

*Economic History*

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# The Economic and Social Foundations of European Civilization

Alfons Dopsch



ECONOMIC HISTORY

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THE ECONOMIC AND SOCIAL  
FOUNDATIONS OF EUROPEAN  
CIVILIZATION

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EUROPE

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CIVILIZATION**

ALFONS DOPSCH

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THE  
ECONOMIC AND SOCIAL  
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By  
ALFONS DOPSCH

*With an Introduction*

by

ROBERT LATOUCHE

*Doyen honoraire de la Faculté des Lettres de Grenoble*

HOWARD FERTIG

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## INTRODUCTION TO THE 1969 EDITION

BY ROBERT LATOUCHE

Fearing that the title *The Economic and Social Foundations of European Civilization* might not give the reader a precise enough idea of what he was trying to do in his work, Alfons Dopsch expanded his intentions in an interesting preface to the German edition. He did not, he said, mean to go all the way back to prehistoric times, there to unravel the traces of civilization in the Germanic region; his efforts rather were directed toward the very early Middle Ages, to the period which extended from the fall of the Western Empire (476) to the coming of Charlemagne (768), a period of history that is particularly obscure and in which there seems to be a yawning gap between what had gone before and what was to follow.

While the subject is far from original, the author did not hesitate to undertake it in his turn, and he succeeded in bringing a fresh approach to it as a result of his penetrating grasp of the facts and his profound knowledge of the history of the early Middle Ages.

Born June 14, 1866, in Lobositz, Bohemia, son of a bookseller, Alfons Dopsch began his higher studies in Vienna and completed his career at the university there. *Privat dozent* in 1893, *professeur extraordinaire* in 1898, then *ordinaire* in 1900, he continued teaching until he reached retirement age in 1937; he died that same year.

Dopsch showed an early taste for scholarship, beginning with his contributions to the publications of the Institut für österreichische Geschichtsforschung (1889-91). He never ceased to be fascinated by the history of Austria, witness his edition of a selection of documents for the Institute which appeared in 1895, and his collaboration with A. Huber on the latter's History of the Austrian Kingdom. But at the same time he was initiated into Carolingian history by working with Mühlbacher in editing Carolingian documents for his *Monumenta Germaniae Historica* series<sup>1</sup> and thus acquired a deeper knowledge of the historical sources of the early Middle Ages. It was to this period of general history that he thenceforth preferred to apply himself and to which he devoted his most important work. In 1912-13, he published a magisterial work on economy in Carolingian times (*Die Wirtschaftsentwicklung des Karolingerzeit*), which established his reputation as a medievalist; a second edition appeared in 1920-21. Strengthened by this success he enlarged his scope and, giving free rein to his taste for synthesis, undertook the present theme, the first version of which appeared in Vienna in two volumes in 1918-20 under the title *Wirtschaftliche und Soziale Grundlagen der Europäischen Kulturentwicklung*. A success comparable to that of the preceding work crowned this new work, which also went into a second edition published in Vienna in 1923-24; the present edition is a reissue of a shortened English version of that second edition, which was published in London in 1937. Beside these major works of his career as historian, Dopsch published numerous articles in many of which he strongly defended his theories against his critics.

Dopsch was far from blind to the problems of undertaking a book on the foundations of European civilization. But with characteristic realism and a constant

<sup>1</sup> *Diplomata Karolorum*, Vol. I (Hanover, 1906).

determination to stay as close to the facts as he could, he tried less to expound any new theory than to prove the weakness and invalidity of the dogmatic concepts originated at the time of the Renaissance. By accumulating precise topical detail and returning to the data made available to modern scholars by archeological excavations, linguistics, and toponymy, he succeeded in his task. It should be added that there is one fundamental belief particularly dear to Dopsch, that of continuity. In his view the transition from antiquity to the Middle Ages was not catastrophic; there was no rupture, no gulf between the two, no abrupt passage from "Romanism" to "Germanism," for contacts between the two had long been established. The peaceful penetration of Germans into the empire and of Romans inside Germany had been taking place for centuries before the Western Empire collapsed to make way for the barbarian kingdoms in the fifth century. What took place during this long period was a progressive evolution, marked by all the signs of continuity. Moreover, as Dopsch rather ingenuously observes, had Roman civilization and its culture been completely destroyed by the great invasions and the barbarians who settled in Western Europe been totally uncivilized, could they have preserved in their political institutions so many elements of that very culture they are accused of having destroyed?

