On

The Agricultural Community of the Middle Ages,

and

Inclosures of the Sixteenth Century in England.

Second Edition.

Translated from the German of

Erwin Nasse,

by Colonel H. A. Odvey (Late 9th Lancers).

"In der Beherrschung der Erde liegt die Kraft des Mannes und des Staates: die Grösse Roms ist gebaut auf die ausgedehnteste und unmittelbarste Herrschaft der Burger uber den Boden and auf die geschlossene Einheit dieser also festgegründeten Bauerschaft." — Mommsen.

Erwin Nasse (1829–1890)

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Translator's Preface.

The extract from a speech of Richard Cobden, which appeared as a Preface to the First Edition of this work, has been omitted in the present issue, as it might be supposed to stamp with a political character that which is merely an academical essay.

H. A. Ouvey.
29, Hyde Park Place,
January 1st, 1872.

Preface.

The translation of this work, which was published under the distinguished sanction of the Cobden Club by Colonel H. A. Ouvry, C.B., having now reached a second edition, a few explanatory words from the author may not seem out of place.

The original treatise was published in 1869, as one of those academical essays which are distributed annually to the Members of this University before the 3rd of August, the anniversary of the day on which the University was founded in 1818. These essays are intended to contain the results of purely scientific researches. Until lately they were written in Latin, and the present one happened to be the first at Bonn which was printed in German. A number of copies of these essays are placed at the disposal of the author for distribution to his colleagues at other Universities, and to other persons who are supposed to take a special interest in the subject. A few copies are occasionally sent to a bookseller for sale.

The writer of such an essay thus enjoys the privilege of addressing himself solely to those who have a thorough knowledge of the subject, and who are conversant with the results of previous researches in the same field.

My reason for publishing the present treatise in this form was, that I did not consider myself sufficiently advanced in the study of the subject to enable me to write a complete history of the great changes in the condition of landed property in England and in its system of husbandry, which took place in the Middle Ages and in the sixteenth century. When I published the results of my enquiries into a portion of that important movement, I was far from expecting that my treatise would interest the general public either of Germany or of England. My sole

object was to call the attention of the learned to a subject which had been only too much neglected, and thereby endeavour to secure their aid towards further and more complete investigations.

Such was the origin of my book; and should some parts of it appear unsatisfactory reading to those who have not made the history of agrarian matters their special study, I must plead as an excuse the circumstances under which it was written.

The translation of a work of this kind naturally presented many difficulties. I have done my best to explain to the translator the more difficult passages and the technical expressions employed in the treatise. But it appears to me that certain terms are wanting in modern English for ancient agrarian rights and customs and for practices of husbandry, which abound in the German language. That state of things which required those terms and expressions has endured to a comparatively recent period in Germany, and many German writers have paid marked attention to the subject, while, in most parts of England, common fields and the practice of co-operative husbandry have long since been almost entirely forgotten. Besides this, I must repeat that the original treatise was not intended to give either a popular or a complete representation of the subject.

I am much gratified by the interest which it seems to have excited in England, and I trust that in all essential points the translation will carry to the reader a correct impression of my views and of the results of my researches; but, considering the great importance which at the present time attaches itself to some of the questions involved, I think it right to state that the responsibility of a correct translation of this treatise rests entirely with the translator.

E. Nasse.
University of Bonn,
18th November, 1871.

On the Agricultural Community of the Middle Ages.

In the agrarian history of the nations of middle Europe there is no event of greater weight, or which has led to more important consequences, than the dissolution of the ancient community in the use and culture of the land which was then in vogue, and the establishment of a complete independence, and separation of one property from another. But this development had a more especial importance in England, inasmuch as it greatly contributed to dispossess the small proprietor of the soil, and to lay the foundations of that preponderance of large landed possessions which has had such an immense influence on the constitutional history of that country.

Up to our time, however, the agrarian history of England is a region comparatively very little explored; and this may fairly excite wonder when we reflect, on the one hand, by what great exertions and vigilant attention the English have successively inquired into all other parts of the history of their civilization; and, on the other, how rich the field is in records from which a knowledge might have been obtained of the earlier state of the agrarian and agricultural relations of the country. If then a stranger, instigated by the historical importance of the question, has been induced to undertake the inquiry, he may perhaps obtain some indulgence should he plead, as an excuse for the possible shortcomings in his investigations, that such were inevitable on account of the dearth of predecessors in the same field of research.

In one respect we have considered it necessary from the commencement to limit our task; that is to say, we have omitted from our consideration not only Wales, but also all the coast counties of the West of England. The agrarian history of these districts offers many

interesting peculiarities, but from the materials now before us we cannot obtain any information as to their development, even with any approximation to certainty. We have also omitted the northern and southern districts of the country, *e.g.,* the county of Kent, with regard to which the materials within our reach were very scanty, and though in the course of this research we may occasionally refer to them, our inquiry is still principally confined to central and eastern England.

Remains of the old state of community of land in England are still preserved at the present time, and on that account we consider that it will best suit our purpose to make this the starting-point of our examination. One glance at this fact will be sufficient to rectify the error so often met with among continental writers, viz., that in England, a village establishment with a community of fields never existed, but that the cultivation was exclusively managed by separate farms with separate husbandry.[1] Moreover the knowledge of this remnant of an ancient land community which has been handed down to us, clears the way to an easier comprehension of the authentic mediaeval records which refer to this subject.

In order to arrive at this knowledge two sources are at our command, one, "The report of the Select Committee on Commons Inclosure, instituted in order to frame laws for the dissolution of common holdings, by order of the House of Commons, in 1844"; and the other, the very carefully prepared descriptions of agriculture in the several counties of England, which were published by the then Board of Agriculture, under the conduct of Sir John Sinclair[2] at the close of the last century and the commencement of the present one. The Parliamentary Committee endeavoured by a searching inquiry to examine the conditions which were affected by the contemplated legislation, and the descriptions of the Board of Agriculture are, even now, the best representations which we possess of the agricultural state of a great country, composed especially with regard to the important question of the community in land and inclosures.[3]

The professional experts who were examined before the Committee in 1844 agreed in their information that in many parts of the country plots of arable land in the same township lay intermixed and uninclosed, so that the lands of a rural property consisted of narrow

parcels lying scattered in a disconnected manner all over the extent of the village district (*Dorfflur*). These arable parcels were for the separate use of individual possessors from seed-time to harvest, after which they were open and common to all for pasturage. They were designated "open commonable intermixed fields," and also "lammas lands," because "lammas" is the festival "Petri ad vincula," on the 1st of August—or, according to the old calendar by which the reckoning was then taken, the 13th August—which was the period at which the common rights of pasture commenced. But there was, however, a difference in this right, inasmuch as in some places it was only the possessors of the land which lay intermixed in arable plots, and in others, other classes also of the population who had the right to fallow and stubble pasturage;[4] for instance, all householders and burghers of the town. Those, however, who were not possessors of soil, found many difficulties in making good their right of pasture before a court of justice, even though they had exercised it for a length of time. (N. 300.) The source of the rights of this last class is partly to be referred to the fact that in many villages the lordship of the soil was vested in the neighbouring towns, and the collective burghers claimed the right of pasturage as lords of the soil over the urban villages, and partly because, from very ancient times in many places, not only the owners of the soil, but all possessors of homesteads had a right to partake of the common fallow and stubble pasturage.[5] For the cultivation of the commonable fields there existed universally a field constraint (*flurzwang*[6]), and in most of the midland counties, almost without exception, the old three-field husbandry—generally, 1st, wheat, 2nd, oats or beans, 3rd, fallow. (N. 1422 and 3360.) Exceptionally there appear also to have been manorial properties, on which the arable land was free from the compulsory rule as to a rotation of crops, but on which the common right to fallow and stubble pasture remained, which certainly restrained the freedom of the cultivator nearly as much as if the usual course had held good. (N. 5151, 5155.) On very numerous meadows the same mode of cultivation prevailed; the possessors farmed their parcels separately for growing hay until after the hay harvest, *i.e.,* till the 6th July (Midsummer-day according to the old style), or the middle of July; then the whole of the meadows to Candlemas or the middle of Febru-

ary were common open pasture. The permanent pasturage as unpartitioned common land, was in uninterrupted common use, but chiefly in the following manner: the occupiers of the small holdings had merely the right of use of the common pasture, the actual property being vested in the lord of the manor, a condition that will be fully investigated hereafter from old authentic records. None of the experts who were examined could give any precise information concerning the extent of this system of husbandry in 1844, but they had no doubt that it was very considerable, especially prevailing, according to the opinion of one of the best informed, in the parts of the country which had been first cultivated, and on the best kinds of soil. (N. 185, 186.)

More precise reports on the community in land, and especially on the three-field husbandry in different parts of England, are given in the before-mentioned description of the counties, which were published and issued by the Board of Agriculture. In nearly all parts of the country, particularly in the midland and eastern counties, but also in the west, for instance in Wiltshire, and in the south, as in Surrey, and in the north, as in Yorkshire, extensive open and common fields were to be found. In Northamptonshire, out of 317 parishes, 89 were in this condition;[7] in Oxfordshire, over 100;[8] in Warwickshire, some 50,000 acres;[9] in Berkshire, half the county;[10] in Wiltshire the largest part;[11] in Huntingdonshire, out of 240,000 acres—the whole area —130,000 were commonable meadows, commons, and common fields.[12] Generally, the common lands, with the exception of the homesteads and farmyards, were divided into three principal divisions: arable land and meadows (both in separate possession but with common regulated rights of use), and common pasturage. Sometimes might be added a fourth part, a smaller inclosed portion of the common land excepted from the compulsory cultivation, in the vicinity of the homesteads.

As succession of crops on the arable lands for this community, from Yorkshire down towards the south, and from the North Sea as far as Wiltshire, a three-field husbandry generally prevailed; only exceptionally in some districts, as for instance in Oxfordshire here and there on good soil;[13] in Huntingdonshire[14] and in Wiltshire,[15] also four-field husbandry, viz. fallow, wheat or barley, beans or oats, barley or wheat. This last system may have arisen out of a two-field husbandry, as it has

been likewise reported that such a system held good always in Oxfordshire and Wiltshire, particularly on poor soils,[16] and which some ten years earlier Arthur Young found also in Lincolnshire in the open fields, 1st, fallow, 2nd, corn of some sort.[17] Quite isolated, however, is the declaration of the same writer that in Suffolk there were commonable lands on which two years' fallow always succeeded to one wheat crop.[18] Of particular places only, it was reported that five or six exhaustive crops followed one after another without either fallow or manure, and then one fallow year with a heavy manuring; but it was impossible to judge from the information how far in these successions of crops a degenerated three or two-field husbandry was involved.

The witnesses all agree in their information concerning the extraordinary intermixture of the arable plots in all these places, with common village husbandry. The arable land attached to a possession lay in high ploughed-up little ridges, scattered over the whole extent of the township, and in many places the larger possessors had, out of 100 acres and above, never more than two or three together in one parcel.

The manuring was done principally by turning the common flocks of sheep on to the fallow at night time, and also in a measure by stall manure; which was, however, very scanty, on account of the free common pasturage.

We find also that in the districts in which this agrarian system prevailed, the farmers and small proprietors in the village always dwelt together. The description enlarges concerning this point with regard to Northamptonshire, and this is written by a Scotchman (*J. Donaldson*). It strikes the relator, that in Scotland the management was carried on by separate farms, while the English proprietors, not only in Northamptonshire but also in other parts, still lived crowded in villages. Marshall, however, remarks that this has its limits, and only applies to those places where the above-mentioned community of land-exists or had formerly existed; when, however, the land was inclosed on being first taken into cultivation, as was the case in the west, there were dwelling-houses and farm-buildings on the lands belonging to the same.[19]

In the descriptions of the counties we find repeatedly that in the above-mentioned land communities, the properties were for the most

part small, a fact which is of great importance for agrarian history. In Huntingdonshire, for instance, in the inclosed parts of the county, large farms were the rule, commanding a rent of from £200 to £500 yearly; in the region of the open fields the farms bore commonly a rent of from £50 to £150. The relative state of Northamptonshire is similar, where in the inclosed districts the farms are, on an average, double the size of those in the unin-closed. In Oxfordshire, small properties were to be found almost exclusively in the open fields. The official reports of Buckinghamshire[20] and Wiltshire[21] are especially interesting from this point of view. There, the uninclosed commons were still divided into yards of land, yardlands, the mediaeval *virgatae terrae,* the Anglo-Saxon "gyrde lands." All yardlands were, as it appears, originally of equal value, but of a different size, according to their condition of soil and position. In Buckinghamshire, they were from twenty-eight to forty acres of arable land with the corresponding right of pasture. In Wiltshire the yearly value of these small peasant properties varied from £18 to £25 sterling; a few however reached £40. To a yardland of £20 sterling yearly rent, belonged about two acres of meadow, and eighteen acres of arable land (which lay scattered amongst the common fields in about eighteen or twenty plots), as well as a share in the common pasturage, and other common rights of use. The extent of the right of pasturage was usually for forty sheep and as many cows as the peasant could maintain through the winter. The occupier of these small hides held them originally by copyhold, which however gradually in the course of time became converted into a lease for three lives, or into a freehold. The consolidation or fusing of these peasant properties into large farms thence followed in rapid succession, and on many of them the old farm-buildings stood deserted and in ruins; but still a considerable number remained, and were separately farmed. These peasant properties originally made up the greatest part of the manors to which they belonged; there was only one large farm on each property, the domain of the lord of the manor, which, as a rule, lay separate from that of the peasant. Williams, in the *Archaeologia,* vol. xxxiii. p. 270, describes a perfectly similar constitution of a manor in Oxfordshire, and traces it by records into the sixteenth century. The manor consisted of sixty-four yardlands, of which the greater part had gradually passed from the possession of

the peasant to the private use of the lord of the manor. To each yardland belonged a house and farmyard, twenty-four to twenty-eight and three-quarter acres of arable land, a share in the commonable meadows, which for each, came to some seven and a half or eight and a half acres, and the right to turn out eight oxen or cows, or six horses and forty sheep on to the common pasture. The relator considers it likely that in ancient times, in addition, there was a right to as much firewood as was necessary, and also wood for building purposes, and for erecting the requisite fences. The arable land lay in numerous small plots of half an acre and under, mingled together in confusion, and, as Williams writes, was farmed by a four-field husbandry (wheat, beans, oats, fallow), while two centuries before the three-field husbandry was there commonly in use.

These witnesses, therefore, sufficiently show that in a considerable part of England the old English peasantry,[22] as we still see them even in a measure in more modern times, held the land in common, precisely as the present villagers of the greater part of middle Europe hold theirs. But with regard to this, let us hear the views of a man in modern times who had an intimate knowledge of the agrarian constitution of his native country, and was far more fitted to judge of these matters than others. Marshall has often expressed his conviction, that several centuries ago the soil of nearly the whole of England lay in an uninclosed condition, and was more or less in a commonable state. In the treatise[23] in which he enters most fully into these matters he gives as his opinion, that the division and use of land in several parts of England differed indeed somewhat, but in the central and greater portion not widely. Every village, he says, in the immediate vicinity of the dwelling-houses and farm-buildings, had some few inclosed grass lands for the rearing of calves, or for other cattle which it might be thought necessary to keep near the village (the common farmstead or homestall). Around these home inclosures lay the arable land, divided into fields of nearly equal size, and usually three in number, on which winter and summer crops and fallow followed in succession. In the lowest grounds, "and in the water-formed base of the rivered valleys, or in the boggy dips adjoining the arable land, lay meadow ground for hay harvest." The more distant land served for pasture and wood, but the pasturage

was of two distinct kinds; the inlying portion of a better kind called "stinted," on which there was a limit as to numbers and kinds of cattle, milch cows, draught cattle, and others which required better food during the summer; and the common pasture, on which every one could turn out as many cattle during the summer as he had fodder to support during the winter. Thus the whole acreage of the township was divided like one great farm which was made use of by the joint tenants according to a uniform plan. It is only in the extreme west, says Marshall, that this system has never prevailed; there, from very early times up to the present, the custom held good for the lord of the manor to assign portions of the common pasturage to the inhabitants who had rights of use, to be ploughed up for wheat cultivation, restricted however to two crops. After a period of two years the land was again thrown open for a lengthened period, and returned to common pasturage, and a fresh portion of the common pasture was broken up.

For the reasons which we have already stated at the commencement of this work, it is not our intention to enter into the question of this irregular convertible husbandry, nor the paring and burning which likewise prevailed in the west. In the agricultural description of Cornwall, these systems are described as customary only on outlying and poor lands, while the better plots in the vicinity of the homesteads at that time were already commonly farmed by a regular convertible husbandry.[24] (*Vide* Appendix C.) We cannot however refrain from remarking, that it is altogether in the nature of things, that with this, as well as with every other system of husbandry in which the period of a common use far exceeded that of a particular use, generally the several portions of the whole extent of the acreage were not the private property of individuals. There was no advantage in retaining as private property that which in ten years' time would be of no practical value; a constant fresh partitioning of the plots of the district each time they were broken up for cultivation was much more convenient. Private property first came into vogue with arable land, on which private use, in relation to common use, had a longer duration.

On precisely similar grounds, where the arable land was private property, the meadows were generally found to be in common; so that the plots destined each time for hay harvest were assigned to indi-

vidual joint owners, in alternating positions by an allotment which was constantly renewed. Since meadows were neither cultivated nor manured, any assignment of particular spots for cultivation was not necessary; it was only for the short period of hay harvest that each had his portion assigned to him, and it appeared much more convenient always to make a fresh partition, as the portions assigned were often so exceedingly small that it was most difficult to retain them as separate property during the long period of the common use of the land. That such common meadows have been preserved in great numbers in England, even to the most modern times, was made clear to the Committee of 1844, especially by Mr. Blamire, who, from his office as a commissioner for the commutation of tithes, was very intimately acquainted with the agrarian condition of the country. The customs with regard to the partitioning of meadows for growing hay were of a most varied nature. The most general practice, however, was to divide the meadow land into as many plots as there were persons who had the right of pasture, and then to distribute the particular portions among them by lot (lot meadows). Very often, however, the division by lot was permanent, and the use of each lot for hay harvest was then changeable by turns to all those interested, so that he who one year had lot 1, next year would have lot 2 (rotation meadow). Two plans were attached to the report, one representing the lot meadow, and the other the rotation meadow. On the manor described by Williams, in Oxfordshire, there were also lot meadows, which were divided into "hams," each bearing a particular name, after ancient offices and handicraftsmen of the manor which no longer exist, such as the great steward's ham, the water hayward's ham, the water steward's ham, the smith's ham, the constable's ham, &c. &c. These divisions for a lengthened period were allotted among the possessors of yardlands for hay harvest; there being, however, a very considerable difference in the quality of the hay crops. Each hide had its particular mark; the marks were thrown into a hat, and at each hay harvest the several plots of meadow land were thus distributed by lot.[25]

It was not, however, the meadows exclusively, but occasionally also the arable land, which underwent this change in private use (severalty holding), as Mr. Blamire officially stated before the Inclosure

Committee. But this arable land was not changed annually in the same manner as the meadow land, each owner retained the portion which fell to his lot throughout the usual succession of crops. Unfortunately the nature of these successions of crops was not given, neither is the place mentioned where these shifting severalties in arable land occurred. We have tried in vain to obtain further information concerning these very interesting conditions, which might form an instructive supplement to our *Gehöferschaften* in the district of Treves. In no other place, either in the writings of ancient or modern authors, have we ever found such an agrarian arrangement mentioned. However frequent it may have been with regard to the meadows, it must have been very rare in respect to the arable land; and, it would be well worth the trouble, to make a closer research into the archives of the Inclosure Committee in order to ascertain whether similar conditions of rights existed on the fields which were separated under their authority.

After this cursive glance at the community of land, which in England we see extending into the most modern times, we will proceed to an examination of it through the evidence of ancient records; which, however, we shall have frequent occasion to illustrate in detail by more modern reports on the remains of agrarian conditions.

Although agrarian relations have a tendency to a more lasting duration than other human institutions, still it appears necessary, in order to be correct, to make a distinction between different periods, of which the first and most suitable to our purpose will be that from the Anglo-Saxon times to the Norman Conquest.

The greater part of the earlier researches into the history and constitution of the Anglo-Saxons gives no information whatever on the question which is now before us. Certainly, something is to be found in the writings of Phillips, Palgrave, and Leo, on the district associations and land settlements; but K. Maurer, in his admirable researches into the state of the Anglo-Saxon laws,[26] has estimated these remarks at their true value. Of more recent inquirers, it is well known that Kemble has sought to prove, that the constitution of the Anglo-Saxon commonwealth was founded on mark associations. But Kemble was never in a position authentically to prove the agrarian community upon which these mark associations were founded, and it is with full justice that

the careful author, E. Schmid, says, "that true mark associations (*i.e.,* communities) existed, the organization of which was founded on a community of pasture and wood rights, has never been proved by Kemble, however much he may have written concerning pretended mark associations in England."[27] With regard then to the smaller village communities, which are to be distinguished from the great mark associations of the "gâ" and "scire"—mentioned exclusively by Kemble — Konrad Maurer justly observes, that we can learn nothing in that respect either from Kemble or any of his predecessors, while we must conclude, from the nature of the partitioning of land according to families, as well as from the occurrence of the word "thorp," and ether similar designations of names of places, &c., that, besides numerous separate farms, not less numerous villages as well, belonged to the same tribe. Unfortunately, however, he was not in a position to fill up these lacunae.[28]

The results, therefore, of recent researches lead to the conclusion that the sources are very meagre, and the traces very faint, whence to draw even an imperfect picture of the agrarian community of the Anglo-Saxons.

