. For that reason, the central government has no alternative but to turn over to the counts, or border wardens, or satraps, the income of its territorial jurisdiction. Such an official, then, re-

ceives the dues of the subjects, determines when and where forced labor is to be rendered, receives the deodands, fees and penalties payable in cattle, etc.; and in consideration of these must maintain the armed force, place definite numbers of armed men at the disposal of the central government, build and maintain highways and bridges, feed and stable the ruler and his following, or his "royal messengers," and finally, furnish a definite "Sergeantry" consisting of highly valuable goods, easily transported to the court, such as horses, cattle, slaves, precious metals, wines, etc.

In other words, he receives an immensely large fief for his services. If previously he was not, he now becomes the greatest man in his country, though before he probably was the most powerful landlord in his official district. He will hereafter do exactly what his equals in rank are doing, although they may not have his official position; that is to say, he will, only on a larger scale, continue to settle new lands with ever newly recruited serfs. By this he increases his military strength; and this must

be wished for and aided by the central government. For it is the fate of these states, that they must fatten those very local powers, that are to engulf them.

Conditions arise which enable the warden of the marches to impose the terms of his military assistance, especially in the inevitable feuds which arise over the right of succession to the central government. Thereby he obtains further valuable concessions, especially the formal acknowledgment of the heritability of his official fief, so that office and lands come to be held by an identical tenure. By this means, he gradually becomes almost independent of the central authority, and the complaint of the Russian peasant, "The sky is high up and the Tsar is far off," tends to become of universal application. Take this characteristic example from Africa: "The empire of Lunda is an absolute feudal state. The chieftains (Muata, Mona, Muene) are permitted independent action in all internal affairs, so long as it pleases the Muata Jamvo. Usually, the great chieftains, living afar, send their caravans with

their tribute once a year to the Mussumba; but *those living at too great a distance, sometimes for long periods omit making any payments of their tribute*; while similar chiefs in the neighborhood of the capital forward tribute many times a year.”¹¹⁰

Nothing can show more plainly than this report, how, because of inadequate means of transportation, extent of distance becomes politically effective in these states loosely held together and in a state of payment in kind. One is tempted to say that the independence of the feudal masters grows in proportion to the square of their distance from the seat of the central authority. The crown must pay more and more for their services, and must gradually confirm them in all the sovereign powers of the state, or else permit their usurpation of these powers after they have seized them one after the other. Such are heritability of fiefs, tolls on highways and commerce, (in a later stage the right of coinage), high and low justice, the right to exact for private gain the public duties of repair of ways and bridges (the old

English *trinodis necessitas*) and the disposal of the military services of the freemen of the country.

By these means, the powerful frontier wardens gradually attain an ever greater, and finally a complete, *de facto* independence, even though the *formal* bond of feudal suzerainty may for a long time apparently keep together the newly developed principalities. The reader, of course, recalls instances of these typical transitions; all mediæval history is one chain of them; not only the Merovingian and Carolingian Empires, not only Germany, but also France, Italy, Spain, Poland, Bohemia, Hungary, as well as Japan and China,¹¹¹ have passed through this process of decomposition, not only once, but repeatedly. And this is no less true of the feudal states of Mesopotamia: great empires follow each other, acquire power, burst asunder time after time, and again are re-united. In the case of Persia, we are expressly told: "Separate states and provinces, by a successful revolt, obtained freedom for a longer or shorter time, and the 'great king'

at Susa did not always have the power to force them to return to their obedience; in other states, the satraps or warlike chieftains ruled arbitrarily, carrying on the government faithlessly and violently, either as independent rulers or tributary under-kings of the king of kings. The Persian world-empire went to its disintegration an agglomeration of states and lands, without any general law, without ordered administration, without uniform judicial system, without order and enforcement of law, and without possibility of help." ¹¹²

A similar fate overtook its neighbor in the valley of the Nile: "Princes spring from the families of the usurpers, free landlords, who pay land-taxes to nobody but to the king, and rule over certain strips of land, or districts. These district princes govern a territory specifically set apart as pertaining to their official position, and separate from their family possessions.