The truth is that the ideas about the origins of medieval civilization which prevailed for so long originated, as Alfons Dopsch demonstrates at the beginning of his book, in an enduring prejudice against the Middle Ages born in the Renaissance period among the humanists. The passion for classical antiquity which animated these men led them to anathematize the Germans, whom they considered ignorant and destructive barbarians. This prejudice was hard to overcome. Even in the eighteenth century, some of the French *philosophes*, Montesquieu and Voltaire in particular, took it up again as their own. According to them, the Greeks and Romans were the most civilized peoples on earth and the barbarous Germans squandered their heritage.

We should add that, to obscure still further the question of the origins of medieval civilization, the German historiographers of the first half of the nineteenth century conceived their view of ancient Germany from such documents of a later epoch as the *Weistümer*,<sup>2</sup> a view marked more by romanticism than historical accuracy.

Dopsch therefore was faced with a threefold task; first, to present the reader with an accurate description of the social and economic conditions in Germany before the fall of the Western Empire; second, to show in a series of detailed studies how the Germanic kingdoms took the place of that empire after the beginning of the fifth century; and finally, to examine how these barbarian kingdoms evolved during the Merovingian period, that is, up to the middle of the eighth century, by examining that evolution in its several aspects, political, religious, social, and economic.

Since our knowledge of the period of world history commonly designated the

<sup>2</sup> The term "*Weistum*" is given to a solemn declaration of seignorial rights made by the subjects of a seignury, as defined in the Index of Technical Terms of Charles Perrin's learned work, *Recherches sur la seigneurie rurale en Lorraine* (Paris, 1935), p. 771. Mr. Perrin shows that in that province such declarations were to be found beginning only in the thirteenth century (p. 555).

period of the great invasions had been thus falsified by the erroneous notions of ancient Germany that scholars and especially *philosophes* held for several centuries, it was fitting that Alfons Dopsch begin his work by focusing on them. This he did in a chapter entitled "The So-Called 'Earliest' Period," but the parenthesis (Caesar and Tacitus) indicates that he did not wish to delve further back than the half century preceding the Christian era. In this chapter he sought—and, we might add, succeeded—to prove that in that period the Germans were not a nomadic people but rather a sedentary one, that for several thousand years they had been acquainted with and dealt in terms of the idea of individual property, and that the *Feldgemeinschaft* (communal system of land ownership) attributed to them by early historians was a mere myth. The same is true of the legend of a free association of all freemen said to have existed among the Germanic peoples since the time of Caesar. A careful interpretation of *De Bello Gallico* and above all of Tacitus' *Germania* shows in fact that all free Germans were not equals, or landlords, and that the landlords did not necessarily work the soil. Rather, it was worked by means of a combination of tenants and working-farmer landlords characteristic of the social psychology of the Germans.

The Germanic world was early in contact with the Roman people, and in peaceful ways. The penetration of the Germans into the empire began in response to the demand for labor. When the labor furnished to Roman proprietors of domain land by slavery became inadequate, they resorted to the barbarians, whom they settled as *coloni* (smallholders, tenants) on their lands. Then the army needed men and recruited the barbarians to defend the boundaries of the empire. Initially soldier-laborers, the Germans succeeded little by little in rising in the military hierarchy; in the fourth century, some reached the highest ranks. Others, like the Vandal Stilicon and the Suevian Ricimer, likewise filled important administrative positions which made them principals in the imperial government. The creation of the barbarian states on the territory of a vast, exhausted empire, in which the emperors were often no more than puppets, was thus only the concluding phase of this progressive ascent.