The names of places show that, among the Saxons, only the dwelling-place—that is, house and homestead —was inclosed; the arable land and the pastures being open and unfenced. Out of 1,200 names of places which Leo collected from the first volume of Kemble's "Codex Diplomat. Ævi Saxonici," 137 were formed with "tun."[29] This word, it is well known, is identical with the modern "town," the Dutch "tuin" (garden), and the German "zaun," and was, as E. Schmid remarks, less used by the Anglo-Saxons to signify "that wherewith a space is inclosed, than the inclosed space itself." We may, however, see very plainly that it was principally house and homestead which bore this name; for instance, in the laws of Alfred I. § 2, in "cyninges tune"; §13, on "eorles tune." Even at the present day the courtyard in the country in England is signified by the word town.[30] Apparently, as was also the case in Germany, not only the individual homesteads, but also several situated near each other, were surrounded by an inclosure; which explains the reason why not only the homestead, but also the whole village, was called "tun." In many places — for example in the laws of Athelstan II, FR. §2, where an expiatory fine is to be divided among the

poor of the town; as well as in Edgar IV. c. 8 — which we have yet to notice — the word “tun” cannot be intended to be used for individual homesteads, but only for places, which latter meaning became later the ruling one.

Among a considerable number of names of places, two other root-words occur, which Leo justly remarks are synonyms of “tun,” “ham” and “wurð,” “weorðig,” “vurðig.” He calls attention to the fact that this last word often distinctly takes the place of “tun” in the names of places, as in the case of Cataractona, the Latinized form of Cetrihtworthig.[31] On this account also in the laws of Ina, c. A, 40, “Ceorles weorðig sceal beôn wintres and sumeres betyned,” in the “vetus versio,” which, probably at the latest, dates in the times of the first Norman kings, is properly translated “rustici curtillum[32] debet esse clausum aestate simul et hyeme.” There was no ground for differing from this, and translating “inclosed land,” or “inclosure,” as Schmid has done; or “praedium,” according to Lye.[33]

In designating the house and homestead as the inclosed spot, it was intended to imply that the rest of the land as a rule was not permanently inclosed, and it is certainly a strange error of Leo[34] (though Kemble[35] agrees with him), when he concludes from the occurrence of the word “tun” in so many names of places, that in Anglo-Saxon times the permanent inclosure of the fields by hedges was as common in England as at the present time, whereas for centuries these inclosures have been in progress as one of the most important of agricultural novelties.

The inclosed abodes of the Germanic peoples everywhere comprised, in addition to the house and courtyard, as much land as was requisite to form a garden, kitchen-garden, and for flax and other culture which required a constant protection against the common stubble and fallow pasturage rights and wild beasts, as well as smaller inclosures for cattle requiring especial care and attention, and which could be put up in the farmyards in the village. As the population increased, these inclosures in the villages were found to be too small for the above-mentioned purpose, and consequently isolated plots of land, very fertile and well situated, were inclosed outside the village to meet the requirement. There can be no question that there were small inclosures

of a similar character in England at the Anglo-Saxon period,[36] although on account of the poverty of our sources, we may not be able to distinguish in every individual case the primitive ones appertaining to the homestead, from the secondary ones outside the village. We see, for instance, frequently mentioned in the ancient documents, inclosed grassland, "gerstun," "syntrimaede," a meadow withdrawn from the community; further, it occurs, especially in the boundary descriptions of the grants of land; "stôdfald," an inclosed plot for horses ("Cod. Dipl." Nos. 356 and 1193);[37] "oxena gehaeg" (loco citato, No. 769); "oxena wic" (1.c. 1204), oxen inclosures; "sceap-hammas" ("Chronicon Monasterii de Abingdon," I. p. 153), inclosures for sheep, "flax hammas" (1. c. p. 208), an inclosed spot for cultivating flax.

Opposed to these permanently inclosed plots, in the old agrarian arrangements of the greater part of the German tribes the rest of the land was only inclosed when it was withdrawn from the community for the purpose of cultivation. The cultivated arable land from seed-time till the end of the harvest, and the meadows from the commencement of the growth of the grass in spring to the end of the haymaking season, were inclosed with fences and preserved against the access of cattle and wild beasts, &c. &c. At the conclusion of this private use, the land again reverted to common pasturage. It was necessary, then, to put up fences at each inclosed season, which in the time of common pasture were again either partially or wholly removed.

Some half-century ago, or less, the custom of inclosing the fields periodically—already abrogated a long time since in Germany in the village and three-field husbandry—existed here and there in England; for example, at Nottingham, where each 12th August, at the commencement of the common right of pasturage, the inhabitants of the town issued out on to the acreage, and threw down the hedges and destroyed the gates, which at the beginning of the seed-time were again set up by the landlords.[38]

Anglo-Saxon official records bear testimony to this constant and repeated work of fencing. We have, besides the so-called "rectitudines singularum personarum," also two records in which the agricultural labour of serfs is enumerated, Codex Diplom. N. 461, and the inventory of the rural service of the "ceorlas of Hysseburnan," Nos. 977 and

1077. The "gebur," we read in the first record, "acertyninge xv gyrde oððe diche fiftyne (the peasant shall hedge 15 yards, or ditch round 15 yards)"; and, in the second, "and xvi gyrda gavoltininga eac on hiora agenre hwile (he shall also hedge 16 yards as service, in his own free time)." Thus, fencing belonged to the regular work of the peasants. The demand for wood necessary for this hedging must have been very considerable, and it is on this account that Domesday Book refers so frequently to forests used especially for this purpose: "silva *or* nemus ad clausuram—ad sepes—ad sepes reficiendas—ad sepes et domus," once also "rispalia ad sepes."[39] In this regularly recurring work, as well as in the great demand for wood to erect these dead fences, there lies a proof that the inclosures were not made for a permanency, either with a live hedge, or with a ditch.

In the common village husbandry system, it was not the separate plots of individual possessors that were inclosed in common, but the whole of the parcels of the village acreage cultivated with winter or summer crops, or destined for haymaking. Of these common inclosures, and thus of the village husbandry, a remarkable testimony is to be found in the laws of King Ina, c. 42: "Gif ceorlas gearstun haebben gemaenne, oððe oðer gedalland to tynanne, and haebben sume getyned hiora dael, sume naebben—and etten hiora gemaenan aceras oððe gaers, gan þa, þonne, þe þaet geat agan and gebete (n) þmm oðrum, þe hiora dael getynedne haebben, þone ae (f) werdlan þe þaer gedon sie." Literally, "if ceorls" have a common meadow, or other partible land to fence, and some have fenced their part, some have not—and eat up their common corn or grass; let those go who own the gap, and compensate to the others who have fenced their part the damage which there may be done, &c. &c. Price and Schmid remark very justly that there is a hiatus after "naebben," which they fill up from Ina, c. 40: "und recen heora neahgebures ceap in," and his neighbours' cattle stray in and —. Each had his hedge to make at the boundary of the common fields, as we find equally elsewhere in the common village husbandry, that each peasant farmer had to fence his plots in the winter and summer fields[40] where they touched on the common boundary. Every one was then answerable to the rest of the common shareholders for his own hedge, in a similar manner as it was prescribed in the Jute Law (L. iii. ch. 58),

and, not indeed for the field fence, hut the village one, in the Abbey Pram. (Si quid furatum fuerit in curte per noctem et per sepem exierit, componet ille per cujus glavem[41] exierit, et si per totam, component omnes de villa.[42])

It is well known that there are two opinions concerning the nature of the separation of the arable land from that used for pasturage among the oldest German races; one is, that there existed an irregular convertible husbandry[43] which took particular spots from the whole acreage irregularly by turns, and brought them under the plough, which after having been used for several years again reverted to pasture: a system of husbandry which we have already spoken of as having been prevalent to a great extent in the west of England even down to the most modern times.[44] The other is, that, from the first appearance of the German tribes in history, there was a permanent separation of the arable land and pasture, and that arable land was cultivated according to the rule that at a later period prevailed in the greater part of middle Europe, and, as we have seen, in the eastern and midland counties of England, in which a three-field husbandry was most generally prevalent.[45]

There is much which indicates that at the time from which our Anglo-Saxon sources date, since their first formation, a permanent separation of pasture and grass land had been the rule. The records concerning grants of land mention almost universally the number of hides conceded, and their constituent parts. The formulae in which this was done are collected by Kemble ("Codex Diplom." vol. i. p. 38, et seq.). They are generally expressed thus: "so many hides 'cum campis, pascuis, pratis, silvis;'" or "cum omnibus ad se pertinentibus, campis, pascuis," &c.; so that the "campi," as arable land, were separated from the pastures and meadows. Sometimes, in rare cases, in the representation of the principal component parts of the hides, the arable land was completely omitted, and the appertaining pasture, meadow and wood, was alone mentioned. For example; "cum silva, quas eidem telluri adjacet, ut cum pratis, pascuis, aquarum rivulis;" or "cum omnibus utensilibus, pratis videlicet, pascuis, silvis." Of these different appurtenances, only the meadows, and sometimes the rights to mast and pasturage on the common and royal lands, were distinctly laid down;

but it is clearly visible, from these representations of the "prata," "pascua," as appurtenances of the hide, that the arable land was separate from the pasture. It is a further proof of the permanent separation of the arable land from the pasture, that the yrthland (arable land) is quoted frequently under distinct boundaries; and in particular instances, also, the area of the conceded arable land, as well as that of the meadows, is laid down; for example,

"Codex Dipl." N. 1154—"fonne ligcað be norðam porte xxxvi. aekera yrðlandes and x. aeceras maede." At the end of the Anglo-Saxon period this separation was at any rate quite general. In Domesday the "terra" for so many ploughs, or so much plough land, was always distinguished from pasture.

Naturally this neither excludes from our view, that in earlier times there existed generally an irregular convertible husbandry in the eastern and central parts of England, nor that exceptionally such a condition here and there was preserved for a length of time. It has been remarked by several trustworthy observers, that the common pasture and heaths in England in many places showed very apparent traces of the plough; and sometimes former ridges even were plainly to be distinguished (see Marshall, especially "Midland Department," p. 17). These phenomena are not difficult to account for, when we consider that in former times a convertible husbandry existed, in which first one, then another portion of the common pasture was broken up by the plough, before the permanent separation of the arable land from the pasture came into vogue. In Germany it is well known that a convertible husbandry exceptionally occurs together with a permanent state of the arable land in the mountain regions, on distant poor lands, and indeed sometimes on commons, in which a periodical change of the years of arable use prevails. Two Anglo-Saxon records appear to us to point to a like condition. The question is of common land, of which a certain portion is an appurtenance of the land which is private property (see "Codex Diplo." 633), where three hides and thirty jugera were ceded, one mill, and as much mark land as belonged to three hides; "and þaes maerclandes swa micel swa to þrim hidon gebyrað;" also No. 1169, "and on þan gemanan lande gebyrað þarto fif and sixti accera." It is very clear that the question here is not one of common pasture, for

in that case a particular area would have no meaning. These two cases are easily to be understood, if we consider that a certain portion of the common pasture was taken up and applied temporarily to arable purposes.

With regard then to the distribution and use of the arable land, we can obtain additional proof of the occurrence of its intermixed state, and of a husbandry regulated on the principle of a community, which was before probable from the passage cited from the laws of Ina. At a first view, it is truly remarkable that in the greater part of the grants of land which form the subject of most of the title-deeds, the boundaries of the conceded plots are given at the end of the document, and appear as plots lying together. Waitz, in his treatise on the old German hide,[46] mentions that in the German title-deeds of the same period, though the farm and farmyard were described, with an accurate statement of the boundaries, the hide never was, and he sees in this an indication of the intermixed condition in which the component parts lay in the village acreage. We may be tempted to form the inverse conclusion from the accurate boundary description in nearly all the Anglo-Saxon grants of land, that the hide was in one connected piece. But, it must be taken into consideration that most of the title-deeds contained Royal grants, not for particular hides in village communities, but for extensive tracts. There are often grants for 30, 50, to 100 hides, and thus apparently large manors, which comprised either whole village communities or which were entirely distinct from them. And in these manors an agrarian community was again formed by the tenants among themselves and with the lord of the manor, as we see shadowed in the "rectitudines" and some other records, but fully developed in the period next following. Certainly in the less frequently occurring smaller grants of land, as a rule, not the boundaries of the conceded lands, but either none at all, or those of the whole village acreage, in which the ceded hides were situated, were laid down. In the first case where no boundaries at all were shown, in some of the title-deeds, a reason was expressly given that the omitted boundary descriptions resulted from the intermixed position in which the ceded acres lay. In the "Chronicon Monast. de Abingdon," vol. i. p. 384 (Kemble, "Cod. Diplom." N. 1278), Aethelred cedes five hides, "cujusdam loco sed communis terras, qui celebri aet

Ceortatune nuncupatur nomine." The record concludes, "rus namque praetextatum manifestis undique terminis minus dividitur, quia jugera altrinsecus copulata adjacent" (A.D. 982). In another case the same conditions were laid down thus: "þises landgemaera syn gemaene sua þaet lið aefre aecer under aecer." — "Chron. Abingd." I. 330, "Cod. Diplom." N. 1260 (A.D. 962). This is expressed still more plainly "Chron. Abingd." I. 304, "Cod. Diplom." N. 1234, "þat nigon hida licggead on gemang oðran gedallande feldlaes gemane, and meada gemane and yrðland gemane" (A.D. 961); that is, partitioned land, and yet in community— an expression which would imply that it was private property, but subject to rights of a common husbandry. The other case, however, without doubt is still the more frequent one, where the boundaries of the whole village acreage in which the conceded hides lie, are laid down at the end of the title-deed. It then runs thus: "Concedo — mansas in villa;" and at the end, "þis synd þe landgemaera aeð." &c. There is sufficient proof of this custom in the fact that in different grants of land in the same place the same boundary is laid down. Thus, for example, the boundaries are essentially the same in N. 427, and in 1198 of Cod. Diplom. The first from King Eadred (A.D. 949) of 18 mansae that he grants fideli Wilfrico, in Welingforda; the second, from King Eadrig (A.D. 956) of 22 mansae, that he gives "cuidam ministro Eadrico." The boundary descriptions in Nos. 291 and 292 are still more strictly identical, as also in Nos. 300 and 302; but this last is not undoubtedly genuine. Further, in "Chron. Abingd." I. pp. 350 and 352, and also in 248 and 250. In the last two instances the expression "aecer under aecer" occurs, which the author of the Chronicle in an appended glossary justly explains by "intermixed lying" (þis sind þa landgemaera to Draitune aecer under aecer). But our view, that the boundaries of the title-deeds marked often the whole extent of the place, and not the separate conceded plots of land, is shown in the clearest manner by the title-deeds in the "Chron. Abingd." I. p. 98, in "Cod. Diplom." N. 1134, in which King Eadmund concedes to his servant Aelfsige 30 hides at Waltham. It follows the boundary description, which is prefaced by the words "þis sind þa landgemaero þe to Wealðam hyrð þara þritiga hida," and which, at the end of the boundary description, "þonne heafð Eadmund cing gebocad Aelfsige feowertyne hida binnan þam þretigum hidum

landgemaero, ofer wudu, ofer feld, ofer ecen laese and to ecan urfe, and xii maeð aeceras at þaere standan butan þaw landgemaerum." The king thus further assigns 14 hides that lie inside the boundary of the 30 hides, and 12 acres of meadow in their position outside these boundaries.

We have no means of determining either from laws or from title-deeds the number of fields into which such common acreages were separated, or the rotation of their cultivation. One of the latter, however, contains a notice by which we may arrive at a probable conclusion that the acreage was divided into three fields, and cultivated on the three-field husbandry system, viz. "Codex Dipl." No. 1216, in the "Chron. Abingd." I. p. 180. It there appears concerning a grant of 20 hides which was given to the monastery by King Eadwig: "þis sindon þe landgemaero þaesse burlandes to Abbendune, þaes is gadertang on þreo genamod, þaet is Hengestes ige and Seofocanwyrð and Wihðam." Then follow the boundaries which comprise only one entire piece of land. Possibly, the question here may be one of different common acreages (*Gemeinde-fluren*), but this is very improbable, for if so, they must have formed one united whole. On this account we are justified in considering it as being three fields of one common acreage. Further, it may tend to elucidate this more clearly if we refer the description "36 aekera yrðlandes qui ter deni ter quoque bini arandi gratia subjacent" (No. 1154), or the three years' lease of a farm which is in our possession, to a three-field husbandry; but these instances afford no certain proof of it. Still less can any such proof be found, as Leo supposes, in the occasional occurrence of the word "zelga"; for field-zelgae[47] may occur as well with regard to another system of husbandry with permanent arable land as in a three-field husbandry.

It seems that already in Anglo-Saxon times the meadows were held in the land community under different conditions. Very frequently in the boundary descriptions the meadows were described as belonging to the hides, but separated from them; for example, "Codex Dipl." Nos. 132, 263, 284, 311, 361, 412, &c. &c. In relation to the right of property and of use, it is once expressly mentioned that the meadow in question was a private one: "And seo mead, þe þarto (that is, to five hides at Eblesburnan) gebyreð wið Hunningtun, þes is fifta healf aecer,

seo his sundermed" ("Cod. Dipl." N. 1118); from which we may well conclude that this was not always the case. In other places the meadows occur expressly as being in common, as No. 396: "And swa mead gemaene swa hio aer was (*and there a common meadow where it formerly was*)"; and No. 543, "ane mylne und her gebyriað of þaere gemaenan meade XVI. aecyras (*a mill, and its right on the common meadow of XVI. acres*)." In many cases also it was laid down that to the ceded hides of such and such meadows, belonged so many acres—for example, No. 549. The common meadows may probably have been the same as those which at a later period were lot meadows, without separate property in individual plots with periodical allotment of the portions: other meadows also there were, which like the arable land were private property, hut subjected to a right of common use for pasturage after the hay harvest; and perhaps the designation *sundermed* indicated that such had been freed from a community in use.

The third principal component part of the lands of an old village community, the common pasturage, is frequently alluded to in authentic documents. The laws of King Eadgar IV. c. 7, 8, speak of a common pasturage as an understood property of each "tuns-cips"; thus, "he who rides out after cattle should give notice to his neighbour wherefore he does so, and when he returns home he must also notify who were the witnesses that he bought cattle. If, however, not having that object in view, he should make a journey and conclude a purchase, he must give notice of it on his return; and if the purchase should have been live cattle, he must place them, with the sanction of the township, on the common pasturage. Should he neglect to do this for the space of five nights, the townspeople shall report the circumstance to the Inspector of the Hundred," &c. Not less do the old documents expressly testify to the rights of common pasturage connected with grants of hides. Thus, "Codex Diplom." 276: "communionem marisci quse ad istam villam antiquitus pertinebat;" or, No. 395, "and seo laes is to foran eallum mannum gemaene on þam heaðfelda," Nos. 1163, 1357, and elsewhere, as also in the "rectitudines," in which the neat-herd was allowed to bring two oxen or more on to the common pasturage with the lord's herd, with the knowledge of his ealdorman.

Common forest also occurs very frequently in the same manner

as common pasture. Thus, in No. 179, "adjectis denberis in commune silfa;" No. 190, "ut communem silbam secundum antiquam consuetudinem cumceteris hominibus abeat;" No. 241, "in commune silfa, quam nos saxonice in 'gemenisse' dicimus; "or, No. 305, "in þaem wudu, þe þa ceorlas brucað," Nos. 432, 843, 1142, 1281, &c.

It is impossible to ascertain from these sources what the extent of the association was, which thus had a co-partnership in the common pasture. When we consider the internal grounds which make it appear quite natural that a village community, with intermixed fields, compulsory cultivation (*flurzwang),* and a permanent separation of arable land and constant pasturage, had also a common pasturage, and that this common pasturage existed as a component part of a village community in later times; then there can be scarcely a doubt that such a common pasturage was a part of the lands of every Anglo-Saxon *tunscips.*

But as the internal evidence of a necessity for it was not the same, it cannot be maintained with the same certainty that there existed in England larger mark associations comprising several townships. We possess in our collection of records, only one which expressly states that several villae and villatae had a share in the common pasture, and the genuineness of this document is not beyond all doubt.[48]

Also, if we advance a step beyond the Anglo-Saxon times into the Domesday Book, which, in a certain measure, marks the boundary line between this and the next period in succession, we find very little more concerning the extent of these pasture and forest associations. The usual expression to represent the pasture there, is, "pastura ad pecuniam villae"; more rarely it is called "pasture communes"; in one place alone, if we admit the trustworthiness of the Index, there occurs in Suffolk, "quaedam pastura, communis omnibus hominibus de Hundret," vol. ii. fol. 339[b].

But whatever may have been the extent of these agrarian associations united for common pasture, this much is certain, that besides the pasture and forests, forming the property of these shareholders, there were other uncultivated lands over which the king had a kind of head seignory. In many title-deeds the kings grant pasture, mast, and forest rights on uncultivated lands, and especially rights of forest, which were sometimes called "king's woods,"[49] and sometimes "common woods."[50]

There were also grants of rights of pasture which were to be exercised in common with the royal cattle,[51] in which the rights of the king were limited.[52] By the researches of Allen, Kemble, and K. Maurer, it has been shown that it was in the highest degree probable that this uncultivated land, on which the king's right was so extensive, was the "cyninges folcland." The king had the power to grant this land, still retaining its nature as "folcland," for the private use of individuals; and also to give grant-deeds, with the consent of the Witena; by which it became bocland, or bookland. In the first case, the property was of a precarious nature, and was charged with many burdens; in the second, it became actual property, on which only the "trinoda necessitas,"[53] which was common to all landed property, remained; that is, the duty to service in the field, and to repair bridges and strongholds (expeditio militaris, pontis arcisve reconstructio). In details there is also here a great deal which is uncertain and obscure; but the question as to the nature of the Folkland is foreign to our purpose, because, although, as long as it was not granted and cultivated, its use by the dwellers for wood and pasture, subject to royal regulation, was in existence, but its affinity to the common lands of agrarian associations was merely a distant one. After the Norman Conquest and the introduction of the feudal system, all further mention of the people's land ceases; the greater portion must have been transmuted into bookland, which then, in common with all other land, reverted to the seignory of the king as the supreme feudal lord. The rest of the people's land appears to have been absorbed into the "terra regis," or royal domain.