"Later successful warlike operations, perhaps filling in the gap between the Ancient and the Middle (Egyptian) Empire, *together with*

the gathering in of captives of the wars, who could be utilized as labor motors, brought a more stringent exploitation of the subjects, a definite determination of the tributes. During the Middle Empire, the power of the princes of the clans rose to an enormous height, they maintained great courts, imitating the splendor of the royal establishment."¹¹³
"With the decline of the royal authority during a period of decay, the higher officials use their power for personal aims, in order to make their offices hereditary within their families."^{* 114}

But the operation of this historical law is

^{*} Maspero says, *New Light on Ancient Egypt*, pp. 218-9: "Until then, in fact, the high priest had been chosen and nominated by the king; from the time of Rameses III. he was always chosen from the same family, and the son succeeded his father on the pontifical throne. From that time events marched quickly. The Theban mortmain was doubled with a veritable seigniorial fief, which its masters increased by marriages with the heirs of neighboring fiefs, by continual bequests from one branch of the family to the other, and by *the placing of cadets of each generation at the head of the clergy of certain secondary towns.* The official protocol of the offices filled by their wives shows that a century or a century and a half after Rameses III., almost the whole of the Thebaid, about a third of the Egyptian territory was in the hands of the High Priest of Ammon and of his family."—*Translator's Note (and italics).*

not restricted to the "historical" peoples. In speaking of the feudal states of India, Ratzel states: "Even beyond Radshistan, the nobles often enjoyed a great measure of independence, so that even in Haiderabad, after the Nizam had acquired the sole rule over the country, the Umara or Nabobs maintained troops of their own, independently of the army of the Nizam. These smaller feudatories did not comply with the increased demands of modern times as regards the administration of Indian states as often as did the greater princes."¹¹⁵

In Africa finally, great feudal states come and pass away, as do bubbles arising and bursting from the stream of eternally similar phenomena. The powerful Ashanti empire, within one and a half centuries, has shriveled to less than one-fifth of its territory;¹¹⁶ and many of the empires that the Portuguese encountered have since disappeared without leaving a trace of their existence. And yet these were strong feudal powers: "Stately and cruel negro empires, such as Benin,

Dahomy or Ashanti, resemble in many respects ancient Peru or Mexico, having in their vicinity politically disorganized tribes. The hereditary nobility of the *Mfumus*, sharply separated from the rest of the state, had mainly the administration of the districts, and together with the more transitory nobility of service, formed in Loango strong pillars of the ruler and his house."¹¹⁷

But whenever such a state, once powerful, has split into a number of territorial states either *de facto* or juristically independent, the former process begins anew. The great state gobbles up the smaller ones, until a new empire has arisen. "The greatest territorial magnates later become emperors," says Meitzen laconically of Germany.¹¹⁸ But even this great demesne vanishes, split up by the need of equipping warlike vassals with fiefs. "The Kings soon found that they had donated away all their belongings; their great territorial possessions in the Delta had melted away," says Schneider (l. c. page 38) of the Pharaohs of the sixth dynasty. The same causes

brought about like effects in the Frankish Empire among both Merovingians and Carolingians; and later in Germany in the case of the Saxon and Hohenstaufen Emperors.¹¹⁹ Additional references are unnecessary, as every one is familiar with these instances.

In a subsequent part of this treatise, we shall examine into the causes that finally liberated the primitive feudal state from this witch's curse, this circling from agglomeration to disintegration without end. Our present task is to take up the *social* side of the process, as we have already taken up the historical phase of it. It changes the articulation of classes in the most decisive manner.

The common freemen, the lower strata of the dominating group, are struck with overpowering force. They sink into bondsmanship. Their decay must go along with that of the central power; since both, allied one might say, by nature, are menaced simultaneously by the expanding power of the great territorial lords. The crown controls the landed magnate so long as the levy of the common free-

men of the district is a superior force to his guards, to his "following." But a fatal need, already set forth, impels the crown to deliver over the peasants to the landed lordling, and from the moment when the county levy has become weaker than his guards, the free peasants are lost. Where the sovereign powers of the state are delegated to the territorial magnate, i. e., where he has developed more or less into an independent lord of the region, the overthrow of the liberties of the peasants is carried out, at least in part, under the color of law, by forcing excessive military services, which ruin the peasants, and which are required the more often as the dynastic interests of the territorial lord require new lands and new peasants, or by abusing the right to compulsory labor, or by turning the administration of public justice into military oppression.