The truth is, then, that there was no brutal catastrophic onrush of barbarian invaders in the fourth century, such as was reputed in less than a century to have transformed the face of Europe. Rather, there was a slow evolution with its point of departure in the period of the invasions of the Cimbrians and the Germans, and its end delayed to the second half of the sixth century—that is, to the time of the occupation of Italy by the Lombards.

During this long period, the empire became progressively Germanized while, inversely, the Germans adapted to the mode of existence of the Celtic and Roman populations. Alfons Dopsch shows for one thing that urban life was maintained as much in the Danube region as in the countries of the Rhine. He parades before us the majority of the cities founded by the Romans: Cologne, Mainz, Frankfurt, Trèves, Metz, Strasbourg, Constance, Ratisbon, Salzburg, Lorch, Vienna, to prove—with the help of evidence from reputedly conducted excavations—that, despite summary affirmations and exaggerations on the part of certain chroniclers to the contrary, urban life continued, and the supposedly barbaric Germans were not at all hostile to Roman civilization. Because Roman and Germanic populations lived side by side on the same soil—in the towns as in the country—no actual rupture with the past took place.

This question clarified, another had then to be raised, and Dopsch, far from evading it, posed it in excellent terms. After having established that a supposed period of barbarian invasions did not have as its consequence the destruction of the Roman population of the late empire and its civilization, he went on to ask: What was the period like which accompanied and followed the fall of the empire of the West? Were the Germanic barbarians capable of taking up the Roman culture, which they had not destroyed, and of preserving it in its entirety? To this absorbing problem Dopsch has devoted several chapters of his work.

The division of the soil between the indigenous population and the Germans was the most urgent task to be carried out in the countries whose earliest occupants were not Germans. Laws regulated this division in the case of the Visigoths and the Burgundians, laws which instituted what has been called the "regime of hospitality." Elsewhere, especially among the Frankish Saliens established as *coloni* on the soil of the empire for several centuries, who henceforth became the political masters of the territory, rural life had not been revolutionized by conquest. In addition, owing to the practice by important Germans of having around them and in their service a numerous "following" (*comitatus*), the domainial regime in existence under the late empire not only continued but expanded, to the satisfaction of many, if we can believe the writer Salvien, who recounts that the small Gallo-Roman cultivators bowed down under all sorts of burdens envied those who lived under the protection of the worthy barbarian Goths.

On the political level, the transition between the imperial government and the Germanic kingships was effected, if not without local conflicts, at least without a general revolution. The new masters of the Western Empire in fact understood, or ended by understanding, that they had everything to gain by maintaining rather than upsetting the existing order. The historian Orosius offers us a vivid testimony of this in his account of the Visigoths, which is all the more significant in that it took place several years after Alaric had further stimulated the ambitions of these barbarians by taking Rome.

"King Athaulf," writes Orosius,<sup>3</sup> "was at the time the chief of the Goths. At first he had earnestly aspired to erase the Roman name and to make the whole Roman territory an empire of the Goths which would bear his name, so that it would be what Rome had been and Athaulf would become what Caesar Augustus had formerly been. But long experience had proven to him that the Goths were absolutely incapable of obeying laws because of their unbridled barbarousness. Now, as one cannot suppress in a country the laws without which a State is not a State, he preferred then to stake his glory on restoring in its entirety and in raising up the Roman name, with the help of the Goths, in order to figure in posterity as the restorer of the Roman Empire, since he had not been able to transform it."

This account (and its veracity is not in question) proves that the Germanic peoples did not hurl themselves on the weakened Western Empire as on their prey; they were more circumspect. And when, in 476, it died of exhaustion, they did not seek to break with the past. The example of the Franks who, under Clovis, were to become the masters of the West is significant in this respect. The senatorial

<sup>3</sup> Paulus Orosius, *Adversus Paganos Historiarum Libri VII* (Zangemeister edition), p. 559.

nobility of the Gallo-Romans was not destroyed; it continued in the guise of the German aristocracy to hold first place. Furthermore, we know that Catholicism—to which Clovis had the happy idea of converting as much for political as religious reasons—also helped to maintain and solder the union between Franks and Gallo-Romans.