With the advent of the Norman period, the ground on which we travel in pursuit of our research becomes much more secure. The extensive survey of all landed properties, which we possess in the Domesday Book, affords much less information for our purpose than for other agrarian relations; but the other publications of the Record Office, attached to that work, which are very voluminous, are much better suited for our purpose. Of these the Land registers demand the first consideration, which are published as additamenta in the 4th volume of the Domesday, viz., — the "Exon Domesday," "Inquisitio Eliensis," "Winton Domesday," and the "Boldon Book"; the first, however, fails to be of use, as it only comprises the western counties, which

we have already stated do not come within the scope of this research. The Boldon Book, as entering very fully into detail, is on this account the most instructive among them all for agrarian and agricultural history; it is an agrarian relation concerning the couniy palatine of Durham for the year 1183. These ground books are, for the 11th and 12th centuries, what the "Rotuli Hundredorum" of the time of Henry III and Edward I are as sources for the agrarian history of the end of the 13th century; but the latter is of by far the greatest value. The Hundred Rolls of the counties of Bedford, Buckingham, Cambridge, Huntingdon, and Oxford, set forth in the second volume of that publication, especially, give us throughout a sharp and well-defined picture, even in the minutest details, of the conditions of the landed properties. Of the other publications of the same office, the "Placitorum Abbreviatio" has been of value to us, which contains abbreviated official reports of lawsuits which were carried on in the reigns of King Richard I, John, and Henry III, Edward I and II. To these sources are to be added gome of smaller Land registers, which contain the accounts of the landed possessions of spiritual corporations, and which are published by the Camden Society, the "Liber Niger of the Abbey of Peterborough," in an Appendix to the "Chronicon Peterburgense, nunc primum typis mandatum, cura Th. Stapleton, Londini, 1849," written in the years 1125–1128; the Domesday Book of St. Paul's of the year MCCXXII, or "registrum de visitatione maneriorum, per Robertum Decanum," edited, with an introduction and annotations, by William Hale Hale (1858), and the "Registrum sive liber irrotularius et consuetudinarius Prioratus Beatae Mariae Wigorniensis," also edited in the year 1865, by William Hale Hale, with the addition of an introduction and numerous annotations. The greater part of the Domesday Book of St. Paul's is a description of the property of St. Paul's Church in London, while the last publication contains a precisely similar description of the landed property of the Benedictine Monastery of Worcester in the middle of the thirteenth century. But, above all, we are indebted to the preface and annotations of the learned editor of these rich and instructive records; they are, without any doubt, the best treatises that we have met with on the medieval agrarian condition of England. With the middle of the thirteenth century commences that comprehensive work, the "History of Agri-

culture and Prices in England," by J. E. Thorold Eogers, from the year after the Oxford Parliament (1259) to the commencement of the Continental War (1793), of which, up to the present time, two volumes (comprising the years 1259–1400) have appeared. The author has scarcely paid any attention to the conditions which form the subject of our present research. Community in land and agricultural husbandry systems are merely casually mentioned; but his book is of a very high value for us from its official accounts concerning other agricultural relations, especially in giving the prices, which the author extracted from the books of the Oxford Colleges, and put into a practical form. To these sources must be added the great juridical authors, Bracton and Fleta; the first on account of his comprehensive and thorough specification of the whole of English law; the second, on account of his description of the interior economy of a manor, in furnishing which he naturally enters largely into agricultural relations. By means of these authorities we are enabled to obtain an insight into the agrarian communities as they existed in the first centuries after the Norman Conquest, and the field systems by which their husbandry was conducted. The following sketch will show the nature of these conditions:—

In the whole of this period we find England covered with a swarm of smaller or larger manors (maneria). Already in the Anglo-Saxon period these must gradually have overgrown the free peasant proprietors. The name "manor" alone, and not the thing itself, is of Norman origin; but without any doubt the Conquest, and the strict application of the feudal system with regard to all lands and soils, must have tended very much to throw the rest of the small landed proprietors under manorial lordships. The size of these maneria differed in an extraordinary manner. We find in Domesday Book a maneriolum that had only one plough land, and also large farms of fifty or more ploughs. They were in no wise unalterably fixed as to size, as was the case later since the statute "Quia emptores."[54] We meet very frequently in Domesday Book with partitions of some portions of land, and additions to others. The interior arrangement of the "maneria" was very similar to that of the German manors (Frohnhofen) with regard to rights and husbandry relations. On each of these manors was the house of the lord (curia manerii,—capitale messagium, —aula domini), with a courtyard and

garden, &c., comprising often several acres. The arable land of the manor may then be reduced to two principal parts; that is, the terra dominica or demesne lands (*Salgut*), and the terra hominum et tenentium. The land was originally destined for the direct use of the lord, but frequently parts of it were let off. "Isti tenent de dominico" very often occurs in the Land registers, which enumerate all the individual holders. The legal difference of these "tenentes de dominico" from the rest of the "tenentes" requires a more minute research than we are able to afford; but it appears to us that it consists principally, in that the demesne land could be resumed at each season by the lord for his own use, if there were no stipulation to the contrary in the lease, notwithstanding its being let; while the "terra tenentium," according to its intrinsic legal nature, could not be united with the "terra dominica." The laws of William the Conqueror (I. cap. 29, 81) already point to this condition of tenure, the lord could not "removere colonos a terris, dummodo debita servitia persolvent"; and further, "si domini terrarum non procurent idoneos cultores ad terras suas colendas, justiciarii hoc faciant;" while, on the other hand, Bracton says of the "dominicum villenagium," "item dicitur dominicum villenagium quod quis tempestive et im-pestive resumere possit pro voluntate sua et revocare." The portions of the demesne land which were not let off were almost always cultivated by the labour of the tenants of the manor, and for this reason the "terra dominica" formed the smallest part of the whole manor, the larger portion being retained in the possession of the tenants. In the Liber Niger of the Abbey of Peterborough, the survey of the property belonging to it concludes: "Summa in dominicis maneriis abbatiaa — et ibi sunt in dominico LVII carucae. Et villani habent CC carucas et bovem." Besides *villani,* there were also *socmanni, lordarii,* and *cotsetae* on these properties. The landed property of St. Paul's Church, in London, consisted of about 24,000 acres, of which three-eighths were in dominico and five-eighths terra tenentium.[55] On the manors of the Benedictine Monastery of Worcester, the "terra dominica" included 5,490 acres; that of the villani, 8,210 acres; and the "libere tenentes" possessed 2,280.[56] These two classes of tenants alone had thus about double as much land as belonged to the demesne lands; and, moreover, there remained unreckoned the possessions of 85 *socmanni,* of 123½

cotarii and *cotmanni,* and 106 forlandae;[57] the superficial extent of which is not given.

Although apparently it will ever be impossible to explain clearly all the appellations which have been applied to the different kinds of tenants in different places and at different times, still in Domesday Book, and even more plainly in the later Land registers (especially the Hundred Rolls) three principal classes are to be distinguished.

First, the "libere tenentes," to whom the socmanni, though as a particular kind, belong. They are to be found in the later Land registers of this period on nearly all properties, but in very unequal numbers, and with landed property of a most varied extent, from half an acre, or endowed with one toft, or one house upwards. In Domesday Book, on the other hand, they form a comparatively small part of the population. According to Sir Henry Ellis's reckoning, among the 283,242 persons mentioned in Domesday Book, there were 23,072 "sochemanni," 18 "sochemanni dimidii," and 12,384 "liberi homines" and "dimidii liberi homines." According to the careful researches of Hale Hale, it is not improbable that by no means all the liberi tenentes are given in the Domesday, but that the number of all those who paid a money rent alone is omitted from the account. The amount only of the money payment for each manerium is given under the expression "valet" —*s.* —*d.* for each manor. Should this conjecture be incorrect, certainly a very sudden and excessive increase of the "libere tenentes" must have taken place in the first centuries after the Conquest. In the monastery spoken of, in the year 1240, there were 55 *liberi homines* and 85 *socmanni;* in Domesday on the contrary, in the same, only one solitary *liber homo habens hidam* and two *reddentes sextarias mcllis* were mentioned. The same results are obtained when we compare the Hundred Rolls with the Domesday. In the Villa de Coteham, in Cambridgeshire (which we have chosen as an example for comparison, from a totally different part of England), in the Hundred Rolls, besides the possessors of manors, 26 "libere tenentes" are quoted, while in Domesday there is not one.

Among these *libere tenentes,* at least in later times, two kinds may be distinctly traced. One, which held their possessions in consideration of money rent, or often a mere nominal tribute, such as a pair of

gold spurs, a pair of gloves, a rose, a pound of pepper— these were the proper "tenentes in libero socagio"; the other, those who rendered agricultural service towards cultivating the manor property, either exclusively or accompanied by a money payment. These last were sometimes designated "libere tenentes," but more frequently *socmanni,* or *liberi socmanni*;[58] their service, however, was never so oppressive as that of the class which next follows, and which was formed of the villani, or peasant serfs, who were principally obliged to perform the necessary agricultural labours, and occupied nearly everywhere the greater part of the lands of the manor. This class was named, in Domesday Book—more than in the later Land registers variously, according to localities. The designation "villanus," which was already prevalent in the Domesday, gradually supplanted all local significations and obtained in the later Middle Ages a still wider sense. Juridical writers distinguished then, between "villeins regardant" and "villeins in gross"; the first are those who are tied to the hides and saleable with them,—serfs, with obligation to afford agricultural services; the second, actual slaves, without any possessions in land, and saleable by deed. But the first signification of "villanus" is no doubt the original one, as the derivation of the word, from "villa," shows. In Domesday they are exclusively called "villani," the slaves being designated "servi."

The size of the possessions of these "villani" did not vary so much as those of the "libere tenentes." As a rule, rather, in the village descriptions (or inventories) it was clearly to be seen that originally the size of the peasant properties was perfectly fixed and equal on the same "manerium"; while the individual holdings of the "libere tenentes," also on the same manor, for the most part differed so much in size that no conclusion can be formed as to their original equality. On this account we often meet with the distinction between "pleni villani" and "semi" or "dimidii villani," full and half serfs; but very seldom (and not at all in the later Land registers) the mention of "pleni" and "dimidii socmanni." The original size of a possession of a full serf appears to have been the "virgata terrae"; but then again the size of this was not the same in different manors. We find "virgatae" of from sixteen to forty-eight acres, and the greatest difference in the size of the virgata[59] occurs on manors immediately bordering on each other; while on the

same "manerium," of all the "virgatae," each comprised a like quantity of arahle land. In the north of England the partition of the laud according to "bovatae" or oxlands prevailed— eight "bovatae"[60] being reckoned to each "carucata"[61] (ploughland). Thus, in Boldon Book, the "villani" in Boldon and in several other villages have each two "bovatas" of thirty acres. Now and then also in middle and southern England "bovatae" are found which are equal to half a "virgata"; for example, in Liber Niger of Peterborough Abbey.

It is not the place here to enter more fully into the legal and agricultural state of this most important element of the English population of the Middle Ages, but there can be no doubt that in the first centuries of the Norman Conquest the English peasants were in a state of the most oppressive serfdom. Objections, however, may be raised to this generalization. Bracton expressly distinguishes two kinds of villenagium, viz. a "villenagium purum" and a "villenagium socagium." A peasant standing in the first category, according to his account, could be subjected to unlimited service and burdens by his lord (nec scire debeat sero, quid facere debeat in crastino—talliari autem potest ad plus vel minus). They had not the smallest right to the hides which they cultivated, hut were, according to his description, at the disposition of their lord's pleasure—in short, serfs in the strongest sense of the word.[62] The "villani socmanni," on the contrary, had to afford fixed services and dues, and could not be removed from their hides against their will; but on their side they could, at any time, leave their "tenementa." Even this class had no right to sell their possessions; the only way they could alienate them was in the form of a restitution to the lord of the manor, or to his "ballivus," who then might let them afresh to the person in whose favour the former possessor relinquished the property. But that the great mass of the "villani" of the period stood in the first category is sufficiently proved by the circumstance to which we have alluded above, that the expression "villanus" occurs as a technical appellation, as well of the state of personal serfdom, as of the agricultural class of peasants who had obligatory service to perform. Hence it is very evident that, in popular estimation, peasants with obligatory service and serfs were looked upon in nearly the same light.[63] Further, nearly always when the dues of the "villani" are quoted in detail in the sources

of the period, we find amongst them those which Bracton considers as signs of personal serfdom, and which could not be demanded from free men, even though they were in possession of a "villanum tenementum." In these specifications it was almost always expressly mentioned that the "villani" could not give their daughters in marriage without the consent of the lord of the manor, and that for this consent a tax was exacted (merchetum, gersummatio prolis), which Bracton points out expressly as a token of personal serfdom.[64] Sometimes, and especially towards the end of this period, the peasants from whom obligatory service was due are quoted as "custumarii," or "consuetudinarii"— for example, in the statute "de extentis manerii," as well as in the " articuli visitationis maneriorum S. Pauli,"[65] which in all essential points agree with the statute, but go more into details; and in the "Hundred Rolls," II. 403–507, and elsewhere. We might be tempted to perceive in these, the "villani socmanni" of Bracton, but the peculiar personal dues of the serfs were also required from the "custumarii," for instance as reported in "Hundred Rolls," II. 507, and elsewhere. According to the "articuli visitationis" it was the custom to inquire of every "custumarius" "quid et quantum dabit—pro filia sua maritanda?" and, "consuetudinarius" occurs as precisely synonymous with "villanus" in the "Placit. Abbrev." p. 161, "homines cognoverunt se esse villanos et consuetudinarios predicti A. operando quidquid ipse precepit et dando merchetum pro filiabus suis maritandis." It is, therefore, inadmissible to make any difference between "custumarii," or "consuetudinarii" and "villani," with regard to their legal status; it appears to us rather to be in the highest degree probable, that in the "villani socmanni" of Bracton we may recognize the above-mentioned inferior kind of "libere tenentes"—the not very numerous "socmanni" who owed agricultural services.

But if, according to law, the "villani" were in a state of the strictest serfdom, still by custom the amount of their services had already become accurately defined at an early period. We find everywhere in the Land registers exact specifications of the nature of their services; and even where in relation to payment of rent the passage occurs, "taliantur ad voluntatem domini," the agricultural burdens, both in kind and extent, are accurately determined. It is very certain that the posi-

tion of this class must have been very oppressive, even with regard to fixed services. Generally a man of each "virgata" worked three to four days from the 1st August to Michaelmas, and the rest of the year two to three days per week. Besides this, the peasants ploughed sometimes one day weekly (except during frost and harvest time), sometimes a definite extent of one acre for the sowing of winter or summer grain, and also, as a rule, for the fallow; they harrowed and sowed the ploughed land sometimes "de proprio semine." They rendered further extraordinary service in the hay and corn harvests, being obliged to turn out on to the farm two or three times a year with their whole households—the housewife usually being alone excepted ("excepta husewifa"), "*ad magnas precarias*."[66] Add to this the occasional carriage of wood from the forest, corn to market, millstones from the town, as well as messenger service, &c. &c., and indeed the whole variety of services which were obligatory to the German peasant serfs of the Middle Ages. Besides these services, they were liable to numerous dues in kind and money taxes, and laudemia (heriots, "dat in obitu melius catallum"),[67] which appear under different names, the signification of which is often a veritable stumblingblock to the antiquary and linguist. But in all these cases the amount of the service and dues was in proportion to the size of the "tenementa," so that two "dimidii villani" (of whom each had only half a virgata) were not bound to furnish more service than one "plenus villanus" on the same manor who was possessed of a whole "virgata."

The third class of dwellers on the manor, who are always mentioned in the last place in the Land registers, are the *cotarii, cotsetlae, bordarii*,[68] which names imply, possessor of a small house (in low German kotten, katen, kate), with a courtyard attached to it, and sometimes a small plot of ground. Their small holdings are very exactly given, especially in the second part of the Hundred Rolls. Their homestead was sometimes called "messagium," sometimes "cotagium," or "toft"; and generally they had a courtyard ("curtillum"), or a small inclosed or fenced piece of ground, in or near the village, called "croft,"[69] from a few rods to several acres in size; and not seldom also, some acres of land in the open fields (in campis). Their land property was sometimes designated "cotland."[70] This class also had to perform obliga-

tory service, but, on account of the insignificance of their possessions, of a much lighter character than that of the "villani." Above all, team service naturally did not fall to the share of these cottagers; except at harvest time they gave at most one day per week manual labour; sometimes they assisted in mowing hay and at wheat harvest, as also at sheep-shearing, and on other extraordinary occasions on the farm. With regard to the right of leaving the estate, or of giving their daughters in marriage, they laboured under the same restrictions as the "villani";[71] and if such emblems of serfdom were not so regularly laid down as for the "villani," we presume the reason to have been, that this was considered as a matter of course, with these, the lowest class of tenants. These tokens of servitude were however expressly laid down for the cotarii, *e.g.*, "Rot. Hund." II. pp. 654, 661, 662, 663, 664, and elsewhere.

The monendayesmen, in Huntingdonshire, appear to have been a peculiar kind of "cotarii," of whom some were in possession of a monendayesmencroft, others of "una quart. terrae," and who cultivated their land with the manorial plough. To the same class belong the "tenentes pretencarii" in the same county, and many other merely locally occurring designations, which is of as little importance to our present purpose as the names of the preceding class.

Manors constituted and populated after this manner formed each for itself, an agricultural unity, which sometimes, but by no means always, coincided with the "villata" (the township).

In the first place the peasant serfs of every manor were associated in a perfectly intimate fellowship among themselves; their plots were so small that they were never sufficient for separate, independent management. By far the most important agricultural labour of that period was ploughing, and a peasant very rarely undertook this for himself alone with his own team and plough. The team of a plough consisted then, as a rule, of not less than eight draught cattle; and such teams were in use even at the end of the preceding century. Arthur Young writes of a place in Sussex, that eight oxen and one horse were there yoked to one plough; of another place, "that they ploughed with eight oxen;" and in some parts of England as many as a dozen oxen were used with one plough, so that two or three drivers were necessary.[72] He remarks on the exceedingly bad fodder, which very much

diminished the labour-power of the draught cattle, especially during the winter ploughing. Many landlords ploughed during the whole winter on straw-feeding alone, which must have been very general on account of the scanty supply of fodder in mediaeval husbandry. The same customs are reported to have prevailed in Scotland. Commonly there, even in the middle of the preceding century, they ploughed with a team of four oxen and two horses, and in many districts with eight, ten, or twelve oxen.[73] That this custom was very ancient, follows from the previously mentioned old divisions of the plowlands (carucata) in eight bovatae (ox-gangs), and the sources of our period also give express evidences of it. The Liber Niger of Peterborough Abbey always gives the number of draught cattle and ploughs that are on the manor farm, and we see throughout that from six to eight oxen are reckoned for one team. In the Domesday of St. Paul's[74] are not less frequently mentioned, "carucae octo or decem capitum;" but there, indeed, for the most part the teams are mixed, so that each team consists of six oxen and four horses; or four oxen and four horses. As so many cattle could not be kept on every small peasant's holding, the possessors yoked their draught cattle together in a common team, either when they rendered manorial service or cultivated their own arable land. And thus, in the Hundred Rolls, when the plough labour of a villanus is reckoned, the addition is often made, "sicut sociatur," *e.g.,* Hundred Rolls II. 600, 601, 603; "arabit unam seylionem sicut sociatur"; or, still clearer, II. 631, "arabit—si propriam habet carucam, si non, cum alio vel aliis sicut sociatur"; or, II. 645, "duo villani tenent inter se unam carucam, arabunt cum caruca sua unam seylionem." This mutual participation in furnishing draught cattle for the yoke appears to have extended to the "libere tenentes," thus at II. 485, of the 16 "liberi socmen" at Swapham in Cambridgeshire — "et duo invenient unam carectam ad bladum trahendum—item si duo vel tres vel quatuor unam carucam conjunxerint semel ad semen hiemale et semel ad semen quadragesimale Priorem adjuvabunt ad arandum — Et si quis eorum sedecim unum equum habuit et non conjunxit per illos dies ad trahendum, &c."; or in Domesday of St. Paul's, page 86, "omnes tenentes ejusdem villatae debent quater venire p. annum ad pastum Domini ad precarias carucarum, illi scil. qui carucas habent per se vel junctas cum aliis." Thus are to be ex-

plained many statements in Domesday, in which the "carucae hominum" are given, and in which a plough-team was always given to several "villani" and "socmanni." But as in Domesday "carucata" (the plough land) and "caruca" (the plough) are designated by the same abbreviation, we can seldom know for certain whether the question is of the extent of the arable land, or of the number of ploughs actually forthcoming. The Land register of the Abbey of Peterborough is clearer, as the amount of the arable land of the peasant proprietors, as well as the number of their plough-teams, are laid down. In a village, Kateringes *e.g.,* there are 40 "villani," each has a "virgata[75] terrae," and among them 22 "carucas"; further, in Pilesgete, 8 "villani," who possess together 1 "hida" and 1 "virgata" and 2 "carucas"; 44 "sochemanni" who have 8 "carucas"; in Alwaltona, 7 "pleni villani" and 12 "dimidii villani," who possess 18 "virgas feme" and 7 "carucas," &c. Harrowing, also, appears sometimes to have been executed in common, although the draught requisite for a harrow could scarcely have been beyond the means even of a small peasant. We hear, *e.g.,* of three "libere tenentes" (de conquestu), each of 16 acres, that they — "herciabunt conjunctim cum una hercia tempore quadragesimali, dum dictus Abbas seminabit avenam," &c.[76] It is not very apparent to whom each time the property in these common teams and agricultural implements really belonged, but it appears very probable that it was to all in common; we learn even of a boat in common to the village (commune batillum de Neuton), with which "cotarii" were obliged to make certain expeditions for the lord (Rot. Hund. II. 647). In the same manner as with ploughwork, there were other services which the tenant serfs had to perform on the manorial farms and lands, very often not for each "tenementum," but determined for all in common; *e.g.*, Reg. Prior. Wig. 65, where it says, speaking of the collective peasantry, "invenient de communi vi. homines ad falcandum pratum;" and the compensations that came to them were often not less in common (in communi habent), especially in mowing hay and in harvest. It is mentioned several times, that the serfs alternately (year by year) shall serve, the first half of the peasants one year, the other half the next—(Rot. Hund. II. 470, 476). Even this arrangement could scarcely have been possible, if each time the peasants who were free from manorial service had not

assisted the others in the cultivation of their land.