The common freemen, however, receive the final blow either by the formal delegation or by the usurpation of the most important powers of the crown, the disposition of unoccupied lands or "commons." Originally, this land be-

longed to all the "folk" in common; i. e., to the freemen for common use; but in accordance with an original custom, probably universal, the patriarch enjoys disposal of it. This right of disposition passes to the territorial magnate with the remaining royal privileges—and thus he has obtained the power to strangle any few remaining freemen. He now declares all unoccupied lands his property, *and forbids their settlement by free peasants*, while those only are permitted access who recognize his superior lordship; i. e., who have commended themselves to him, or are his serfs.

That is the last nail in the coffin of the common freemen. Heretofore their equality of possessions has been in some way guaranteed. Even if a peasant had twelve sons, his patrimony was not split up, because eleven of them broke new hides of land in the commons of the community, or else in the general land not yet distributed to other villages. That is henceforth impossible; hides tend to divide where large families grow up, others are united when heir and heiress marry: hence-

forth there come into existence "laborers," recruited from the owners of half, a quarter, or even an eighth of a hide who help work a larger area. Thus the free peasantry splits into rich and poor; this begins to loosen the bond which hitherto had made the bundle of arrows unbreakable. When, therefore, some comrade is overwhelmed by the exactions of the lord and has become his liegeman, or if bond peasants are settled among the original owners, either to occupy some hide vacated by the extinction of the family or fallen into the hands of the lord because of the indebtedness of its occupant, then every social cohesion is loosened; and the peasantry, split apart by class and by economic contrasts, is handed over without power of resistance to the magnate.

On the other hand, the result is the same where the magnate has no usurped regalian powers of the state. In such cases, open force and shameless violation of rights accomplish the same ends. The ruler, far off and impotent, bound to rely on the good will and help of the violators of law and order, has

neither the power nor the opportunity of interference.

There is hardly any need of adducing instances. The free peasantry of Germany were put through the process of expropriation and declassification at least three times. Once it happened in Celtic times.¹²⁰ The second overthrow of the free peasants of the old German Empire took place in the ninth and tenth centuries. The third tragedy of the same form began with the fifteenth century, in the countries formerly Slavic, which they had conquered and colonized.¹²¹ The peasants fared worse in those lands, in the "republics of nobles," where there was no monarchical central authority, whose community of interests with their subjects tended to deprive oppression of its worse features. The Celts in the Gaul of Cæsar's time are one of the earliest examples. Here "the great families exercised an economic, military and political preponderance. They monopolized the leases of the lucrative rights of the state. They forced the common freemen, overwhelmed by the taxes which they

had themselves imposed, to borrow of them, and then, first as their debtors, afterward legally as their serfs, to surrender their liberty. For their own advantage they developed the system of followers: i. e., the privilege of the nobility to have about them a mass of armed servants in their pay, called *ambacti*, with whose aid they formed a state within a state. Relying on these, their own men-at-arms, they defied the lawful authorities and the levies of the freemen, and thus were able to burst asunder the commonwealth. . . . The only protection to be found was in the relation of serfdom, where personal duty and interest required the lord to protect his clients and to avenge any wrong to his men. Since the state no longer had the power to protect the freemen, these in growing numbers became the vassals of some powerful noble."¹²² We find these identical conditions fifteen hundred years later in Kurland, Livonia, in Swedish Pomerania, in Eastern Holstein, in Mecklenburg, and especially in Poland. In the German territories the petty nobles subjugated their peasantry, while

in Poland their prey was the formerly free and noble *Schlachziz*. "Universal history is monotonous," says Ratzel. The same procedure overthrew the peasantry of ancient Egypt: "After a warlike *intermezzo*, there follows a period in the history of the Middle Empire, which brings about a deterioration of the position of the peasantry in Lower Egypt. The number of landlords decreases, while their territorial growth and power increases. The tribute of the peasants is hereafter determined by an exact assessment on their estates, and definitely fixed by a sort of Domesday Book. Because of this pressure, many peasants soon enter the lord's court or the cities of the local rulers, and take employment there either as servants, mechanics, or even as overseers in the economic organization of these manors or courts. In common with any available captives, they contribute to the extension of the prince's estates, and to further the general expulsion of the peasantry from their holdings." ¹²⁸