The co-operative industry and ability of the "villani," in spite of the unfavourable conditions in which they were placed, reached such a point that, in isolated cases, they farmed the whole of the "terra dominica," with all its appurtenances, of the manor on which they dwelt. Among the possessions of the Monastery of Worcester, this was found to be the case on two manors; while in others the "villani" only farmed part of the manor land.[77] Such a contract with peasant serfs has elsewhere its analogy, *e.g.,* in Mecklenburg, where at an earlier period the peasant serfs even bought several bankrupt manors.

Besides this intimate association of the peasants with regard to husbandry labour on these manors, there was also as a rule an intermixed state of the fields, and an obligation to cultivate the arable land and meadows by a regulated succession of crops, with a right to free common pasturage on the uncultivated parts of the property. There is no want of authentic documents to vouch for such a state of village husbandry in different parts of the country; but also the attempts of the large landed proprietors, and above all of possessors of manors, to withdraw their land from this agrarian community, were very apparent. At the time when these attempts were made, we obtain authentic information of the ruling custom, which otherwise would be presumed as a matter of course. Thus, *e.g.,* Galfridus Bolle, of Dullingham, complains concerning "depastio" of his land by the greater part of the inhabitants of Dullingham; they, however, "clamant habere communiam ibidem per totum annum quolibet *tertio* anno, et quolibet anno a festo S. Petri ad Vincla (1 Aug.) usque ad festum Purificationis S. Marise" (2 Febr.); while the complainant seeks to dispossess them of the common pasturage every year, from Mary's purification to Mary's birth, *i.e.,* from the 2nd Feb., o.s., to the 6th Sept., o.s., because he wished to cultivate the fallow. (Plac. c. Regis ap. Westm. 2 Ed. II. Cantabr. Rot. 77 in the Placit. Abbrev. p. 306.) A similar case occurs of an endeavour to withdraw a glebe land from the common pasturage in the fallow year (32 Edw. I. Nott. rot. 74 in the Placit. Abbrev. p. 251), in which the parson brings his complaint against thirty persons of a village on account of "depastura bladi sui"; and they make reply that on the land in question, "quod sunt tenentes domini ejusdem villae et quod debent ibi

communicare quolibet *tertio* anno." It is a peculiar pleading, that of the inhabitants of a village who have been complained of for "depastura bladi," that they, on the land in question, "debent communicare quolibet *secundo* anno a festo Nativitatis S. Johannis B. (24 June) usque ad festum Annunc." (25 March). We might be tempted to consider this as pointing to a two-field husbandry; but the required pasture time does not tally, either with the fallow year (for there would be no space for cultivating the winter corn), or with the wheat year; for the harvest, on the 24th June, could not be gathered by that time. Perhaps before, the land had only been used as grass land. In many cases the lords of the manor succeeded openly in withdrawing their demesne lands, either wholly or in part, from the community. Among the estates of the Priory at Worcester there were several which came into this category, as the following remarks show — *e.g.,* p. 12[a], "persona et liberi de Estum habent communia in stipula (stubble)—de novo essarto tantum, remiserunt autem nobis in perpetuum communiam de vetere assarto." In another maiierium, particular plots only were withdrawn from the common pasturage; "nullus habet commmiam in pastura de Kingestun, nec in prato de Hultun, nec in giardino" (p. 38[a]). And again, in another, the whole of the demesne lands were freed from common rights; "nullus habet communiam nobiscum in antique dominico, nec in bosco" (p. 53[a]), and again, somewhat later: "habemus quandam terrain juxta brueram[78] et nullus in ea communicat." There are some passages which may be interpreted as pointing to a withdrawal from the community in lands, as in the Rotuli Hund. II. 529: "Abbas tenet —in boscis, pratis, pasturis et terra arabili XI[XX] acr. in uno clauso;" and still more clearly, II. 67: "tenet tres carucatas terrae in dominico et unum boscum de una leuca in cireuitu et hoc totum habet in separali per totum annum." Also the expression in Reg. Wig. 87", "triginta acrae quolibet anno seminandae," relates plainly to arable land that was not subject to compulsory cultivation for a succession of crops, and thus, neither to fallow pasturage. Certainly, however, in the greater number of cases, the state of community in use of the arable land, even for the great free landowners, must have continued; even different manors remained together in the same community, if they were situated in the same villata; *e.g.*, l.c. p. 34[b]: "communa pastura cum Kekingwik et ipsi nobiscum in

wareto et stipula et pratis." A similar community in pasturage, in two separate manors is reported, p. 10[a]. Fresh confirmations of this community also occur, *e.g.,* in an agreement (or contract), in which a certain Ricardus le Joyce de Shennington transfers to one Johannes le Soc, houses and plots of land, and the said Johannes secures to Ricardus "communiam pasturae per omnes terras suas in Shennington, tempore aperto, et post fena et blada collecta exceptis le Inlaund, le Banecrofte, et terra de Stenelowe infra novas fossatas." (Placit. Abbrev. p. 232.)

At this period also, the meadows appear to have been on a different footing with regard to private use and common pasturage, and therefore these points are expressly mentioned in the Land registers far more frequently than similar relations applying to arable land. The ordinary rule was that the meadows should be for private use from the beginning of the growth of the grass to the end of the hay harvest; however, these limits were not always fixed in the same manner. We find that "prata pasture culturae" were in private use (separabilia), a Purific. S. Mariae (2 Feb.) usque ad fest. Johannes B. (24th June), Rotul. Hund. II. 618; or, "a Pascha usque ad fest. S. Johannis B." (1. c. ii. 610); or, "a festo Purific. S. Mariae usque ad Gulam August!" (Aug. 1), 1. c. ii. 626. An exceptionally short period of common pasturage is cited in Rot. Hund. II. p. 616, "pratum separabile, quod vocatur Redmad exceptis a festo S. Michaelis usque ad festum S. Martini" (11th Nov.). Sometimes during the fallow years of the arable land the adjoining meadows were open the whole year as common pasture. We have cognisance of an agreement in which a meadow is given back thus: "quando campus villae contiguus praedicto prato excoletur, pratum illud falcabitur et quando campus ille remanebit warectatus, praedictum pratum erit commune" (Placit. Abbrev. p. 81). Thus, it is to be understood that when a meadow from its nature is not put to fallow, it shall lie "ad warectum quolibet tertio anno" (Rot. Hund. II. 610); and perhaps, also, when the meadows of the common pasturage lie open, "tempore aperto."[79] These customs also, which are sufficiently explained by the desire not to exhaust the meadows by constant hay crops, had been exceptionally preserved to later times on a manor described by Williams in the Archseologia. The above-mentioned lot meadows were mown for two years on that manor, and then used the third year as common pasturage

(1. c. 275). An arrangement of this kind naturally could have held good with regard to the meadows of which the particular plots were strictly private, as well as to those on which the several plots were constantly allotted for hay harvest.

We have not been able to find anything further relating to this custom and its extension during this period; however, it may easily be surmised that the meadows which were designated as simple "prata communia," were lot meadows of the above kind. Thus, there are in Huntingdonshire two meadows lying in a "mariscus communis, quse prata spectant ad omnes homines de Stangrund et Faresteved" (Rot. Hund. II. 646); also in a village in the county of Cambridge, the peasants were obliged to mow "pratum domini in communi prato" (1.c. 485), &c. Of a more doubtful nature are the numerous complaints in the same county, that this or that person "tenet unum pratum separabile et fuit commune"; or, that one, "cepit de communi quoddam pratum ad quantitatem iii acrarum ad nocunientum totius villae" (1. c. p. 484); because here possibly the question is of separate meadows, that were formed, not from the common meadows, but out of the common pasture land.

A general and permanent separation from the community in land at that period existed only for dwellings, farmyards, and gardens, for the parks which were frequently attached to the manors, and for the small inclosures above mentioned, which were commonly designated by the word "croft."

But if we admit that the ruling system of this time, for arable land and meadows, was one of constraint in cultivation with a community in fallow and stubble pasturage, we may conclude, with a moderate degree of certainty, that there was an intermixed state of the fields. The compulsory cultivation would have led to an intolerable state of things if each holding, at least, had not had a share in each of the differently cultivated portions of the village acreage; and if any one could have been subjected to have the whole of his arable land thrown into the fallow and common pasturage in one year. But we have authentic proofs enough of the intermixed state, not only of the tenant land, but also of the demesne, which, at least in many cases, was mixed up with that of the tenant. Thus, *e.g.,* William Hale Hale imparts to us, in the notes to

the "Articuli visitationis maneriorum S. Pauli," the description of the "terra dominica" of a manor in Nastock (Essex) in the year 1291,[80] which commences "sunt etiam in dicto manerio tres seysones terra arabilis," viz.:—

Ad unam seysonam. Then follow twelve different parcels of unequal size in different fields (campi). Summa CXLII acres 1 rod.

Ad aliam seysonam. Ten parcels in different fields, Summa CLIII acr. dim.

Ad tertiam seysonam. Five parcels in different places. Summa CXL acr. dim. 1 rod.

The same author also gives an account of perfectly similar inventories of the demesne lands of the manors belonging to the Prior of Ely, without giving their date, which were mixed up with, and used with those of the tenants in a community of three-field husbandry. In Swaffham (probably the Swapham Prioris of the Rot. Hund. II. 484), in Cambridgeshire, the three "culturae" of the "terra dominica" were 71, 94, and 93 acres in extent. The first "cultura" of 71 acres consisted of 24 fields, and according to the detail of the fields of each "cultura," the description always included the note: "memorandum, quod tota praedicta terra jacebit quolibet anno tertio in communi cum warectis."[81]

To what extent the parcelling at that time went in England is shown, not only by many exchange and purchase agreements in Maddox "Formulare Anglicanum" (especially Nos. CCLVIIL, CCLXVIL, CCLXX.), where plots of ground of a few acres, consisting of several separate parcels, are described; but also perhaps, in a still higher degree in a passage in the Domesday of St. Paul's, p. 11, where those who were intrusted with the arrangement of the Land registers, declare "tres acrae inveniri non possunt." The Liber Niger of Hexham Priory[82] which, however, had its origin in the latter end of the Middle Ages, records further an enormous scattering of the demesne and tenant's land. The demesne lands, *e.g.,* of a village (de Haghe), amounting altogether to 189½ acres, lie in 68 fields, or rather "gewannen";[83] but in very many fields they were not joined together so as to make one plot, but were broken up again into several disconnected pieces. Thus, in this case, it runs: "et in campo X in diversis locis II acrae" (p. 48). In Kirkve, in the county of York, a "bovata" consisted of 12 acres of 30 plots of arable

land, and three parcels of meadows, each of 1 rod (p. 90). Of the demesne lands of a manor at Sulton, it is expressly stated that two-thirds of the same "jacent discontinue per diversas partes inter terras tenentium non separalia." (p. 72).

With regard to the succession of crops which was compulsory in the cultivation of this arable land, Fleta expressly reports that in his time, *i.e.,* in the reign of Edward I, there were two systems, that of the two and that of the three-field husbandry. On one plough land, he says, were reckoned sometimes 160 and sometimes 180 acres— "novies viginti acrae faciunt carucatam eo quod LX in hieme, LX in quadragesima et LX in aestate pro warecto debent exarari, de terris vero bipartitis debent ad carucam octies viginti acrae computari, ut medietas pro warecto habeatur et medietas alia in hieme et quadragesima seminetur" (II. c. 72). Of these two systems Rogers[84] holds that the last, or two-field husbandry, was the prevailing one in the Middle Ages, without giving any grounds for his conclusion; we, however, must confess that, on the contrary, up to the present time, we have only found trustworthy and authentic proofs of a three-field husbandry, and these referred to the most different parts of middle and eastern England.

We have already cited some places in which, without any doubt, the three-field husbandry is alluded to, viz., in two places in the Placitorum Abbrev. p. 300 (Cambridgeshire), p. 251 (Nottinghamshire); and further, Bot. Hundred II. 610 (Huntingdonshire), as well as the descriptions of Nastock in Essex, and Swaffham in Cambridgeshire. Out of the plethora of evidence for this husbandry system, we will now make a selection which will not only prove the great extension of the same in England, but also, we believe, that in the opinions of many writers of the time, the three-field husbandry was the rule then as a matter of course. Among other testimony in connection with this three-field husbandry system, a lease of the year 1249 is extremely interesting; it is to be found in Maddox "Formulare Anglicanum," No. CCXXVVII. A certain Wilhelmus de B. leases to the Abbot and Convent of Bordesley (according to Dugdale Monast. Anglo., situated in the county of Worcester) "totam terram de dominico (arable land and a meadow) ad decem croppos, ita quod dicti Abbas et Conventus integre percipient dictos decem croppos de terra arabili et chevesces (?) quas

receperunt ad warectum et quolibet anno interim vesturam dicti prati. Bro his vero decem croppis percepi ego dictas Wilhelmus—quinquaginta duos solidos et sex denarios, insuper pro prato meo, quod remanebit dictis monachis in defensa usque ad perceptionem quindecim vesturarum, viginti duos," &c. Thus it was taken, as a matter of course, that in fifteen years, from arable land in which the meadows yielded crops fifteen times, ten harvests only could he gathered. In like manner, this system of husbandry was the basis of different leases on the Manors of St. Paul's Church, published by William Hale Hale, in the Appendix to Domesday of St. Paul's. The contract concerning Keneswurda, in Hertfordshire, of the year 1152, says the lessee must refund "totum bladurn LXV acrarum de hiemali blado seminatarum et similiter totum bladuni LXX acrarum de vernali blado seminatarum et quater XX acros warectatos." Also, a lease of the year 1232, in which the property of a manor at Hexham-on-Tyne (in the extreme north of the country) is leased by the Archbishop of York to the Monastery of Hexham for fifteen years, presupposes a three-field husbandry. The agreement is concluded to Whitsuntide, and in it is mentioned "that of the arable land of the property, 78 acres in all, in different fields were sown with oats, 51½ acres with wheat and rye, 50 acres were fallow" (or, more correctly still, to be broken up, "terra wareccanda"[85]). After fifteen years the land must be sown in a precisely similar manner, and given back with the same fallow land. To be sure, here, the spring crops preponderated far over the winter crops and fallow, but the originally equal division of a landed property into the three-fields was frequently cancelled by subsequent change of possession, and then, as we presume on other evidence, sometimes a portion of the fields in the three-field husbandry, which properly should have been cultivated with winter crops, was, exceptionally however, sown with summer crops and *vice versa.* In the Rot. Hund., as a rule, the arable land of the properties is not particularly described according to situation or division; still we find clear mention of the three-field husbandry, as in the case of the demesne lands of a manor in Cambridgeshire (Vol. II. p. 462): "t. in dominico VI^{xx} acras et XIII acras terra; quae jaceut in tribus campis et tertia pars jacet in warecta." More frequently in this and other land registers, in which the peasant services are laid down, the prevalence

of the husbandry system in question, is to be concluded from the plough work being divided into three equal parts: "inhieme,"[86] "in quadragesima," and "in aestate"; or, "ad semen hiemale," or "hivernagium, ad semen quadragesimale"; or, "ad trimesium" and "ad warectum";[87] thus, in the Rotuli Hundred II, pp. 440 and 441, 461, in Cambridgeshire, 605 (debet arare ad tres seysiones), 659, 661 (arabit cum caruca sua per quatuor dies tempore hiemali et per quatuor dies tempore quadragesimali et per quatuor dies tempore aestivali) in Huntingdonshire, but also on the borders of Wales, on the properties of the Priory of Worcester, *e.g.,* Reg. Prior. Wig. p. 9[b]: "tres araturae quatuor carucarum tribus temporibus anni, vid. quatuor ad hibernagium, quatuor ad trimesium, quatuor ad warectum: p. 14[b], quaelibet virgata arabit ad hybernagium tramesium et warectum per unum diem, p. 19[b]: debet—terram arare sicut sibi arat scil. semel ad yvernagium, et ad tramesium et ad warectum, p. 61[b]: faciet tres aruras unam ad hyvernagium, unam ad tramesium, et unam ad warectum." Just as often, it is true, the ploughwork occurs, only divided into two seasons, winter sowing and summer sowing; and sometimes also the obligation of the peasants to plough during the whole year, with the exception of harvest time, or from Michaelmas to Midsummer, was expressed. From these regulations no conclusion concerning any particular fixed system, either of two or three-field husbandry, can be arrived at. In the first very frequently occurring case, when only a double ploughing by the peasants is mentioned, we must assume either that at the time in which the services of the peasants were fixed, the fallow was only once ploughed for autumnal crops, or that the fallow ploughing was done exclusively with the manorial ploughs, and that the peasant services (carucae adjutatrices) could be dispensed with, because the time for fallow cultivation was much less limited than that for seed ploughing. The fallow could be prepared in the course of the summer at any convenient time from the end of the summer sowing till late into the summer. It appears that peasants ploughed on the fallow (warectare) from Hokeday (second Tuesday after Easter) till Midsummer (Rot. Hund. II. 461), and to Vincla Petri (Domesday of St. Paul's, p. 34).[88]

But however this may be, in opposition to these frequent and undoubted references to a three-field husbandry, we have only met with

one indication, which it is highly probable may relate to a two-field husbandry, and that is in the "Regist. Prior. Wigorn." which has already been referred to several times. Of the demesne land of a manerium (Herfortun), it is there remarked: "in dominico—XII virgatae terrae unde quaelibet tenet in quolibet campo X acras," and the tenants had their lands likewise (the virgatae in villenagio) divided into two fields of nearly equal size (pp. 60, 62). Certainly it is possible to refer this equal division to two parts of the whole acreage, on which different systems of husbandry existed; but the circumstance that equal, or nearly equal, portions belonged to each possession in both fields, leads rather to a conclusion of a two-field husbandry. Hence a two-field husbandry existed here and there exceptionally, which cannot be a matter of any doubt, as we have already seen from the words of Fleta which have been given above; but if we weigh the fact, that in the sources lying before us, we have only found one indication of this field system in opposition to the very general mention of a three-field husbandry, as well as, that nearly always in more modern times, where remains of the old village husbandry still existed, the three-field husbandry was the rule; we may then assume—as long as the assertion of the most recent historian of English agriculture is unsupported by any proofs — that three-field husbandry, as was also the case in the greatest part of Germany and France, and also in eastern and midland England from the North Sea to the borders of Wales, though indeed not the only one, was still decidedly the prevailing system.

A permanent pasturage necessarily belongs to a three-field husbandry, and it appears that such was seldom wanting altogether in England. It is remarked of some properties of St. Paul's Church: "et non est ibi pastura nisi cum quiescit dominicum per wainagium,"[89] and, "non est ibi pastura, nisi quando terrae dominicae quiescunt alternatim incultae" (Domesday of St. Paul's, pp. 59, 69).[90] But this were plainly an exceptional condition, and there can be no doubt that generally a great part of the country lay in an uncultivated state, and, if we except for cutting wood, was principally used as pasture. And this is also certain, that the tenants of the manor used this pasture in common. Not seldom also "pasturae separabiles," often of the smallest extent, were mentioned with the "terra dominica"; but "*several*" wood or pasture

lands scarcely ever occur when the possessions of the tenants are alluded to. In England, however, the rights of property and use in the common pasturage assumed a particular form, and this peculiarity has not been without its influence on the later agrarian development of the country. The lords of the manor appear also as possessors of the lands which were in common use and unpartitioned, the right of all other possessors of lands to the common lands was merely that of use on the property of another. In some cases this form of right may have had its origin from the manors having been originally formed on land that had never before been cultivated as separate farm properties, apart from any agrarian community; *e.g.,* in many of the extensive grants of land to temporal or spiritual nobles which are reported in the Anglo-Saxon records. The lord of the manor was then originally in fact the proprietor of the whole territory which was conceded to him, and he granted to his "subtenentes" particular portions for separate use, together with the necessary right of pasturage on the unpartitioned land which remained in his possession. But the very same form of right without doubt very frequently arose from a lord holding from the crown either immediately or as mesne lord a whole district in fief, and thus becoming a superior proprietor of the whole common village district (tenet manerium et villam). Several manors might then be in the same "villa" or "villata," but one of them was the capital manor, and its possessor the superior lord, from whom the others held in fief, and his proprietorship of the whole extent of the acreage was only limited by the regulated rights of use which his tenants possessed. So also with the common pasture, to which the tenants had only a right of use, while the lord of the manor was also lord of the soil in waste of the manor. Hence in all juridical writings concerning rights of common, the rights of the commoners to common pasture and wood were considered as rights[91] of use on a property belonging to another. The rights of common, appendant, appurtenant, and in gross, as distinguished in the legal manuals, are nothing more than different kinds of pasture right on the soil of another, and not different forms of property in copartnership. But whether at the period of which we are treating all pasture land in England was exclusively manorial pasture, or whether there existed rather proper common pastures, the property of the commoners, appears to us

to be doubtful. In more modern times real common pastures were not wanting in England, in relation to which the rights of the lord of the manor as lord of the soil were not opposed to the pasture rights of the commoners, but which were the common property of many tenants; it remains a question, however, whether in these cases the right of property of the lord of the manor was not set aside at a later time. At least, the opinion of the most experienced witness concerning this subject who was examined before the Inclosure Committee tended towards this view.[92] But if, *e.g.,* in the "Rotul. Hundred," II. p. 534, it is recorded of a "villata" in Cambridgeshire, " tota villata de Yameling habet de pastura communi cum bruera XII^{XX} acras," and in this "villata" there were different "feoda" wnose possessors were the under vassals (subtenentes) of different crown vassals (tenentes in capite), none of which are described as "capitale manerium," then it is not apparent who could have been lord of the manor on this "pastura communis," and we must assume that the common pasture must have belonged actually to the villata, *i.e.,* either to the possessors of the different "feoda," or to all the libere tenentes. Similar relations, however, occur frequently in the Rotuli Hundred.[93] Sometimes it was mentioned that a pasture or a heath with several villages or manors which were not a united "villata," were in common, l.c. II. 602, 646; and comparatively frequent were entries of similar large communities with regard to forests, l.c. II. 450, 602, 605. There, also, no precise lord of the manor can be traced, but we must rather seek perhaps in these large associations the last remains of larger district communities (Markgenossenschaften).

With regard to the relation of the different kinds of pasture rights to the manorial pasture, which at any rate prevailed generally, we cannot find anything in our mediaeval sources to add to the above-mentioned distinctions of the same, as they are to be found in all legal manuals. The most widespread among these rights appears to have been the so-called "common appendant," that is, those rights of pasturage which flowed from the arable land of the manor, and which had their origin in the times before the law "quia emptores" by which the possessor could turn out a certain number of cattle to graze according to the extent of his arable land. The herds of cattle which those who possessed this right could turn out, were designated in ancient times as

"cattle levant," and "cattle couchant," on the arable land to which the rights belonged. These words "levant" and "couchant" are however explained by the courts of law of different periods in a different manner. In the olden times they were meant to express the cattle which were necessary to plough and "compester," or, merely to till the arable land; in more modern times as the nature of the cultivation of the arable land was continually changing,[94] the courts decided that a right of pasture of "common appendant," gave a right to turn upon the common as many com-monable cattle, as the land, to which the appendant right is attached would maintain by its produce through the winter. As many cattle as the land can maintain during the winter are said to be levant and couchant on the land. This is the German "Ueberwinterungg-mass-stab," according to which common pastures in Germany are at present divided, if there are no particular rights to the contrary.

The second kind of pasturage right— "common appurtenant," is attached likewise to certain lands, but it rests, according to its origin, not on common law, or on the time-out-of-mind homogeneity of arable land and pasturage rights on a manor, but either on an express grant from the owner of the land, or on a right of prescription in place of the grant. Thus the right can attach to pieces of land which are not included in the manor to which the pasture belongs, and above all it is only limited in its extent besides, by the capacity of the pasturage to nourish the cattle, by the nature of the grant, or the corresponding prescriptive right. In case however of there being no determined number or kind of cattle to be turned out, laid down, then the limit for cattle levant and couchant on lands to which the right appertained applied to the common appurtenant. This kind of pasturage right frequently occurred, and it especially applied practically to mast and pasturage rights for swine and sheep, as well as a right of pasturage for a strictly limited number of cattle. Many landlords appear already at that time to have considered it desirable that such a limit should be put to the number of the cattle to be turned out. The instructions with regard to the visitation and surveys of the manors prescribe openly in this sense, that by the "pastura forinseca, quae est communis," the number of the cattle which the landlord and tenants may turn out must be regulated. The smallest economical importance among the different pasturage rights attaches,

according to their nature, to the commons "in gross"; that is, common rights which do not attach to ground and soil, but which exist without any regard to the property in the land.

The lord of the manor very often received especial taxes from those who had the right of using the common pasturage; for instance, the serfs, besides their other services, gave also as a rule especial rents for pasturage, mast, and wood, ("herbagium," "lessilver" for the pasturage, for the use of the forests "wode-silver," for swine-mast "pannagium," for the use of dry wood "pro mortuo bosco"), &c. &c.

Further, the lord of the manor, as lord of the soil, had the right to inclose for his particular use a portion of the common pasture in so far as the pasture rights of the commoners were not damaged thereby. This right, called the right of approver,[95] seems for some time to have been doubtful, but it was made valid and determined expressly by two laws, Statute of Merton, c. 4 (20 Henry III. 1235–36, p. Ch.), and Statute of Westminster, 2 c. 46 (13 Edward I. 1285, p. Chr.) The first of these laws makes mention that many large landed proprietors who have made over in fief small holdings on their manors to knights and other small freeholders cannot make use of their waste lands and forests, inasmuch as they had let to their vassals the appurtenant pasturage rights, together with the land plots (cum ipsi feoffati habeant sufficientem pasturam quantum pertinet ad tenementa sua). On this account it was decided, that if the "tenentes" should complain of the withdrawal of this right of pasturage, and if upon a judicial inquiry it should appear that they had as much pasture, "quantum sufficit ad tenementa sua cum libero ingressu et egressu," that the complaint should be dismissed.[96] This law therefore established the right of approver only as against the protest of the proper tenants of the manor; and Bracton for this reason expressly maintains that a lord of the manor has no right to make any encroachment on the common pasture against the protest of the commoners who were not his tenentes. But the second law above-mentioned places the protest of strange commoners on the same footing as that of the vassals. Both classes then of commoners had only the right to oppose the encroachments of the lords of the manor on the common pasturage in case the pasture sufficient for their tenements was invaded, or in case they claimed rights, not according to common law, but on the

grounds of an especial grant of right of pasture; then they must show that this especial right had been infringed. Every complaint, however, of the encroachment on pasture rights "shall be dismissed, when such shall have been caused on the common pasture by the building of a windmill, a sheep or cattle shed, or the necessary enlargement of the manorial property." In both these laws the question only is concerning the complaint of the "libere tenentes," the "villani" are not mentioned at all. We may therefore feel satisfied that with regard to them the lord of the manor was quite unfettered as to his encroachments on the common pasture.

There can be no question that this right of taking into culture part of the common pasture in the Middle Ages, from the originally large extent of the pasture land, must have been of great value. Frequent use was made of this right, and apparently the gradual disappearance of the surplus of the waste lands in consequence of their progressive occupation and use by the lords of the manor first caused these rights to be taken under legislative regulation. The "Placita curiae regis" brings to our knowledge lawsuits founded on these laws immediately after their promulgation, between lords of the manor and their tenants, and the second volume of the Hundred Rolls contains numerous complaints to the juries appointed to report concerning the illegal encroachments on the common rights. But the land taken from the common pasture was not always cultivated, but sometimes used as the private manorial pasture or park.[97] A park that was inclosed from the common pasture by the lord of the manor is mentioned in the Rot. Hund. II. p. 605, and Placit. Abbrev. § 223, where the complaints of the commoners are rejected, "quod habent sufficientem communiam extra prasdictum clausum." Still more frequent are the citations of a "pastura separabilis," with the addition: "quae quondam fuit communis," or, "quae solebat esse communis totius villas" (II. 484, 650).

As we may here remark by anticipation, this general position of the lord of the manor with regard to the common pasture in England gave him much less interest in the preservation of his tenants than in places where such a manorial right to the ground and soil of the common pasture did not exist. When the common Mark was the common property of all the usufructuaries, and all households had their share in

the right of use of it, as was the case, according to Thudichum, in many parts of Germany, this was a motive for the lords of the manor not to get rid of them. In England, however, the right of property which the lords of the manor possessed in pasture and forest was so much the more valuable the less it was opposed by the rights of use of the commoners.

The greater the importance to which cattle-breeding attained in the course of the agricultural development, the more these conditions weighed against the small landed proprietors. To this may be added that the cattle-breeding of the tenants was still subjected to many oppressive restrictions in favour of the lord of the manor. Above all, villeins were, as it appears, universally bound to obtain the permission of the lord of the manor if they wished to sell cattle to persons not belonging to the manor, and for this permission they were obliged to pay a tax. Perhaps these restrictions arose from the indispensable necessity for the draught cattle of the tenants in the cultivation of the manor lands. That this view is correct, appears probable to us, from passages which occur occasionally in which it is expressly stated that the peasant might freely sell his ox or young steer, if it had not been worked; but when once put in the team he could not alienate it without the consent of the lord of the manor.[98]

Still more important than these restrictions on the free sale of cattle was the so-called "jus faldae" (right of fold of the lord of the manor); that is, the right to take a flock of sheep and to pen them upon his own fields for the purpose of manuring them.[99] This right obliged the vassals to pen their sheep on the manorial pasture, so that the whole foldage might go to the benefit of the manorial fields.[100] Only some of the larger free possessors had sometimes, besides the lord of the manor, possessed the same rights; it is then expressed in the Land registers, "tenet cum libertate faldae," or "unius faldae," or "dimidiae faldae." In a series of passages we find the duration of this duty of the vassals given, *e.g.*, "item debent habere bidentes suos in falda domini a die hokesday[101] (the second Tuesday after Easter) usque ad festum S. Martini" (Rot. Hund. II. 458, 459), or, "et oves erunt in falda domini ab hokesdav usque ad fest. S. Martini" (II. 539), or, "et omnes isti (scil. libere tenentes) ponent faldam suam singulis annis super terram

dominicam ab hokeday usque ad vincla"[102] (Domesday of St. Paul's, p. 105). As may be imagined, great importance was attached to this "jus faldae," and complaints were frequently heard that such a one "levavit injuste faldam." In the pure three-field husbandry, with free range of pasture for cattle on the permanent pastures, the production of stall manure was very scanty, and the transport and spreading of it on the arable land very expensive as compared with the price of the produce; thus the penning of sheep on the bare fallow was the more valuable. The fact that the whole of the benefit was to the "terra domini" must certainly have proved disadvantageous to the peasant husbandry. However, there was so far a compensation in that the draught cattle of the peasants were proportionately more numerous than those of the manor, because, indeed, the manor lands for the most part were cultivated with the teams of the peasants. Hence, without doubt, as much less of the produce of the peasants' land was sold than of that of the manor farms, much more was employed for the nourishment of the labourer and the draught cattle, and on this account the peasants could more easily dispense with sheep-penning in their husbandry.

But in the latter centuries of the Middle Ages a very important change entered into this, upon the whole, well-constituted agrarian system, which thus far we have endeavoured to describe.

A system of money payments, as opposed to the mediaeval barter in kind, became established in England at a much earlier period, and far more extensively, than in the great inland countries of the European continent. The principal reason of this was the same which likewise in classical antiquity on the coasts of the Mediterranean Sea had given an impulse to a proportionately active traffic, and caused the spread of that system of economy, viz. the superior communication by sea and its inlets, which ran deep into the land, and on the many slowly-flowing rivers, which were on that account more easily navigable. No inacessible mountains, no extensive tracts of land, separated the different parts of England from one another, or from the emporiums of external trade on the sea coast. Added to this, the power of the State was greater since the Norman Conquest than in continental countries, and the more efficient general police system for preserving the public peace afforded a security for trading which at that time was only ex-

ceptional on the continent; and finally, the freedom of the inland trade was not disturbed by duties, king's staple, and other impediments of a similar nature, as in Germany and elsewhere. Hence it is easy to conceive that early in the Middle Ages the natural economical unity of the manor and community of villages had already begun to be dissolved.

In the first place a change was worked in the personal labour services of the vassals, on which, as we have seen, the original cultivation of the manor lands depended, by converting them into a fixed money rent. In the thirteenth century we already find adaerations[103] on the properties of the monastery of Worcester and St. Paul's Church partially carried out. In the Land register of the first are cited "virgatae in villenagio," and still more frequently "cotarii," who merely paid a money rent; in very many registers there is a statement, side by side, of dues, as to how they shall be paid, in work, dues in kind, or "laudemiae," and on the other side of the money rent which the peasant proprietor had to pay instead of those services, *e.g.,* 103[b], "in hoc manerio sunt viii. virgatae servilis conditionis, quarum quaelibet si censat, dabit ad quemlibet trium terminorum xii. d. pro omni servitio, ut dicunt." In other places a distinction is made: "virgata ad censum posita—ad operationem," *e.g.,* 69[a], 71[b], 86[b]; or, "si esset ad firmam — ad operationem," *e.g.,* 43[b], 51[b]. Also in the first case, when the place was "ad censum," or, "ad firmam," the possessor often had some work to perform, particularly in harvesting, but very much less than when the hides stood merely on the footing of "ad operationem." So also a distinction was made between the "novae" and the "antiquae consuetudines villanorum" (p. 102[ab]), where the "novae" included less work and larger money dues. Also in the Rotuli Hundred are to be found clear traces of the gradual change of service into rent, *e.g.,* II. 409, 410, and in other places: "reddit pro operibus,.. *s.* ... *d.* ad voluntatem domini." Manifestly these valuations for services (adaeratio) could only hold good by the mutual consent of those who paid and those who claimed the services, and the addition "ad voluntatem domini," which is to be found also in the Land registers of Worcester, shows that the lord of the soil expressly reserved to himself the right to return to the personal services. However, as it generally happens under such circumstances, the new rent system gradually took root, and a onesided return to the old

condition—which besides as a rule with the progressing money payments, would have been against the interest of both parties — was felt to be unequitable and indeed unjust. Rogers, it is true, conjectures that the scarcity of labour which arose in consequence of the great plague, and the high rate of daily wages, led the lords of the manor to attempt to compel the return to the old services, and that on account of this the insurrection in the year 1381 arose. It does not appear that these conjectures rest on any authentic foundation, but they are not wholly improbable. The prices which were fixed in this valuation of services (adaeratio) were generally very low, and the depopulation after the plague, as Rogers proves, caused a considerable rise in the rate of daily wages. The interest which the lord of the manor had in making such an attempt was hence very apparent, but in any case these attempts were attended with no permanent result. Occasionally agricultural services of vassals in England were preserved till the sixteenth century; for a change of this kind which did not rest upon a general law, as was the case with regard to the valuations of services, could not be accomplished without some exceptions. But, that agricultural services were, for the most part, converted into money rent at the end of the Middle Ages is a most remarkable sign of an advanced agricultural development. From this we see very clearly that the turning into cash of agricultural produce was easily accomplished, and enabled the large proprietors without difficulty to make considerable immediate outlay for labour wages, and at the same time the peasants had learnt so far the value of their work and freedom, that they were led to prefer paying rent to rendering vassal service. Under favour of these conditions a regular free class of country day-labourers arose in England, who, although under strict police regulation (Statute of Labourers),[104] were yet on a much better footing than the serfs under the Norman Conqueror. It is highly probable that the cotarii, to whom we have above alluded, were the progenitors of this class; their small possessions, and the use of the common pasture for the grazing of one or several head of cattle, gave them a security for their livelihood, which is wholly wanting to the day-labourer of our time in England.

As, from this abolition of compulsory agricultural service, the position of the peasant became a more favourable one, so also his per-

sonal status and his rights on the land and soil he cultivated became improved. Undoubtedly, the villanus, according to strict law, was still a serf, and what he earned was for his lord; but yet his legal position, as described by Littleton, was somewhat better than that laid down by Bracton. He could seek redress independently, from the law against all, except his own lord, and under certain circumstances he had even a right to sue him.[105] But that which was of still greater importance than the progress of the serfs in their legal relations, was their rapidly decreasing numbers in the last centuries of the Middle Ages. In a state of economy, in which a change of personal service for a rent system is accomplished by the mutual agreement of the contracting parties, personal serfdom cannot long be maintained. Numerous records concerning manumission are possessed by us, and in an equal degree, evidence of the general movement towards giving freedom to the serfs, is furnished by the repeated complaints to Parliament in the fourteenth century of the wholesale absconding of the "villani," and, above all, of the support afforded to the fugitive peasants by the tribunals and the towns. They complained that it was scarcely possible to reclaim a "villanus" who had escaped to another county, or to London.[106] The holding of the peasant, whether it was settled at a money rent, or was still on the service system, fell gradually more and more into the possession of freemen. It was no longer a matter of course that the peasant was a serf; and the idea of both was no longer expressed by the same expression of "villanus." Already, at the commencement of the fourteenth century, the "Statutum de Extentis Manerii" calls the old serfs "custumarii tenentes," and the Land register of the monastery of Hexham (which we have referred to on several occasions) speaks of "husbands," and "terrae husband"; just as in Mecklenburg the earlier serf peasants were called "Hauswirthe," and it was only exceptionally that these "husbands "were expressly noticed in their quality as "nativi domini."

Even as the personal position of the peasant became gradually altered in the last centuries of the Middle Ages, so also the character of his tenure by "villenage" became converted into tenure by "copy of the court roll," quite imperceptibly, and without the intervention of any legislation. Eeeves mentions that in the law 42 Edward III. 35. tenants per roll, "solonque le volunt le seigniour," first occur, and that the same

in 14 Henry IV. 34. are called copyholders.[107] Littleton cites two, among the different kinds of tenure—tenure "per copy de court roll," and tenure "per le verge,"—which are plainly derived from the old "villenagium." Concerning the tenants "per le verge," he says that in all essential points they are of the same kind as the copyholders (sont en tiel nature come tenants per le copy de court roll); he merely distinguishes them according to the peculiar form of the transfer of these possessions (per virgam). According to him, both (as the copyholders still are) were tenants "a volunt le seignior" (at the will of the lord[108]); but he adds, "solonque le custome de mesme le manor" (and according to the custom of the manor); for, in the reign of Edward IV, the royal courts had begun to establish the principle, that these tenants certainly were tenants at the will of the lord of the manor, but that his will could not violate the custom of the manor on which the tenant was domiciled. Littleton (Instit. I. c. ix. p. 77) mentions two celebrated rulings by Chief Justices (Edward IV.) Brian and Danby, which laid down that a custumary tenant who fulfilled his dues towards the lord of the manor had an action for trespass against the lord who would deprive him of his possessions.

The same progress in agrarian history which thus changed the old condition of the peasantry, also paved the way to an early inauguration of leases. A number of leases of great farms, in which the lessee engages to pay a fixed annual rent in money, are specified by Hale Hale from the archives of St. Paul's in the twelfth century. The lessees, as it appears, were universally "canonici" of St. Paul's, and the leases were for the lives of the contractors (quamdiu vixerit et inde firmam bene reddiderit, or fideliter servierit). Somewhat later arise the series of leases for fixed rents, which Maddox specifies in the "Formulare Anglicanum," and in the thirteenth century, the "villani" even take possession of the whole of the "terra dominica, c. pertin,"[109] on the estate of the monastery of Worcester on a lease at a fixed money rent. The degree in which a money economy was already developed in this point of view is shown by the quotations in the Land registers of the annual net revenue or rents of all the constituent parts of the manors. The "statutum de extentis manerii" simply orders that above all must be specified "quantum valet quaelibet acra *per se* per annum." The

lease system gained further a great extension, as specified by Rogers, in the second half of the fourteenth century. The important rise in the rate of labour-wages after the plague[110] caused the system of self-farming on the part of the lords of the manor, which up to that time was still the most prevalent, to be manifestly unprofitable; hired labour had become disproportionately dear, the old compulsory service having been abolished. Nothing therefore remained but to lease the manor lands (Rogers, l. cit. 24). While further, the old leases are all so settled that the lessee takes over the inventory, which is enumerated and appraised in the lease, and which he undertakes to restore, while, according to Rogers, in the fifteenth century, on the property of the colleges (whose archives he has made use of) the letting for short periods, and without any inventory, becomes more in vogue.[111] But the unprofitableness of self-farming, which led to leasing, probably also led to alienations of lands to small free-holders, who paid to the landlord a fixed annual ground-rent (quit-rent).[112] The increase of these freeholders, which is reported by many writers, in the later times of the Middle Ages, agrees with this view.

Thus, into the fifteenth century, the agrarian revolution of the Middle Ages was, on the whole, advantageous to the position of small landed proprietors; but at this time, the turning point was reached, and the further development of the movement was, in all its degrees, as ruinous to their interests as it had before been favourable.

Unfortunately, the agrarian records of the fourteenth and fifteenth centuries, which must exist in England in great numbers, though much dispersed, are not published equally with those of an earlier period, and we have not been in a position to make up for this important deficiency in our researches on the spot. Probably these would show that already in the fourteenth, and most certainly in the fifteenth century, the agitation sprung up which led to the great agrarian revolution under the rule of the Tudors.

Indications of this later revolution had already appeared on two occasions; first, in the above described attempts of the larger landed proprietors to secede from the community in land; (the manner in which these secessions are mentioned in the records of the thirteenth century shows clearly that even at that time they were regarded as advanta-

geous;) and, in the second place, in the joining of the smaller peasants' possessions to the larger ones. The lord of the manor had no longer an interest (after the discontinuance of services) in the preservation of the small peasant; it was more convenient for him to draw the same amount of rents from a less number; it was advantageous 'to emancipate the manorial pastures from pasturage rights, and certainly much easier to convert large peasant properties into leasehold tenures than smaller ones. William Hale Hale records that the archives of St. Paul's Church already, in the fourteenth century, afford many examples of these junctions of the smaller villan tenements to a few large ones. (Reg. Prior. Wig. p. xix.) We first perceive, in the reign of Henry VII, the complaints, subsequently so numerous, of the decreasing numbers of the small landed proprietors, of the inclosures, and encroachments on the pasture. Two laws from the fourth year of that king's reign (1488) gave public expression to the apprehension of the agrarian revolution which was then in progress. The first, cap. 16, particularly noticed by historians, relates especially to the grass husbandry, and the depopulation of the Isle of Wight; the other, cap. 19, "an acte against pulling down of tounes,"[113] is of a general character, and applies to the whole country. "Many houses and villages in the kingdom are deserted, the arable land belonging to them is inclosed and converted into pasturage, and idleness (the cause of all evil) is therefore generally prevalent. Where, formerly, two hundred men supported themselves by honest labour, are now to be seen only two or three shepherds." In the first law, which referred to the Isle of Wight, on account of the especial necessity which still existed for a strong population as a defence against the French and other enemies, it was ordered that no one should have a leasehold of more than ten marks of yearly rent, and that no one should pull down farm buildings, or suffer them to fall into decay. The second lays down, gene-rally, that all dwelling and farm buildings which within the last three years have been leased with twenty acres of land, shall be preserved in as far as they are necessary for carrying on an arable husbandry. If this law should be violated, the next superior feudal lord, from whom the land in question was held on lease, shall take half the revenue of the land, the farm buildings of which have not been maintained.