The example of the Roman Empire shows,

as nothing else can, how inevitable this process becomes. When we first meet Rome in history the conception of serfdom or bondage has already been forgotten. When the "modern period" of Rome opens, only slavery is known. And yet, within fifteen centuries, the free peasantry again sink into economic dependence, after Rome has become an overextended, unwieldy empire, whose border districts have more and more dissolved from the central control. The great landed proprietors, having been endowed with the lower justice and police administration on their own estates have "reduced their servants, who may originally have been free proprietors of the '*ager privatus vectigalis*' to a state of servitude, and have thus developed a sort of actual *glebæ adscriptus*, within the boundaries of their 'immunities.'" ¹²⁴ The invading Germans found this feudal order worked out in Gaul and the other provinces. At this particular time, the immense difference formerly existing between slaves and free settlers (*coloni*) had been completely obliterated, first in their economic posi-

tion, and then, naturally, in their constitutional rights.

Wherever the common freemen sink into political and economic dependence on the great territorial magnates, when, in other words, they become bound either to the court or to the lands, the social group formerly subject to them tend in a corresponding measure to improve their status. Both layers tend to meet half-way, to approximate their position, and finally to amalgamate. The observations just made concerning the free settlers and the agricultural slaves of the later Roman Empire hold true everywhere. Thus in Germany, freemen and serfs together formed, when fused, the economic and legally unital group of *Grundholde*, or men bound to the soil.¹²⁵

The elevation of the former "subjects," hereafter for the sake of brevity to be called "plebs," flows from the same source as the debasement of the freeman, and arises by the same necessity from the very foundations on which these states are themselves erected, viz.,

the agglomeration of the landed property in ever fewer hands.

The plebs are the natural opponents of the central government—since that is their conqueror and tax imposer; while they naturally oppose the common freemen, who despise them and oppress them politically, besides crowding them back economically. The great magnate also is the natural opponent of the central government—an impediment in his path toward complete independence, and he is at the same time also a natural enemy of the common freemen, who in turn not only support the central government; but also block with their possessions his path toward territorial dominion, while with their claims to equality of political rights they annoy his princely pride. Since the political and social interests of the territorial princes and of the plebs coincide, they must become allies; the prince can attain complete independence only if, in his fight for power against the crown and the common freemen, he controls reliable warriors and acquiescent taxpayers; the plebs can only then be

freed from their pariah-like declassification, both economically and socially, if the hated and proud common freemen are brought down to their level.

This is the second time that we have noted the identity of interest between the princes and their subjects. The first time we found a weakly developed solidarity in our second stage of state formation. This causes the semi-sovereign prince to treat his dependent tenants as kindly as he ill-treats the free peasants of his territory; in consequence, they will fight the more willingly for him and contribute taxes, while the more readily will the oppressed freemen succumb to the pressure, especially as their share of political power in the state, coincident with the decline of the central power, has become only a meaningless phrase. In some cases, as in Germany toward the end of the tenth century, this was done with full consciousness of its effects¹²⁶—some prince exercises a particularly "mild" rule, in order to draw the subjects of a neighboring potentate into his lands, and thus to increase his own

strength in war and taxation, and to weaken his opponent's. The plebs come to possess, both legally and actually, constantly increasing rights, enlarged privileges of the law of ownership, perhaps self-government in common affairs, and their own administration of justice; thus they rise in the same degree as the common freemen sink, until the two classes meet and they are amalgamated into one body on approximately the same jural and economic plane. Half serfs, half subjects of a state, they represent a characteristic formation of the feudal state, which does not as yet recognize any clear distinction between public and private law; in its turn an immediate consequence of its own historical genesis, *the dominion in the form of a state for the sake of economic private rights.*