These complaints may be traced throughout the sixteenth century into the beginning of the seventeenth, in the same manner, without interruption.

We find them also, in the following reign, again most plainly expressed in the Statute Book, in the introduction to the laws by which the practice of encroachments was sought to be restrained. Thus, in 6 Henry VIII. c. 5, and 7 Henry VIII. c. 1, where the mischief done is as plainly described, as in the just cited law of Henry VII: — "Pulling downe and destruction of townes wythin thys realme and laying to pasture landes which customably have been manured and occupyed wyth tyllage and husbandry." When such houses,—it goes on to say,—have been destroyed since the first day of the present Parliament, they are immediately to be rebuilt, and the inclosed lands restored to tillage. The penalty for violation of the law is the same as that of 4 Henry VII. c. 19, but with the aggravation that, if the next feudal lord should neglect to interpose, then the next superior, and finally, above all, the king, is empowered to enforce the penalty. These last rulings were, later (24 Henry VIII. c. 24), repeated, with the modification that they applied to all agricultural buildings which had fallen into decay since 4 Henry VII, as well as to arable land which had been converted into pasture since the same period, and that generally for 30–50 acres of arable land, a dwelling-house should be established in which a respectable man could live.

Shortly after this followed the law 25 Henry VIII. c. 12, 13 (1533, 4), which is especially directed against the encroachments with regard to sheep farming. "Different individuals in the last years had accumulated in their own hands a number of landed properties, a multitude of cattle, and especially of sheep. Some of them possessed 24,000 sheep, others 10,000, &c. &c. Tillage is thereby displaced, the country depopulated, and the price of sheep and wool raised in an unheard-of manner (!). No one, therefore, shall possess more than 2,000 sheep, with the exception of laymen, who upon their own inheritance may possess as many as they please; but they must not carry on sheep farming on other properties." Especially, it was dwelt upon, that in Suffolk and Norfolk the owners of foldcourses within the properties and manors over which their rights extended, redeemed or rented from all the

other possessors of land, who had the right to pasture their sheep with the manorial flock, their pasture right; and against this custom a prohibition was issued. About the middle of the sixteenth century the discontent at this agrarian revolution arose to an immense height; the pamphlets of the time are filled with it, and the most celebrated preachers zealously inveighed against it as the ruling sin of the times. This discontent finally increased, till an open insurrection was the result.

Bishop Latimer,[114] in his famous "Sermon of the Plough," preached before the Court of Edward VI on the 8th March, 1549, complains that, where formerly there were dwellings and inhabitants, now there is only the shepherd and his dog. He reproaches the nobles, who were among his audience, as "inclosers, graziers, and rent-raisers," who made dowerless slaves of the English yeomanry. Still more vehemently did Bernard Gilpin raise his voice against the conduct of the gentlemen: "To drive poor people out of their dwellings they consider no crime, but say the land belongs to them, and then cast them out of their homes like vermin. Thousands in England now beg from door to door who formerly kept honest houses. Never (said he) were there so many gentlemen and so little gentleness."[115] Scory (Bishop of Rochester), in the year 1551, presented a petition to the king, in which he complains that now there are only "ten ploughs where formerly there were from forty to fifty." Two acres out of three have been put out of culture, and where his Majesty's predecessors had a hundred men fit for service, now there are scarcely half that number, and those in a much worse position. The country population in England would soon be "more like the slavery and peasantry of France than the ancient and godly yeomanry of England."[116]

After the death of Henry VIII, the Lord Protector, who appears not to have been wanting in sympathy for the distress of the lower classes in the country, endeavoured to control the evil in a more efficient manner than by laws which remained a mere dead letter. He appointed an extraordinary commission, "The King's Commission for the Redress of Inclosures in Oxford, Berkshire, Warwickshire, Leicestershire, Bedfordshire, Buckingham, and Northampton, the counties principally concerned, composed of a jury of twelve good and leful men, to inquire into the violations of the law." He exhorted the com-

mission to fulfil their office without any respect to persons, and fearlessly to bring to account those who had violated the laws of Henry VIII for the maintenance of tillage. A kind of memorial has been handed down to us of the state of things, which was laid before the commission, by John Hales, one of their most active members. These could not be painted in darker colours than they are there described. Ruined dwellings and evicted husbandmen were everywhere to be seen; where formerly 12,000 men dwelt there were now scarcely 4,000; sheep and oxen, destined to be eaten by man, have devoured men; the defensive power of the country had fallen into danger by depopulation; the king had been obliged to take into his service foreign troops, German, Italian, and Spanish, &c. &c. He specifies the following five principal heads of grievances:— Ruin of villages and agricultural buildings; conversion of arable land into pasture; great multitude of sheep; amalgamation of farms; and the failure of hospitality on account of the dissolution of monasteries. He also expressly mentions that inclosures (in themselves), which every one undertakes himself on his own ground and soil, are beneficial to the common good, the question only being of such inclosures by which the rights of others suffered, when "houses of husbandry" were pulled down, or arable land converted to pasture.

The deplorable and resultless issue of this extraordinary commission, which was greeted with great rejoicing by the country people, is sufficiently well known. So great was the power of the provincial nobility in the counties, and so weak the protecting and helping hand of the central government, that, in many places, the witnesses who were summoned did not dare to appear; and in others, those who had given truthful depositions were persecuted in various ways by the landlords.[117] Add to this, the nobles had resolute friends among the commissioners; so that at last the whole official report of the commission terminated in a petition to Parliament: "a large landed proprietor of more than 100 marks net revenue should not himself farm more of his land than is sufficient for his household; the great leasehold farms should be partitioned; and the persons who hold abbey lands should be obliged to keep an honest continual house and household on the same."[118] John Hales even, who had gone into the matter with so much zeal, proposed to the king to grant a general pardon for all that had happened—for the

benefit of the rich inclosers as well as of the poor sufferers—in the hope that the rich violators of the law would amend.[119] In connection, however, with the petition of the commission, he also brought three bills into Parliament: the first had for its object the rebuilding of the demolished houses and the preservation of tillage; the second was directed against raising the prices of the necessaries of life, and especially against the presumed main cause of the same—the cattle trade; and the third was for providing that the great sheep farmers should hold and rear their sheep and milch cows in a fixed proportion as to number. The first, however, was thrown out by the Upper House, and the second and third experienced the same fate in the Lower; and John Hales complained that the sheep were entrusted to the protection of the wolf.[120]

It is no wonder that under such circumstances the country population attempted to apply a remedy themselves. The formidable insurrection of the peasantry in 1549, in the eastern counties, had principally for its object the removal of the inclosures. Similar disturbances were frequently repeated at a later period on a smaller scale; and even at the end of the sixteenth and commencement of the seventeenth century, insurrections of the peasants occurred in Oxfordshire, and other places in central England, in order to root out the hedges (levellers) and to restore the tillage.

We may learn also that the agrarian revolution progressed under Elizabeth, from—among other things—an interesting dialogue, "A compendious or briefe examination of certayne ordinary complaints," &c., by W. S., gentleman, of London, 1581.[121] In this dialogue, the inclosures, as the crying evil of the times, were discussed by different persons—a doctor, a nobleman, and a farmer. The farmer complains that he and his class are ruined by the inclosures, which raise rents and cause a dearth of arable land. He has witnessed in his district, in a circuit of less than six English miles, in the last seven years, a dozen ploughs lying idle; and lands where sixty persons and more had gained their living, were now occupied by the cattle of one (f. 3). The farmers themselves, he continues, instead of exclusively cultivating wheat, found themselves necessitated to take to grass cultivation and cattle breeding, for there was more to be gained by having ten acres in grass than

twenty under grain cultivation. In like manner the doctor (the leader of the discussion) agrees that the realm threatens to be in a highly dangerous position through the rapidly increasing depopulation of the country, the number of idle and unemployed persons, and the disturbances and insurrections connected therewith, which have latterly occurred in the country.

With regard to the proper agricultural character of these movements, they are represented commonly as having been caused by an exclusively pure pasture husbandry, which had tended to displace the small tillage husbandmen. Different circumstances, however, and witnesses, show us clearly that this, at least for the most part, was not the case. The low price of wheat alone, concerning which nearly all the authorities of the time complain, is sufficient to throw doubt on the prevailing opinion. "All things are fearfully dear, with the sole exception of wheat," says John Hales, in the above-mentioned statement before the Inclosure Committee; and a precisely similar remark on the relative lowness of the price of wheat is found in the "Compendious Dialogue" to which we have just alluded. If the wheat produce had been actually supplanted to any great extent by a permanent grass husbandry, this moderate price of corn appears very surprising. Two agricultural authors of the sixteenth century, however, give us more accurate information concerning the mode of cultivation which then appears to a great extent to have replaced the village and three-field husbandry. In the year 1539 a small publication appeared, which was ascribed to the renowned jurist, Fitzherbert, which has not only gone through many editions, but has become the model of a whole series of similar works. It is called "The book of surveying," in which is to be found a formal prescription for the agrarian changes which are advantageous on a manor. Not only does he lay great stress on the point that it is desirable to separate the manor land from the agrarian community in which it was often husbanded with the tenants' lands, on the ground that it would gain much in value as a separate inclosure (chap. 2); but he has a whole chapter (40) on how a township which is worth twenty marks a year may be made worth £20 sterling: "Every village has now three fields for wheat tillage, one common pasture for horses, one for the rest of the cattle, and a meadow." He proposes that each proprietor

of land, in each of these six portions of the acreage shall keep his property in one connected plot, and that the old condition of arable land in small parcels, the regulated community of use, and the common pasture shall cease. In this manner each would possess six separate pieces of land, which he might inclose, three, out of former arable land, and three, out of grass land. But he adds to this his advice, that whenever the arable land may have become exhausted by wheat cultivation it should be laid down in grass, and a corresponding quantity of the inclosed pasture land should be broken up for corn cultivation. Thus the manure of the grazing cattle would be utilized for the arable land, and "reist grounde" would be always there, which would grow much corn with little manure; there would be a saving of shepherds' wages, and a gain of much wood from the live hedges which separated the several inclosures one from another, and which would afford shelter to cattle from the weather, &c. &c. Hence the recommendations did not point towards a permanent pasture, but, as it appears, to a rather irregular convertible husbandry. Some ten years later, Tusser (in his Five hundred points of good husbandry)[122] describes still more plainly the field-grass husbandry as the one prevailing on inclosed lands. There is no publication which gives us a clearer insight into the struggle between the two systems, in which Tusser, as a rational farmer, takes a decided part on the side of inclosures, and cries down in every possible way the old village husbandry—"it not only deteriorated produce, but induced idleness, thieving," &c. &c. "In the districts in which it prevailed the country population were much poorer than in those where there were inclosures; a poor man who possessed two acres of inclosed land, was much better off than if he had twenty in an uninclosed state."[123] The ordinary succession of crops on uninclosed land was, according to Tusser, three-field husbandry, with compulsory rotation, and common pasturage,[124] and also exceptionally two-field husbandry; on inclosed land, on the other hand, he praises the freedom of choice which rests with the landlord,[125] and mentions a succession of crops, for a considerable time, fallow, barley, peas, and wheat, and then either fallow again or laying down in pasture, and a lengthened use for grass crops (October's Husbandry, ch. xviii. v. 22). In whatever manner the succession of crops may have been managed on inclosed lands, according

to him, as a general rule, the ground which had been exhausted by wheat crops was obliged to be laid down in grass (January's Husbandry, ch. xxiii. v. 52). Concerning the duration of the pasture years, indeed we learn nothing. Thus, the question here is not that the inclosing and dissolution of village husbandry is identical with the laying down the land to permanent pasture; on the contrary, according to this author, tillage was the rule on inclosed lands, and the conversion of arable land into pasture was merely temporary, which indeed is a peculiarity of convertible husbandry. We may mention here, incidentally, that Tusser describes Suffolk and Essex as counties which are almost wholly inclosed; while the common village husbandry prevails in Leicester, Norfolk and Cambridge. With the exception of Essex, W. S. describes the counties of Kent and Northampton as those in which the land is most inclosed.

It is very plain that such an agricultural system, especially when it sprung up under the then prevailing state of affairs in England, must have obtained a decisive preponderance over that which had been in use up to that time. The fundamental principle of convertible husbandry is the combination and reciprocal operation of corn cultivation and cattle breeding on a large scale, and which is realized in the highest degree in modern agriculture by interposing a green or pulse crop between every two white crops. It was the results of this system which, at the beginning of this century, first turned the attention of judicious German farmers to England and the Norfolk four crops. The alternation of corn cultivation and cattle grazing on the same land is alike advantageous to the production of the grain and the rearing of the cattle. The grass crops on the parcels which are from time to time ploughed up and manured, especially when the preliminary climatic conditions of this husbandry exist, are much stronger and of a better quality than those on the constant pasture of the three-field system. In the first pasture years hay-harvesting is frequently so abundant that a better supply of winter food for the cattle is obtained. If even the pasture after a time of free grazing should have deteriorated, a fallow year would follow, with a deep and repeated ploughing, and the returns of the wheat harvest on such land would be much richer than would ever have been obtained by a three-field husbandry. For, as we have already remarked,

according to Fitzherbert, in a three-field husbandry, the manure of the cattle was spread on the common pasture, while under the inclosed system it came to the benefit of the land which, at a later period, had to be broken up for tillage. In the fallow year the decaying grass seed enriched the arable land, and the stall manure was more copious on account of the improved winter feeding. On the contrary, in a common three-field husbandry, regular cattle breeding was scarcely possible. On the arable land, grain cultivation was the rule, the common pastures were neglected and poor. Above all, a scarcity of winter fodder existed in the highest degree. For this reason the meadows suited for hay-growing had a disproportionately high value, and yet from insufficient manure often afforded merely a scanty produce. Since winter fodder was so dear the cattle were left upon the pasture, even when it could only afford the most precarious nourishment, which, with straw food, hardly sustained them through the winter.

In Germany the opinion is now prevalent since the researches of Thünen, that the regular convertible husbandry was a much more productive system than the three-field husbandry, and therefore it was only possible to make the transition from one to the other when the produce of the land was at a high price. But the researches of Thünen related only to the husbandry of Mecklenburg as it existed in his time. It is rather an essential property of convertible husbandry that it can assume with ease different grades of intensity (Intensivität). By lengthening the pasture time, and thereby the time of the whole successions of crops, the cost of cultivation can be lessened at pleasure. The surface of the fallow which is to be ploughed, and of the fields which are to be cultivated each season, in relation to the whole, and also the amount of labour which is thereby expended on a given extent of land, must be indeed smaller, the more the grass or pasture years are prolonged. Hence it was not necessary that the prices of production should rise to a certain height in relation to the cost of cultivation, in order to make the transition to convertible husbandry appear advantageous.

There are, however, two circumstances which are indispensable to such a transition. First, the climate must be favourable to grass growth which requires considerable atmospheric moisture, and it is only under such a condition that after several wheat crops the ground can be im-

mediately laid down with profit for grass culture. Where this condition is wanting, so long as no herbage or clover cultivation is present, the constant partition of arable land and pasture, where it has once existed, will be retained. In Germany, therefore, the principal lands which have been used for convertible husbandry are coast-lands, such as Holstein and Mecklenburg; or mountain districts with a considerable rainfall. But the above requirement is exactly fulfilled in the sea-climate of England, so that it is not easy to explain how a three-field husbandry could have been so long pursued instead of a field system so especially indicated by the local conditions. For this reason it appears to us probable that the system of a permanent separation of pasture and arable land was imported by a people whose former place of residence had a continental climate, and we may presume that these were the Anglo-Saxons. The movement then of the sixteenth century was merely a return to the natural state of agriculture suited to England.

A second momentum, which perhaps is not always an indispensable condition of the convertible system, but which may always be designated as especially advantageous in a lower degree of culture, is a favourable condition for the sale of the produce of the cattle breeding in comparison with the demand for corn. With a dense population and high prices of all agricultural produce, cattle breeding on a large scale, which is connected with this husbandry system, can be made to pay on account of its favourable reaction on corn culture; but with a more extensive husbandry, and a low price of every produce of the soil, this expensive way of raising the corn crop can never be advantageous. In such a case it will be always better to cultivate a larger part of the soil with corn (with a light manuring) than indirectly to raise the produce by fodder cultivation, cattle breeding, and thick manuring on a smaller extent of ground. The convertible husbandry, under such circumstances (if the product of the cattle breeding cannot in itself be made a remunerative object), will occasion the parts of the farm which are not under corn cultivation to remain for the most part unused, and thus they will lose their principal advantage over the three-field husbandry.

In this respect the circumstances of the times were especially favourable to the transition.

At the end of the Middle Ages, and above all, in the sixteenth

century, money payments (geldwirthschaft) (the proportionately early use of which in England we have already alluded to) made most rapid progress. The division of labour between town and country was at this time already supplanted, in a measure, by an international division of labour. The small towns, whose industrial produce had hitherto been consumed by the country, which gave back its surplus of agricultural produce in return, began to fall into decay; and in everything which had any relation to an interchange of commodities between country and town they were supplanted by foreign trade and industry. It occurs in the above-mentioned dialogue (fol. 47. 48), "that, what was formerly produced in the provincial towns, every one now obtains from London or from foreign countries;" and this state of things is lamented in many old publications of the time, as well as the prevalent consumption of foreign produce, the decay of the old corporate towns, and the enormous growth of London, which were matters which also then excited the grave consideration of the Legislature.[126] But the more foreign wares were in use, so much the more naturally must the demand be increased for those inland products which would sell in foreign parts, and the most important article of export in England during the sixteenth century, as well as nearly throughout the Middle Ages, was wool. Tin and lead also, skins, hides, and leather, beer and cheese, which are partly also the produce of cattle breeding, are mentioned as articles of export about this time; but all these together, with perhaps the exception of tin, were of minor importance when compared with wool and woollen fabrics. Their production must also have been much increased as foreign articles became more and more in demand from increasing luxury, and their price must have been raised by the demand for the produce of French and Italian industry, for foreign iron and wine, spices and pigments. To this, another circumstance must be added which was favourable to the relative increase in the price of wool. In the second half of the sixteenth century the general rise in prices which followed the discovery of silver wealth in America principally commenced, and reached the highest point in Western Europe. When such a country as England was first affected by this rise in prices, it must have first had its influence on articles of export; and then, by degrees, the higher silver prices which were offered in the international trade for exports

must also have had an influence on the price of the remaining wares and labour. During the whole time of the transition, the increased quantity of silver which was obtained for the articles of export, operated as a premium on their production, in comparison with such wares for which at that time there was no foreign demand, such as wheat.[127] Never, remarks J. Smith, had the English wool trade risen to a greater height than in the time from Edward VI to the death of Queen Elizabeth,[128] and hence the frequent complaints, which have been already referred to, of the dearness of wool and the cheapness of corn, which W. S. proposed to counteract by prohibiting the export of wool and allowing freedom to that of corn, which up to that time, as a rule, had been prohibited. Unfortunately, we must renounce the wish of following statistically this rise in prices. The statements concerning the prices of wool which we were enabled to collect were too imperfect, and especially too inaccurate, to allow of any certain conclusions being drawn from them. It is to be hoped that the continuation of the history of prices by Rogers will soon offer trustworthy materials, from the registers of the Oxford Colleges, more reliable than that already treated of, for the period of the fourteenth century, in which the price of wool, in its relation to the estimation of prices, can be very little depended upon, on account of the exceeding difference in the weight of the "petra,"[129] by which weight wool was commonly sold.— (*Vide* Appendix B.)

Since, in the three-field husbandry, there was no room to farm in the direction of cattle breeding, it was necessary to have recourse rather to the convertible, or on occasions to pure-grass husbandry, and thus the common village husbandry in its old form, could not possibly adapt itself to the new conditions. In other places, it is true, there were villages with a common convertible husbandry, as, for example, in Holstein; and it is with justice that Hanssen has latterly denounced the very frequent identification of village and three-field husbandry. But, in order to accomplish such a transition, a complete exchange of all the plots of ground, and a new partitioning of both the arable land and pasture, would have been necessary, and if such a new division of the acreage had been attempted, most certainly the large landed proprietors would have succeeded in establishing a simultaneous abolition of the constraint as to a succession of crops, and the complete conver-

sion of all the possessions into private property. We have already seen how their efforts were made in this direction even in the Middle Ages. Inclosures, indeed, according to the manner in which we make them in modern times, were desirable, and in this light they were commended in a just point of view, as well by Fitzherbert as by W. S. But the immense difficulty of such a measure, without any fixed legislative enactments, must speak for itself,[130] and this was without doubt the reason that in so many places in Europe the village and three-field husbandry was preserved so completely unchanged from century to century. But in England there was this addition—viz. that the lords of the manor would not have been inclined to allow of a division of the pasturage, which they looked upon as their own property, but rather the enfranchising the same from the pasturage rights of the commoners must have appeared to them the object to be aimed at. As, for these reasons, a general new partitioning of the land could only be accomplished in exceptional cases, there only remained feasible, the formation of the larger landed properties, and the separation of them from the village community (which, as we have already mentioned, commenced in the Middle Ages), as a means of carrying out a system of husbandry which corresponded to the climatic and mercantile conditions.[131]

But when once any change in a system is indicated by the very nature of the circumstances, then neither the power of ancient custom nor respect for vested rights can long oppose any resistance.

It is still very remarkable how the supplanting of so many small landed proprietors just then took place, when that class among them which stood in the most unfavourable position in a legal point of view, had obtained a protection at law for their rights of property. In spite of this, these copyholders were driven in great numbers from their rural hides.[132] When an extraordinary Royal Commission like that of the Protector,[133] ordered to inquire into illegal inclosures and the eviction of peasants, could not prevail against the ruling classes, it is very easy to conceive that the protection of the High Courts of Judicature or the judges in their circuits could afford little help to the poor small peasant. His rights rested on the custom of the manor, which was to be proved from the manor roll, in the possession of the lord of the manor;

and a copyholder could lose these rights by numerous acts, by which he failed in his obligations towards the lord, or even by acting otherwise than in unison with rights established by custom of the manors. The small copyholders were not in a position to establish such rights before learned tribunals, when opposed by experienced advocates. Latymer, on this account, accuses the judges even, of injustice and corruption (being open to bribes), and maintains that, "in these days gold is all-powerful with the tribunals." Certainly, also, a time like that under the rule of Henry VIII and the following years, while so great a revolution in Church and State was in progress, could not have been favourable for the support of rights which were dependent upon custom. A change so sudden as the secularization of the monastery properties, and which appeared to the mass of the population to be so unjust, must have shaken the respect of the rural population for all traditional rules relative to property. Thus, a publication which appeared in the year 1546 complains that the new possessors of church property generally declared that, by the secularization, all the old rights of property of the copyholders were extinguished. The possessors, according to the custom of the manor, were obliged either to give up their holdings, or to retain them on temporary leases.[134] The modern agriculture commencing at that time tended without doubt greatly towards a state of pure leasing instead of the mediaeval relations between the lord of the soil and the farmer, as well as to a dissolution of the agrarian community; and the Legislature came powerfully to the aid of these innovations. By 21 Henry VIII. c. 15, leases, although not in writing, obtained a statutory recognition; and 32 Henry VIII. c. 28 (enabling statute) also conferred permission to the tenant-in-tail to conclude leases for a lengthened period.[135]

It is no part of our task here to follow these movements beyond the sixteenth century; but this much is certain, that however powerfully they showed themselves at that time, they only attained their object to a limited extent. The official reports concerning the duration of the agrarian community up to this century have been already referred to, and it has also been shown that the smaller landed proprietors had certainly in no wise completely disappeared in the sixteenth century. The freeholders had for the most part maintained their holdings, and

the copyholders had not nearly all been supplanted, or converted into leaseholders. Still, in the beginning of the seventeenth century, Coke could say in a well-known judgment, that the third part of England consisted of copyhold. But the revolution which then began has continued even into our times. Its progress has been sometimes quicker, sometimes slower, and gradually the connection which there was at the commencement between the two phenomena — inclosures and peasant eviction — has been less close; but it still remains unmistakeable, that among the many circumstances which have caused the complete disappearance of the mediaeval peasant class, the first and most important was the dissolution of the old communities in land. A transmutation of the agricultural association, instead of its abrogation, would have placed the small holders in a position to adopt the same mode of proceeding as the larger proprietors, and given them a position in the community, to balance the economic and social power of the great lords of the soil. Also a thorough consolidation and new partitioning of the acreage, with an establishment of separate husbandry, would have been more favourable than the course which the reform took, and long adhered to. For, a simultaneous separation of all properties would at least have had the advantage of making independent, and collecting into one spot both the small and the larger possessions. But as, in the first place, none of these expedients were adopted, and as the Inclosure Acts, which issued at a later period, for the partitioning of the several communities, were generally unfavourable to the small properties,[136] and besides, as the enormous law expenses fell much more heavily on the smaller landed properties than on the larger, it is not to be wondered at, that when in the eighteenth and nineteenth centuries, the large fortunes acquired by trade were sought to be invested in land and soil, and the purchasers were contented to receive the smallest interest for their investments, that the remainder of the small landed proprietors sold their hereditary possessions; part of them invested their capital to more advantage in trade or as farmers, and part pursued agriculture under more favourable conditions, beyond the sea, on their own ground and soil.

Appendix.

Fenus agitare, et in usuras extendere, ignotum: ideoque magis servatur quam si vetitum esset. Agri pro numero cultorum, ab universis per vices occupantur, quos mox inter se secundum dignationem partiuntur: facilitatem partiendi camporum spatia praestant.

Arva per annos mutant; et superest ager: nec enim cum ubertate et amplitudine soli labore contendunt, ut pomaria conserunt, et prata separent, et hortos rigent: sola terrae seges imperatur.

Unde annum quoque ipsum non in totidem degerunt species: hiems, et ver, et sestas intellectual ac vocabula habent: autumni perinde nomem ac bona ignorantur.— *Tacitus XX VI. Germania.*

Pro numero cultorum—per vices.

It is only by fresh divisions, that land, once apportioned among a certain number of cultivators, can remain in any permanent relation to the number of those cultivators.

Again: it is only by, an increase of either land, or the product of land, proportionate to the increase of the population, that the respective competences of the cultivators can remain the same.

Hence the words "pro numero cultorum" create a difficulty which is enhanced by the words "per vices."

Mox: This is the most difficult word of the section. "Per vices" implies change from one set of holders to another; and "mox — partiuntur" does more. It denotes a change from a system of periodical transfer to one of permanent appropriation.

First comes a season when land shifts from owner to owner; next, one wherein it passes to a permanent state of an individual or joint property.

Agri: This I think had a double importance according to its relation.

a. As opposed to "arva" it means land in grass, wood, or fen, in contradistinction to land under the plough.

b. As opposed to land which had been divided and apportioned, it means unapportioned or undivided.

Agri pro numero, &c.: The proper commentator on this difficult section is some conveyancer learned in ethnology, rather than a simple ethnologist.

The separate words, however, must be first considered.

Arva: Arable land.

Per annos: Annually; every year.

Mutant: From a crop to fallow; not from one holder to another.

Superest: Stands over to spare; is abundant— as, ne ferrum quidem superest (§6 = There is no excess even of iron).

Sola— seges: Corn (wheat and barley, §23) to the exclusion of green crops, pulse, and vegetables.

Hiems, et ver, et sestas: Winter, spring (for — aar Danish, fruhjahr German = for year), and summer. Such are the only Germanic names of the seasons, even in the present English; autumn being of Latin origin. Fall (in America), back-end (in more than one provincial dialect), and harvest, are all—though of native origin — recent terms.

I cannot realize the nature of the tenure here noticed. The limited tenure expressed by "per vices" cannot well have consisted in a certain allotment as private property accompanied by a certain share in an individual common, though such has been the view of careful writers.

The word "mox" complicates this view. For the occupation, in the first instance (pro numero cultorum, ab universis per vices), we find no trace of individual possession; for that is the second (partitio secundum dignitatum), none of joint ownership. Yet "mox" implies that the two forms were successive rather than simultaneous.

That there was much joint occupancy, except on the Marches, I am slow to believe. The house, at least, was permanent. So must the farms occupied by the "servi" of §25 have been. The whole tenor of German history goes the same way.

It is safe, then, to hold with Mr. Kemble, that when the Germans

"changed the arable year to year, there was land to spare," that is, for commons "and pasture"; but it does not amount to a proof that settled property in land was not part of the Teutonic scheme; it implies no more than this, that within the *Mark* which was the property of all, what was this year one man's corn-land might the next be another man's fallow; a process very intelligible to those who know anything of the system of cultivation yet prevalent in parts of Germany or have ever had interest in what we call Lammas meadows.

This even seems too much—to say nothing about the difficulty attached to the words *"another man's fallow."* What could such a fallow be? Not for corn; since the land had been cropped by the previous owner. Not for a green crop; since there were none such known. Nor for the herbage, *i.e.,* the weeds and aftergrowth of the harvest, which in some parts of England is worth from two to three shillings an acre. The harvests of Germany are too late for this.

I think that the sentence of Tacitus has so little to do with the tenure of the land at all, that it must be taken with what follows, rather than with what precedes, in which case it applies to husbandry only—not to the laws of landed property.

Nothing but corn was grown. This was new to an Italian: who had seen vetches, flax and so many other products taken off the same land in either succession or rotation. As a consequence of this:

There was no such thing as a second crop on the same land without an interval.

This was also new to an Italian. The abundance of land, however, allows it.

As far, then, as the present passage goes, the *arvum* which has just borne a crop, although left to nature, is as much the property of the original owner, in the interval between two tilths, as it was during the seed-time and harvest.

The difficulties connected with the tenure of land it neither removes nor increases.

By considering the statement as one for which Caesar rather than Tacitus is responsible, and limiting the account in Caesar to the occupancy of the lands of the Sequani, dispossessed by Ariovistus, we approach a solution.

We are, then, at liberty to consider an occupation which is at one and the same time imperfect and temporary in the light of abnormal tenure, adapted to the country of a conquered enemy only. Yet even then, the details are remarkable. Was the *occupatio "per vices"* mere quartering of successive bodies of warriors (warriors only) upon recently invaded and imperfectly subdued districts, and the subsequent *partitio* the distribution of the land of such districts after the conquest had become complete, the possession assured, and the conversion of chieftains and captains into comparatively peaceable settlers had become practicable? Such a view would best reconcile Caesar's statement with probability.— Latham. — H. A. O.

Page 10. The passage in Marshall's pamphlet is as follows:—

> "Each parish and township (at least in the more central and northern districts) comprised different descriptions of land, having been subjected during successive ages to specified modes of occupancy under ancient and strict regulations which time had converted into law. These parochial arrangements, however, varied somewhat in the different districts, but in the more central, and greater part of the kingdom, not widely."

H. A. O.

B.

Swiss historians have recently shown, that in the four cantons which border on the Lake of Lucerne, cattle-breeding and pasture-farming had superseded tillage in the latter centuries of the Middle Ages in a greater degree even than in England. (See T. Martin Kiem, in the "Geschichtsfreund des historischen Vereins der fünf Orte der Urschweiz," Bd. XXL (1866), and Dr. G. Meyer von Knonau "Die Verdrangung des Ackerbaus durch Alpenwirthschaft in Schweizerischen Hochgebirgs thälern," in the "jahrbuch des Schweizer Alpenclub." The origin of this change in Switzerland was not quite identical, neither was it followed by precisely similar results as that in England; but in both countries the development of an external commerce contributed much to facilitate the agrarian revolution.

C.

Note .— Convertible Husbandry.

The word in German which I have rendered by convertible husbandry is "Feldgraswirthschaft."

In the first edition of this translation I had translated it literally, fieldgrass husbandry; but, as this is not an English technical term, it led to misapprehension; for which reason I have now used an expression which explains as nearly as possible the German appellation.

In Germany the regular fieldgrass husbandry consists in a regulated interchange between plots of arable land and pasture; so that, for example, if a farm were divided into twelve plots, of which every year one arable plot was to be converted into pasture, and one of pasture broken up for arable purposes, each separate plot of land would then remain five to six years pasture and five to six years arable.

It is well known that, on account of the great difference in the nature of soils and circumstances of climate, &c., great variety of systems of successions of crops prevail in England; but the above general description of German "Feldgraswirthschaft" sufficiently shows that it is similar in all essential points to the convertible husbandry which in this country first originated in Scotland.

Wilde Feldgraswirthschaft, or irregular convertible husbandry, consists in an irregular interchange of the several plots from arable to pasture, and from pasture to arable—an example of which is quoted from Marshall at page 11.

H. A. O.

Notes:

1. Thus Wilhelm Maurer writes in the *Zeitschrift für Deutsches Recht,* on the Anglo-Saxon Marks, vol. xvi. p. 203:—

> "A mere casual glance at the counties of England at the present time will suffice to show that isolated farms are generally the rule, and that the English village is perfectly different from the German 'dorf,' inasmuch as in the former the day labourers, small shopkeepers, and innkeepers, live in contiguous dwellings laid out in streets; the actual farmers, although belonging to the village community, living on larger or smaller farms scattered over the property.
>
> "These conditions, looking back to old times, lead us to more certain conclusions, that settlements with isolated farms were then the most prevalent."

But the village of the present time, as Professor Hanssen truly remarks, is not identical with the extinct village of the agricultural community of former times, and the ancient common lands of the old villages have been divided amongst the lands of the present isolated farms.

He who travels in the marshes of North-West Germany, and continually finds only small shopkeepers, artificers, and day labourers living together, while the farmers inhabit isolated farms here and there outside the villages, deceives himself, if he supposes that the latter kind of settlement was the original one. It has been the case for centuries that farmhouses have been built outside the villages on the lands brought together by exchange or purchase, and this still continues.

2. We have been unfortunately obliged to quote these descriptions sometimes from the several original editions, and sometimes from the well-known epitomized works of Marshall, as in the course of this

work at times only exclusively the latter, and at times the former, were at our disposition.

3. Our knowledge of the remains of mediaeval agricultural administration would be much extended if we had at our disposition the materials collected in the archives of the Inclosure Commission instituted for the dissolution of the community in common holdings.

4. George Wingrove Cooke, on Inclosures and Rights of Commons, 4th edition, London, 1864, pp. 47–50, calls the last kind of commonable fields "lammas lands," and the first, "shack lands." For the rest he obtained his information concerning these conclusions almost exclusively from the cited report, and complains that the juridical authors pay no attention whatever to the commonable lands.

5. Report on Inclosures, No. 4352, and Wingrove Cooke, l.c. 48.

6. *Flurzwang, i.e.,* compulsory cultivation with regard to rotation of crops.

7. A Review of the Reports of the Board of Agriculture from the Midland Department of England. By Mr. Marshall. York, 1815, p. 334.

8. Ibid. p. 485, l.c.

9. Ibid. p. 284, l.c.

10. A Review, &c., from the Southern Department. York, 1817, p. 48.

11. Ibid. p. 191, l.c.

12. General View of the Agriculture of Huntingdonshire. By H. Stone. 1793.

13. Marshall, Midland Department, p. 452.

14. Ibid. p. 409. l.c.

15. Southern Department, p. 191.

16. Midland Department, p. 452; Southern Department, p. 215.

17. A Farmer's Tour through the East of England. London, 1771, p. 458.

18. View of the Agriculture of Suffolk. By Arthur Young. 1794, p. 14.

19. Marshall, Midland Department, pp. 334, 348, et seq.

20. Ibid. p. 520, et seq.

21. Marshall, Southern Department, p. 203, et seq.

22. The use of the word (*bauerschaft*) here translated peasantry,

must not lead us to suppose that our present agricultural labourers are the class meant.

23. On the Appropriation and Inclosure of Commonable and Intermixed Lands, by Mr. Marshall, London, 1801, p. 1, et seq.

24. See extracts from the reports of G. B. Worgan and Fraser, in Marshall, Southern Department, pp. 525 and 531.

25. Archaeologia, London, 1849. Vol. xxxiii. 275.

26. Münchener kritische Ueberschau, 1 Bd. 1853, S. 63, ff.

27. Gesetze der Angelsachsen, 2 Aufl., Leipsig, 1858, in Glossar., s.v. mearc, S. 631.

28. Page 63, 1.c.

29. Rectitudines Singularum Personarum. Halle, 1842, p. 23, et seq.

30. Words and Places, by the Rev. Isaac Taylor, London, 1864, p. 119; quoted in *Quarterly Review,* July, 1864.

31. Loco citato, p. 52.

32. Curtillum, *i.e.,* a small village consisting of a few houses, a small farm, or rustic dwelling, having a garden, curtilage.—H. A. O.

33. Of similar dues in Germany, see G. L. v. Maurer "Geschichte der Frohnhofe," iii. s. 195. Already, according to the law books, each farmyard was to be hedged in by its possessor.— Sachsishes Landrecht, ii. 49, §2; Schwäbisches Landrecht, W. c. 398. Also later writers repeat this and similar instructions, that *e.g.,* in Enkenboch and Warterburg in the Palatinate, " every one shall inclose and hedge in his small farm." In a similar manner also the old Jute law prescribes (from 1240 A.D.) iii. chap. 57, van thunen tho makende (on making hedges) "that every village shall be inclosed by a hedge," and gives detailed rules for the duty of every villager to put up his part of the common fence which inclosed the whole village as well as the single farmsteads.

34. Loco citato, p. 26.

35. Codex Diplomaticus Anglo-Saxonum, III. p. xl.

36. On the difference between the original small inclosure belonging to the homestead, and the later smaller garden and meadow plots outside the village, *vide* Hanssen, in a review of the German edition of this work in the *Göttinger gelehrten Anzeigen,* 1870, p. 1329.

37. Ettmuller, "Lexicon Anglo-Saxonicum," p. 735; translates

stôdfald, “armentum equorum”; but the sense given above in this place cannot be doubtful.—See Kemble in “Codex Diplomat.” III. p. xxiv. Falud, fald, is the same word as fold, *e.g.,* Sheepfold.

38. report on Commons Inclosure, 1844, N. 8204.

39. A General Introduction to Domesday Book, by Sir H. Ellis. London, 1833, vol. i. p. 100, f.

40. Hanssen, Zeitschrift fur du gesammte Staatswissenschaft, bd. xxi.

41. Glavem, here is put for clavem; from clavis, in its mediaeval sense of locus clausus.—H. A. O.

42. Registr. Prum. I. 695, at G. L. v. Maurer, Frohnhofe III. p. 317.

43. *Vide* Appendix.

44. The passage in Tacitus above alluded to, is as follows: “Agri pro numero cultorum ab universis per *vices* occupantur, quos mox inter se secundum dignationem partiunter; facilitatem partiendi camporum spatia praestant. Arva per annos mutant et superest ager nec enim cum ubertate et amplitudine soli labore contendunt, ut pomaria conserunt, et prata separent, et hortos rigent: sola terrae seges imperatur.”

Now the question is, What is the meaning of Tacitus? Murphy’s translation is evidently wrong; neither can we admit the reading “per sicos,” instead of “per vices.” We consider the sense to be, that the Germans cultivated their lands by turns, and not that they wandered to different places like the Scythians. As Horace, Lib. iii., Ode 24:—

> Campestres melius Scythae.
> (Quorum plaustra vagas rite trahunt domos)
> Vivunt, et rigidi Getae
> Immetata quibus jugera liberas
> Fruges et Cererem ferunt;
> Nec cultura placet longior annuâ.

— *Vide* Appendix.

H. A. O.

45. It is well known that opinions on this subject differ. Waitz, in the “History of German Administration,” vol. i., edition 2nd, p. 93, et seq., is the last advocate of the opinion that there was in Germany in the time of Tacitus a permanent separation of arable land and pasturage, while the opposite view, which considers that the passage in Tacitus

("Germania," c. 26), points to a field-grass husbandry, and which appears to us to be the best grounded, is defended by Hanssen in the "History of the Field Systems of Germany," 1. c. p. 54, et seq. *Vide* Appendix.

46. Abhandlung der Kon. Ges, d. Wissenschaften zu Göttingen, 6 Band, 1556, §199 f.

47. Zelga — in old German, zelch — celga-zelge, the third part of a hide. Adelung.—H. A. O.

48. No. 255. Item praedicta villa habere debet in eodem prato communem pasturam, videlicet, quse "ymene morlese" appellatur, cum aliis villatis scilicet, Somerforde, Pole et Kemele.

49. *e.g.,* B. N. 307, "and on king's bochholte fif vena gang."

50. King Earduulf gives the Bishop "Hrofensis ecclesiae," as a compensation for a right of pasturage taken from it; another, "XII. gregum porcoruin ad serbandam in publicis locis." In many places it is uncertain whether the kings granted hides with rights of pasturage only on the common lands appertaining to them, or whether the pasturage rights went beyond this.

51. *e.g.,* N. 281, ii. "wenagang mid cyninges wenum—111 oxnum gers mid cyninges oxnum," and elsewhere.

52. Concerning these royal rights of pasturage, which occur in all parts of England, see Kemble, Saxons I. p. 293.

53. Trinoda necessitas, *i.e.,* the triple service, vis expeditio militaris, pontis et arcis cxstructio, to which all Anglo-Saxon property in land was subject, even the allodiatia bona were not exempt from these dues.—H. A. O.

54. The statute "Quia emptores terrarum et tenementorum de feodis Magnatum," &c., 18 Edw. I. 1290, was against subinfeudation; it ordered that the feoffee should hold his land of the chief lord, and not of the feoffor.—H. A. O.

55. Domesday of St. Paul's, Introduction, p. xiv.

56. Registrum Prioratus, Wigoiniensis, Introduction, p. xvii.

57. In some of the registers of land it appears as if the newly-cultivated property had assumed a particular status, differing as well from the "terra tenentium" as from the "terra dominica." In Domesday of St. Paul's, after dominicum, villenagium, libere tenentes, cotarii were

cited, it is mentioned very particularly, "isti tenent de novis essartis," and certainly these almost always paid a high rent, but were free from service. We have not, however, been able to gain any further insight into this element from our authorities, nor from any of the juridical writers.

Villani means the serfs who were glebse adscripti.—H. A. O.

Socmanni, those inferior landholders who had lands in "*soc*," or franchise of the king or some great baron; privileged villeins, who, though their tenures were absolutely copyhold, yet had an interest equal to a freehold. Their services were fixed.—H. A. O.

Bordarii, those who held small tenures, generally of inferior land, under the lord, which they could neither sell nor alienate without consent, and who also owed certain services.—H. A. O.

Forlandae, fields of several acres lying together in rows (?) — H. A. O.