(d) THE ETHNIC AMALGAMATION

The juristic and social amalgamation of the degraded freemen and the uplifted plebs henceforth inevitably tends toward ethnic interpenetration. While at first the subject

peoples were not allowed either to intermarry or to have social intercourse with the freemen, now no such obstacles can be maintained; in any single village the social class is no longer determined by descent from the ruling race, but rather by wealth. And the case may frequently arise where the pure-blooded descendant of the warrior herdsman must earn his living as a field hand in the hire of the equally pure-blooded descendant of the former serfs. The social group of the subjects is now composed of a part of the former ethnic master group and a part of the former subject group.

We say from a part only, because the other part has by this time been amalgamated with the other part of the old ethnic master group into a unital social class. In other words, a part of the plebs has not only attained the position to which the mass of the common freemen have sunk, but has climbed far beyond it, in that it has been completely received into the dominating group, which in the meantime, has not only risen enormously, but has been as greatly diminished in numbers.

And that, too, is a universal process found in all history; because everywhere it follows with equally compelling force from the very premises of feudal dominion. The *primus inter pares*, whether the holder of the central power or some local potentate, taking the rank of a prince, requires more supple tools for his dominion than are to be found among his "peers." The latter represent a class whom he must put down if he wants to rise—and that is and must be the aim of every one, since in this stage aiming for power is identical with the aim of self-preservation. In this effort he is opposed by his obnoxious and stiff-necked cousins and by his petty nobles—and for this reason, we find at every court, from that of the sovereign king of a mighty feudal empire down to the lord of what is hardly more than a big estate, men of insignificant descent as confidential officials alongside representatives of the master group, who in many cases under the mask of officials of the prince, as a matter of fact, are "ephors," sharers of the power of the prince as the plenipotentiaries of their

group. Let us but recall the Induna at the court of the Bantu kings. There is no wonder, then, that the prince rather places confidence in his own men than in these annoying and pretentious advisers, in men whose position is indissolubly bound up with his own, and who would be ruined by his fall.*

Here, too, historical references are nearly superfluous. Every one is familiar with the fact that at the courts of the western European feudal kingdoms, besides the relatives of the king and some noble vassals, there were also elements from the lower groups, occupying high positions, clerics and great warriors of the plebeian class. Among the immediate following of Charlemagne all the races and peoples of his empire were represented. Also in the tales of Theodoric the Goth in the Dietrich Saga of the *Nibelungen Lied*, this

* One of the most notable instances may be found in the case of Markward of Annweiler, Marquis of Ancona and Duke of Ravenna, seneschal of Henry VI., who after the death of the Emperor Henry VI. disputed the power of the Regent Constance acting for her son, Frederick II. (See Boehmer-Ficker, *Regesta Imperii*, V, vol. 1, No. 511. v. ad. annum 1197.)—*Translator*.

rise of brave sons of the subject races finds its reflection. In addition to these, there follow some less well-known instances.

In Egypt, as far back as the Old Empire, there is found alongside the royal officials of the feudal nobility, who are the descendants of the Shepherd conquerors, administering their districts as representatives of the crown, with plenary powers as deputies, "*a mass of court officials* trusted with determined functions of government." It "originated with the *servants* employed at the courts of the princes, *such as prisoners of war, refugees etc.*"¹²⁷ The fable of Joseph shows a state of affairs known at that time to be a usual occurrence, of the rise of a slave to the position of an all powerful minister of state. At the present day such a career is within the realm of possibility at any oriental court, such as Persia, Turkey, or Morocco, etc. In the case of old Marshal Derflinger, in the time of Friedrich Wilhelm I., the Great Elector, at a much later date, we have an example from the transition of the developed feudal state to a more

modern form of the state, which might be multiplied by the examples of innumerable other brave swordsmen.