58. Libere tenentes with obligation to agricultural services are mentioned, *ex gr.* in the Rotuli Hundred, vol. ii. pp. 629, 644, 645, 650, 656; liberi socmanni with the same obligation, p. 484.

59. In Hundred Rolls, vol. ii. p. 629, the size of the hide and virgata on three manors which bordered on each other is given. On the first it comprised six virgatae of twenty-eight acres; on the second, six of forty acres; and on the third, four of forty-eight acres. See also introduction to Domesday of St. Paul's, p. lxiii. Casually we may here notice the attempt of Kemble to ascertain and fix the original superficial extent of the Anglo-Saxon hide, in the results of which many learned Germans have concurred. His conclusion that the hide was a land measure containing thirty-three English acres, is, however, wanting in all internal probability. With all races of people the hide contained a greater or less superficial extent, according to the condition of the land which formed its component parts, and it is in the nature of things that it should have been so; a designation, such as *hida,* which is apparently connected with *hîw,* family, and which Beda (Eccl. Hist.) translates famina, must have been a land measure which had an equal value for the support of a family, or for agricultural purposes. (Ploughland, aratrum, as hida is frequently translated in the records, Codex Diplom. Anglo-Sax.) In the state of civilization such as existed in the Anglo-

Saxon times, the hide cannot certainly be reckoned according to its superficial contents. Kemble can only ground his position on very artificial interpretations, and by the assumption of there being two kinds of acres which were then in vogue, of a very different superficial extent.

60. Bovata, modus agri, sec dectus quod tantum terrae contieat quantum bos unus arare potest spacio unins scilicet anni.— H. A. O.

61. Tantum terra quantum una carruca coli potest in anno. – H. A. O.

62. However, according to Bracton, such a "tenementum in villenagio" could pass into the hands of a freeman, who then had to discharge all services and dues the same as a "villanus," "sed nomine villenagii, et non nomine personae;" but he was freed from those dues which were merely consequent on personal servitude. See also Placit. Abbrev. 29 Edw. III. Ebor. Rot. 30, p. 243, tenura in villenagio non facit liberum hominem villanum.

63. On account of the double signification of the word in the Hundred Rolls, the compilers of the official reports consider it necessary to add to the enumeration of the "villani," "villani sunt servi," or nativi, *e.g.,* II. pp. 324, 325, 329, 1. c.; while, on the other hand, at the same period, in the decisions of the Curia Regis, the expression villanus is used to designate the state of personal serfdom, *e.g.,* Placitor. Abbrev. p. 25, et dicunt quod villanus est, quia ipse debet arare et metere et auxilium dare per consuetudinem et quod non potest sine licentia filiam suam maritare; or, p. 286. villanus fugiens extra terram domini sui non debet capi sine processu.

64. In the same sense as this token of personal servitude is quoted here, it is found in the Placit. Abbrev. l.c., and in the Hundred Rolls, II. 327, in villenagio sunt V. virgae et tenentes sunt nativi, quod non possunt maritare filias sine licentia domini.

65. Domesday of St. Paul's, p. 153, et seq.

66. "Ad magnas preearias." This barbarous expression means that the peasant was obliged to mow and reap for his master besides his regular weekly service. The word precaria is explained—servitium quod praestare tenentur tenentes ceu metendis messibus, falcandis fenis, et aliis servitiis, quando ad id *rogati* sunt.—H. A. O.

67. This actually exists at the present time in England; when a copyholder dies, the lord of the manor (in some cases) has the right to demand a heriot—the best horse or other animal, and, should these be wanting, the best chattel.—H. A. O.

68. That the most frequently occurring bordarii in Domesday are the same class with the later cotarii, as they are almost without exception called, is clearly proved from a passage in the Liber Niger (p. 163) of the Abbey of Peterborough, where first the cotsetes are mentioned, and those further on are designated bordarii. Bord, or bordellum, is properly a small house or hut. In the same Liber Niger a bercharius is mentioned at Estona, qui tenet bordellum (who has a cottage).

69. The small inclosed plots, which were called crofts, were as a rule in the immediate vicinity of the dwelling; sometimes it happens that one dwelling had two crofts, scil. juxta boscum, et juxta domum suam, "Reg. Wig." 42 b.; but it was commonly expressly distinguished from the open field, *e.g.,* "Rot. Hund." II. 661, tenet unum messagium cum *crofto* quod tenet demidiam acram, et praeterea tres acras in campis.

70. Only exceptionally we find properties of cotlands of a somewhat larger extent, *e.g.*, "Rot. Hund." II. p. 631—a cotland of 24 acres.

71. On this account also, in some places, persons who had only one croft were designated "villani," while according to the conditions of their property they were cotarii. This is explained by the double use of the above-mentioned villanus for serf, and for possessors of peasant holdings to which service dues were attached.

72. A Farmer's Tour through, the East of England. London, 1771, pp. 122, 130.

73. Edinburgh Review, vol. 24 (Nov. 1814), p. 90.

74. In the Introduction to the Domesday of St. Paul's, numerous instances are found which relate to the making up of the team.

75. The virgata was a small piece of land of indefinite size, the plot of the peasant—

> "A time there was ere England's woes began,
> When every rood of ground maintained its man."

H. A. O.

76. Rogers (History of Agriculture and Prices) could find no trace of harrowing in the 13th and 14th centuries, since he translates "hercia" by hoe; he doubts whether harrowing was then known. There can, how-

ever, be no doubt that "hercia, herciare," which is plainly mentioned as among agricultural services, is properly translated by Du Cange, and others, by "to harrow with a harrow." How can, *e.g.,* herciat per unum diem cum uno equo ad semen hiemale (Rotul. Hund. II. 461) be understood in the sense of "hoeing the land"?

77. Registr. Prior. Wigorn. p. 47a, "curia cum pertinentiis et duae carucatae terrae de dom. cum pratis et proventibus, et heriotibus et villanagio tradite sunt villanis ad firmam." — p. 54b, hsec villa tradita ab antiquo villanis ad flrmam ad placitum cum omnibus ad nos pertinentibus excepta advocatione ecclesiae et solvunt inde — praeterea percipimus medietatem proventuum et herietum, praeterea debeut metere, ligare et comportare totum bladum de antiq. dom. de H." From this farming of old manors must be distinguished the frequent cases in which the peasant village alone was let at a fixed rent instead of any service dues. In these leases, also, sometimes it was laid down, haec villa tradita est villanis ad firmam.

78. Bruera, the same as bruariuni, sandy, barren soil, covered with a heathy vegetation, thorns and thistles. — H. A. O.

79. *e.g.,* Rot. Hund. II. 484. Templarii tenent unum pratum separabile et incluserunt cum fossis et sepibus et fuit commune tempore aperto.

80. Domesday of St. Paul's, p. cxxii.

81. Register of Worcester Priory, p. lxvi. There were still manors existing in our time, on which copyhold and demesne lands lay together in open intermixed fields. See Report on Enfranchisement of Copyhold Bill, 1851. No. 921.

82. The Priory of Hexham; its Title Deeds, Black Book, &c. Vol. II. 1865.

83. Gewannen means plots of land of nearly equal quality into which the German township is divided.—H. A. O.

84. A History of Agriculture, &c., p. 15. Half the arable estate, as a rule, lay in fallow, called warectatio in the language of the time.

85. The Priory of Hexham, &c. Vol. II. p. 96.

86. That is late in autumn; in the English Mediaeval records Martinmas was regularly reckoned in the winter (11 Nov.).

87. "What in this country has usually a summer fallow, for which

there are three and sometimes four ploughings, the first is visually in November or December, if the ground be dry, *across the butts,* but oftener lengthwise. The following May it is ploughed across the furrows, which is called *Stirring* (ruren)" Holland. General View of Agriculture of Cheshire. London, 1808. — H. A. O.

88. The ploughing at the latter end of summer, called "the first styrringe" by Fitzherbert in the Boke of Husbandry, which took place between the fallow and the seed ploughing, and was commonly given to the fallow in the later Middle Ages, appears not to have been the custom at the time when the rural services were fixed. This second ploughing, intervening between the fallowing and seed ploughing, called rebinare, has only been found by him mentioned once in the Service Registers (Regist. Prior. Wigorn. 33, "item rebinavit unam acram." But the Peasant Dues correspond to a much earlier state of agriculture than that which existed really at the time that they were noted in the Registers; for, according to Fleta, who wrote at the beginning of the reign of Edward I, this rebinatio was already in use in the regular cultivation of the fallow; he says (lib. ii. c. 82), "nam una acra pro frumento trinam exigit aruram." He indicates (lib. ii. 73) April as the best time for the fallow-balk (warectatio); while the second, the "rebinatio," after Midsummer should be done "cum terra pullulaverit post warectum." And already in the middle of the twelfth century, in the counties bordering on London, this second balk had come into vogue, at least for a part of the acreage that was lying fallow. In the description of two leased farms, that date at this period, and which are given by W. Hale Hale in Domesday of St. Paul's, it is laid down, "ad curiam de Waletuna inventse sunt IX viginti acrae de "wareto de quibus XXVIII sunt rebinati (sic) et IX faldati et XXXIII seminati" (p. 131). And of another farm, "et LXXXVII acrae de wareto, et de his XXXVIII rebinati et I et dimid. faldati et XV seminati" (p. 132). According to a lease which is also recorded there, at Nastock (the partition of the land of which is mentioned previously) of the year 1152, the farmer at the expiration of the lease is bound to give up the property with "magnam grangiam plenam ex una parte hiemali et ex altera vernali blado, et totum fenum illius anni et totam saisonem waretatam, et LX acras rebinatas, et faldicium et femicium secundum facultatem suam." Evidently it was not yet in

the power of the tenant to bestow a careful cultivation on the whole of the fallow acreage; thus he was obliged to limit the second summer ploughing to part of the same; on another part a very different kind of cultivation was the rule, viz., It was manured by sheep penning (faldicium), or stall dung (femicium); and, finally, it appears that sometimes a part was already cultivated. This certainly is an earlier commencement of an elaborate cultivation of fallow lands than we can point to in Germany. Hanssen ("Zeitschrift fur die gesammte Staatswissenschaft," B. XXI. s. 92) is of opinion that in Germany about the thirteenth century they had arrived at the triple ploughing of the fallow. Thudichum ("Gau-und Markverfassung," s. 159) places the "rebinatio," or second ploughing, as first in use in the fourteenth century. The citations from the "Landau Territorien," s. 56, taken from the twelfth century, are no certain proofs. With regard, however, to the summer sowing of the fallow, Hanssen cites, l.c. p. 95, several records of the Lower Rhine of the middle and end of the thirteenth century, first quoted by Jacobi, as the first indications of a partial cultivation of the fallow land.

89. Wainagium = *Ganagium; i.e.,* fallow for ploughing. — H. A. O.

90. The stubble pasturage was proportionately more valuable in England on account of the custom of merely reaping the ears of the corn and leaving the long stubble standing. It was then gathered for thatching. The "colligere stipulam ad cooperiendam domum," or also simply, "colligere stipulam," frequently appears among the services of the peasants, as well as taxes to which the tenants were liable for every head of cattle, "quem," or "quod habent in stipula."

91. L. Stein (Verwaltungslehre, vii. 266) is of opinion that the right of property in the common pasturage, which modern English law gives to the lord of the manor, first had its origin in the 24 Carl. II. c. 12: and in this sense he combats an adverse assertion of Roscher. The above law, whose influence on the history of the common lands in England has been judged of in a completely mistaken sense by Stein, was of no importance whatever in that respect. The law did not abrogate the supreme right of the king in all land and soil as Stein imagined, but merely set aside a particular form of tenure, viz. the military

tenure, and changed it into another form of tenure which already existed in the Middle Ages, together with the military tenure, the socagium liberum (free and common socage). In the same way as with this tenure the law allowed the tenures by "franc almoign" and "grand sergeanty," to remain. Stein has also erred completely as to the meaning of joint tenancy, when he states that since 24 Carl. II. c. 12, joint tenancy indicates the different conditions of rights to the common pasturage.

92. Mr. Blamire, Inclosure Report, 1844, No. 336, et seq.

93. Pasturae, marisci or bruerae totius villae, occur also, II. p. 420, 426, 484, 554, boscus, totius villatae, 534, 535, pastura communis hominibus of Stowe, 496; in other places it is laid down in the same manner, or as at p. 506, comniuna de Chippenham habet in bruariis VIII quarant in longitudine et in latitudine IIII quarant. Eadem villa habet in morisco, &c. &c.

94. Wingrove Cooke, on "Inclosures and Rights of Commons," 4th edit. London, 1804.

95. Right of approver. Whether is this from appropriare, to appropriate, or from probus approbare, to improve? W. Hale Hale adopts the first derivation, but manifestly the word is often used in the sense of to improve, as appears from a passage quoted by him from Fleta II. 73, in which a servant who administers a property for his master is styled "approvator fidelis et optimus."

96. These short-sighted and tyrannical laws were afterwards made use of to rob the tenants of their rights. Who was to judge of how much pasture was "quantum sufficit"? — H. A. O.

97. The origin of many of the parks in England — H. A. O.

98. Rot. Hund. II. 463: "si ipse habeat pullum vel boviculum et laboravit cum illo, non potest vendere sine licentia domini, si non laboravit, licitum ei vendere sine licentia."

99. Obligatio quo tenentur vassalli oves suas in faldam dominicam immittere ad stercorandos illius agros. Du Cange.—H. A. O.

100. On the same principle that a big boy makes a small one get into his bed to warm it on a cold night. — H. A. O.

101. Hokeday, or Hockday, *i.e.,* highday. A holiday formerly held in England on the second Tuesday after Easter, to commemorate the expulsion of the Danes in the time of Ethelred. Highdays and holidays.

102. Usque ad vincla, subaud. Petri, 13 August, o.s. St. Peter's day. — H. A. O.

103. Adaeratio, *i e.,* fixing a money value on labour services, or instead of them. — H. A. O.

104. 23 Edward III. Chap.

105. John Reeves. "History of the English Law." Dublin, 1787, vol. iii. 308, et seq.

106. See the Extracts from the Rolls of Parliament, by Thomas Wright, on the political condition of the English peasantry during the Middle Ages, in the Archaeologia, vol. xxx. London, 1844, p. 244, et seq.

107. Loc. cit. vol. iii. p. 312 and 313.

108. Scriven, a treatise on copyhold, custumary freehold, and ancient demesne tenure, 3rd edit. Lond. 1833. Vol. i. p. 55. A copyholder has, in judgment of law, but an estate at will.

109. "The whole of the manor lands, with all appurtenances thereunto belonging."—H. A. O.

110. Such was the rise in wages that the King and Parliament took up the matter, at is shown by the Statute of labourers, 23 Edw. III. "Come nadgairs centre le malice de servanty qu'eux furent pareissouses et nient voillant servir apres la pestilence sanz trop outrageouses lowers prendre, feut ordine par notre seignur le Roi," &c. &c.; *i.e.,* as lately it was ordained against the pernicious practices of labourers, inasmuch as they were lazy and refused to work after the plague, except at outrageous wages, by our lord the King, &c. &e. The statute then goes on to fix a rate at which the labourer was compelled to work under pain of imprisonment. A labourer got twopence or threepence a day, according to the season.—H. A. O.

111. Rogers mentions the leases with manorial inventories as closely analogous to the metairie of South-Western Europe (p. 25); but the essence of the metairie does not consist in that the "half farmer" has no proper inventory, but in the partitioned husbandry; *i.e.,* it consists in that the landlord draws no fixed money rent, or personal services, but takes a moiety of the farm produce. [Metairie is a word derived from the mediaeval Latin term medietare, because under the system the land was cultivated under the conditions "ad medietatem

fructuum."—H. A. O.]

112. Quit-rent, from "quietus redditus," a rent reserved for grants of land by the payment of which the tenant was "quieted," or quit from all other service. Blackstone.—H. A. O.

113. Town here is manifestly used in its old sense, not of city, but dwelling-place, or village.

114. The Sermons of the Rev. Father in God and Constant Martyr of J. Ch. Hugh Latimer.

115. Extract in Strype, Eccl. Mem., vol. li. p. 441. Edit. 1721. Froude, l.c. p. 73.

116. And by their natural logic they would leason, "how these conjugate, these yoke-fellows, gentleman and gentlenes should be banished so for asunder." Strype, vol. ii. part ii. p. 130.—H. A. O.

117. Strype, Memorials, vol ii. p. 172.

118. An Extract from the Petition, according to MS. Domestic Edward VI, vol. v. (State Paper Office), is to be found in Fronde, l.cit. vol. v. 78, 79.

119. For the benefit of rich inclosers as well as the poor sufferers.—Strype, l. cit.

120. Parliament Hist. i. p. 59, and Strype, Memor. ii. 134.

121. See concerning this dialogue the author's essay in the "Zeitschrift für die Gesammte Staatswissenschift," 1863, vol MX p. 369, et seq.

122. The book appeared for the first time in 1557, under the title of "A hundredth good pointes of husbandry"; and then in a number of new editions with additions and corrections by the author, then called "Five hundredth pointes of good husbandry"; the author used the edition of William Mayor, London, 1812.

123. Especially see chap. liii. A comparison between champion country and severall. This comparison commences:—

"1. The country inclosed I praise,
The t'other delighted not me,
For nothing the wealth it doth raise
To such as inferior be.
"7. More plenty of mutton and beef,
Corn, butter, and cheese of the best;
More wealth anywhere to be brief,

More people, more handsome and prest,
Where find ye, go search any coast
Than there, where inclosure is most.
"8. More work for the labouring man
As well in the town as the field, etc.
(On the other hand)
The champion robbeth by night,
And prowleth and filcheth by day, etc."

124. *e.g.,* in October Abstract: —

"23. Two crops and away Most champion say—

"25. What champion knows That custom shows

"26. First barley ere rye, Then pease by and by, Then fallow for wheat Is husbandry great."

In a more detailed manner, with barley as a summer crop, chap. xvii.: —

"First rye, and then barley, the champion says, Or wheat before barley be champion ways; But drink before bread-corn with Middlesex men, Then lay on more compass* and fallow again."

* Manure, compost. —H. A. O.

125. "T' one taketh his season as commoners may, The t'other with reason may otherwise say."

126. See on the decay of the corporate towns in the Statute-book, introduction to 3 Henry VIII. c. 8, and Eden, " State of the Poor," I. pp. 109, 110. Eden ascribes the bad condition of the small towns to another circumstance, which certainly co-operated thereto. His opinion is, that the exclusive privileges of the guilds impeded the increase of industry in the ancient towns, and forced it into the new districts which were not endowed with municipal rights. In addition to the revival of London in that point of view, he continues, that of Birmingham and Manchester is also very remarkable in that century. On the rapid growth of London at that period see Macpherson's "Annals of Commerce," II. pp 166, 227.

127. See Helferich on the periodical variation in the value of the precious metals. Nuremberg, 1843, p. 90.

128. Chronicon Rusticum Commerciale, or Memoirs of Wool, by John Smith, 1 vol., London, 1747, p. 127.

129. The "petra," our stone, was a weight among the Anglo-Sax-

ons, the value of which, vaguely estimated, was about 141b. Then, as now, it varied for different wares—meat, 81b.; glass, 51b.; cheese, 161b.; hemp, 32lb. There can be little doubt that in rude ages, as is the case now in India, a round stone was made use of instead of a regular weight, hence the name.—H. A. O.

130. In fact, the Legislature of those times favoured the partitioning of the land, which was then in a state of veritable community and copartnership. The laws, 31 Henry VIII. c. 1, and 32 Henry VIII. c. 32, enact that joint-tenants, as well as tenants in common, can be bound by a writ "de partitione facienda," to be devised in the Chancery for the partitioning of the common property. But in all the cases in which the rights of the lords of the soil were opposed to the pasture lights of the common, these laws did not apply.

131. The close connection which arose in England between the introduction of the field-grass husbandry and the supplanting the small landed proprietor, also showed itself in a precisely similar manner in the agrarian history of Mecklenburg. Up to the commencement of the eighteenth century there the intermixed manor and peasant lands were husbanded by a three-field husbandry in common; but the introduction of the Holstein system of field-grass husbandry on inclosed farms gave rise to the supplanting of the peasants on an extreme scale. *Vide* on this subject "Agriculture and the Peasant" in the History of Mecklenburg, by Ernst Boll, Neubraudenburg, 1856, vol. 2nd, p. 463, et seq. (Die Bauern und die Landwirthschaft in der Geschichte Mecklenburgs.)

132. Here and there certainly there is a question of buying up the small plots of land. *Vide, e.g.,* a contemporaneous poem on unsatiable purchasers by Strype, Memor. I. 132. This poem is as follows:

"An unreasonable rich man dyd ryd by the way
Who for lack of men hadd with him a boy,
And as he past by a pasture most pleasant to see;
Of late I have purchased this ground, Jack, quothe he;
Mary, maister, quod the boy, men say over al,
That your purchase is great, but your household is smal.
Why, Jack, quod thys riche man, what have they to do?
Would they have me to purchase, and keep great house too?
I cannot tell, quod the boy, what maketh them to brawle,
But they say that you purchase the Devil, his dam, and all."

Strype.

H. A. O.

133. Somerset.—H. A. O.

134. A supplication of the poor commoners to the king, given in Strype, vol. i. p. 398, et seq.

135. Reeves, l. cit. vol iv. p. 232, et seq.

136. Lord Lincoln, on making his motion concerning the inclosures of commons, said of these Inclosure Acts, "This I know, that in nineteen cases out of twenty, committees sitting in this House on private bills, neglected the rights of the poor, I do not say that they wilfully neglected those rights— far from it; but this I affirm, that they were neglected in consequence of the committees being permitted to remain in ignorance of the rights of the poor man, because by reason of his very poverty he is unable to come up to London to fee counsel, to procure witnesses, and to urge his claims before a committee of this House." — "Hansard," 1 May, 1845.