Let us add a few instances from the peoples "disregarded by history." Ratzel tells of the realm of Bornu: "The freemen have not lost the consciousness of their free descent, in contrast with the slaves of the sheik; but the rulers place more confidence in their slaves than in their own kinsmen and free associates of their tribe. They can count on the devotion of the former. Not only positions at court, but the defense of the country was from ancient times preferably confided to slaves. The brothers of the prince, as well as the more ambitious or more efficient sons, are objects of suspicion; and while the most important places at court are in the hands of slaves, the princes are put at posts far from the seat of government. Their salaries are paid from the incomes of the offices and the taxes from the provinces."¹²⁸

Among the Fulbe "society is divided into princes, chieftains, commons and slaves. The slaves of the king play a great rôle as soldiers

and officials, and may hope for the highest offices in the state."¹²⁹

This nobility of the court's creation may, in certain cases, be admitted to the great imperial offices, so that according to the method stated above, it may achieve the sovereignty over a territory. In the developed feudal state, it represents the high nobility; and usually manages to preserve its rank, even when some more powerful neighbor has mediatized it by incorporating the state. The Frankish higher nobility certainly contains such elements from the original lower group;¹³⁰ and since from its blood the entire upper nobility of the European civilized states has been descended at least in direct line by marriage, we find an ethnic amalgamation, both in the present day group of subjects and in the highest order of the ruling class. And the same applies to Egypt: "With the sinking of the royal authority in the time of the decay, the higher officials abuse their power for personal ends, to make their offices hereditary in their families, and thereby to call into exist-

ence an official nobility not differentiated from the rest of the population." ¹³¹

And finally, the same process, from the same causes, takes hold of the present middle class, the lower stratum of the master class, the officials and officers of the great feudatories. At first there still exists a social difference between, on the one hand, the free vassals, the subfeudatories of the great landlord, kinsmen, younger sons of other noble families, impoverished associates from the same district, in isolated cases freeborn sons of peasants, free refugees and professional ruffians of free descent; and on the other, if the term may be allowed, the subalterns of the guards of plebeian descent. But lack of freedom advances, while freedom sinks in social value; and here too the ruler places more reliance on his creatures than on his peers. Here also, sooner or later, the process of amalgamation becomes complete. In Germany, as late as 1085, the non-free nobility of the court ranks between "*servi et litones*" while a century afterward it is placed with the "*liberi et*

nobiles." In the course of the thirteenth century, it has been completely absorbed, along with the free vassals, into the nobility by chivalry. The two orders in the meantime tend to become equal economically; both have subinfeudations, fiefs on the obligation of service in warfare, and the service feuds of the bondsmen; while all the fiefs of the "ministerials" or sergeants have in the meantime become as heritable as are those of the free vassals, as much so as are the patrimonies of the few surviving smaller territorial lords belonging to the original nobility, who may still have escaped the grasp of the great territorial principalities.

In ways quite analogous to this the development went on in all other feudal states of Western Europe; while its exact counterpart is found in the extremest Orient on the edge of the Eurasian continent, in Japan. The daimio are the higher nobility; the samurai, the chivalry, the nobility of the sword.

(e) THE DEVELOPED FEUDAL STATE

With this the feudal state has reached its pinnacle. It forms, politically and socially, a

hierarchy of numerous strata; of which, in all cases, the lower is bound to render service to the next above it, and the superior is bound to render protection to the one below. The pyramid rests on the laboring population, of whom the major part are as yet peasants; the surplus of their labor, the ground rental, the entire "surplus value" of the economic means is used to support the upper strata of society. This ground rent from the majority of estates is turned over to the small holders of fiefs, except where these estates are still in the immediate possession of the prince or of the crown and have not as yet been granted as fiefs. The holders of them are bound in return to provide the stipulated military service, and also, in certain cases, to render labor of an economic value. The larger vassal is in turn bound to serve the great tenants of the crown; who in their turn are, at least at strict law, under similar obligation toward the bearer of the central power; while emperor, king, sultan, shah, or Pharaoh in their turn, are regarded as the vassals of the tribal god. Thus

there starts from the fields, whose peasantry support and nourish all, and mounts up to the "king of heaven" an artificially graded order of ranks, which constricts so absolutely all the life of the state, that according to custom and law neither a bit of land nor a man can be understood unless within its fold. Since all rights originally created for the common freemen have either been resumed by the state, or else have been distorted by the victorious princes of territories, it comes about that a person not in some feudal relation to some superior must in fact be "without the law," be without claim for protection or justice, i. e., be outside the scope of that power which alone affords justice. Therefore the rule, *nulle terre sans seigneur*, appearing to us at first blush as an ebullition of feudal arrogance, is as a matter of fact the codification of an existing new state of law, or at the very least the clearing away of some archaic remnants, no longer to be tolerated, of the completely discarded *primitive* feudal state.

Those philosophers of history who pretend

to explain every historic development from the quality of "races," give as the center of their strategic position the alleged fact, that only the Germans, thanks to their superior "political capacity," have managed to raise the artistic edifice of the developed feudal state. Some of the vigor of this argument has departed, since the conviction began to dawn on them that in Japan, the Mongol race had accomplished this identical result. No one can tell what the negro races might have done, had not the irruption of stronger civilizations barred their way, and yet Uganda does not differ very greatly from the empires of the Carolingians or of Boleslaw the Red, except that men did not have in Uganda any "values of tradition" of mediæval culture: and these values were not any merit of the Germanic races, but a gift wherewith fortune endowed them.

Shifting the discussion from the negro to the "Semites," we find the charge made that this race has absolutely no capacity for the formation of states. And yet we find, thou-

sands of years ago, this same feudal system developed, by Semites, if the founders of the Egyptian kingdom were Semites. One would think the following description of Thurnwald were taken from the period of the Hohenstaufen emperors: "Whoever entered the following of some powerful one, was thereafter protected by him as though he had been the head of the family. This relation . . . betokens a fiduciary relation similar to vassalage. This relation of protection in return for allegiance tends to become the basis of the organization of all Egyptian society. It is the basis of the relations of the feudal lord to his sergeants and peasants, as it is that of the Pharaoh to his officials. The cohesion of the individuals in groups subject to common protecting lords, is founded on this view, even up to the apex of the pyramid, to the king himself regarded as 'the vicar of his ancestors,' as the vassal of the gods on earth. . . . Whosoever stands without this social grasp, a 'man without a master,' is without the pale of protection and therefore without the law,"¹³³

The hypothesis of the endowment of any particular race has not been used by us, and we have no need of it. As Herbert Spencer says, it is the stupidest of all imaginable attempts to construct a philosophy of history.

The first characteristic of the developed feudal state is the manifold gradation of ranks built up into the one pyramid of mutual dependence. Its second distinctive mark is the amalgamation of the ethnic groups, originally separated.

The consciousness formerly existent of difference of *races* has disappeared completely. There remains only the *difference of classes*.

Henceforth we shall deal only with social classes, and no longer with ethnic groups. The social contrast is the only ruling factor in the life of the state. Consistently with this the ethnic group consciousness changes to a class consciousness, the theories of the group, to the theories of the class. Yet they do not thereby change in the least their essence. The new dominating classes are just as full of their divine right as was the former master

group, and it soon is seen that the new nobility of the sword manages to forget, quickly and thoroughly, its descent from the vanished group; while the former freemen now are reclassified, or the former petty nobles sunk in the social scale, henceforth swear just as firmly by "natural law" as did formerly only the subjected tribes.

The developed feudal state is, in its essentials, exactly the same thing as it was when it first appeared in the second stage of state formation. Its form is that of dominion, its reason for being, the political exploitation of the economic means, limited by public law, which compels the master class to give the correlative protection, and which guarantees to the lower class the right of being protected, to the extent that they are kept working and paying taxes, that they may fulfil their duty to their masters. In its essentials government has not changed, it has only been disposed in more grades; and the same applies to the exploitation, or as the economic theory puts it, "the distribution" of wealth.

Just as formerly, so now, the internal policy of these states swings in that orbit prescribed by the parallelogram of the centrifugal thrust of the former group contests, now class wars, counteracted by the centripetal pull of the common interests. Just as formerly, so now, its foreign policy is determined by the striving of its master class for new lands and serfs, a thrust for extension caused at the same time by the still existing need of self-preservation. Although differentiated much more minutely, and integrated much more powerfully, the developed feudal state is in the end nothing more than the primitive state arrived at its maturity.