It is important here to stress that the German ambition to assume succession of the Roman Empire and create in its place national states was feasible only within the framework of vast territories. Consequently, this involved the fusion of small clans—often numerous—of the same race, and the formation of extensive realms encompassing all these clans. Such was the case, for example, with the Visigoths and the Burgundians.

One point should be noted: the form of rule that all the German nations adopted for their establishment on the soil of the Roman Empire was kingship, a hereditary kingship in which the rulers were not elected by popular assemblies but were called upon to reign because they belonged to privileged dynasties. The absence of solid documentation does not allow us to resolve the problem of their origins; but what appears evident is that the institution had been consecrated by the necessity for these bellicose nations to possess an undisputed sovereign. Dopsch assumes, moreover, that the influence of the political mores of the late empire—under which military leaders enjoyed an authority superior to that of the emperors—helped to guide the Germans in the adoption of an institution which was not traditional to them.

In the last—and not least lively—part of his work, Alfons Dopsch addresses himself to showing how the political, social, and economic life in the lands which made up the Western Roman Empire continued without interruption after the barbarian kingships had occupied the territory, to last until the reign of Charlemagne.

Civilization, then, was not ruined; yet this period of 300 years (from the fifth to the eighth century) did not pass in immobility, and many of the transformations attributed by certain historians to the Carolingian epoch were realized, or at least prepared for, in Merovingian times. But these transformations were accomplished in obscurity in the sense that documents of that period are rare and do not become abundant until what we have come to call the Carolingian Renaissance. Dopsch's merit lies in having tried to define as clearly as possible the evolution effected during the Merovingian period, which he represents as the organic and living tie linking the period of the late empire with the Carolingian era. The role of the Church here was also considerable. Since the reign of Constantine, the bishops had become influential personages, in politics as much as the Church, and the conciliar decisions taken by them in their national and provincial assemblies were universally observed. They contributed a good deal to the betterment of the disinherited classes, notably in receiving into their buildings and taking poor people into their charge. It is to the bishops that we are indebted for the right of sanctuary in Church, the interdiction against usury, and the founding of almshouses for lodging pilgrims and other travelers.

The existence of a cathedral and the presence of a bishop in the former Roman cities further contributed to the maintenance of urban life. Moreover, the decline of urban life in the Merovingian era has been exaggerated. In addition to the bishop, the city then housed the king's representative, who possessed extensive ad-

ministrative and judicial powers. What must, however, be noted is the nearly total disappearance in this epoch of municipal life and in particular of the old Curia, which had become unpopular under the late empire because the curial functions by then consisted of little more than the levying of taxes.

It is likewise erroneous to claim that economic activity was nonexistent during the Merovingian era and that barter of merchandise alone survived. Numerous allusions by Gregory of Tours (the historian of the Franks), as well as the existence of documents such as legislative texts and, in particular, the Salic Law, are more than enough to discount such an assertion. Dopsch cites the anecdote in Gregory of Tours' *Historia Francorum*,<sup>4</sup> in which the author recounts that Desideratus, bishop of Verdun, who enjoyed the favor of the Merovingian King Theudebert, profited from this favor by obtaining from the monarch a loan of 7,000 gold pieces which the merchants of his episcopal city requested. But the strongest testimony to the general use of coinage during Merovingian times lies in the multiplicity of minting works that existed at that period. It is not relevant here to try to estimate the value of the specie which were struck and of which we possess thousands of examples; sufficient to call them to mind to attest that, as inheritors of the *ateliers* of the late empire, the Merovingian mint-masters continued to ply a trade that could be remunerative only because there existed in their time merchants, shops, and local markets, where purchases were made against the coin of the realm. In the light of this, the action taken by the first Carolingians should not be exaggerated: it did not, in fact, consist in resuscitating the use of money, but only in reacting against the abuses that the anarchy at the end of the Merovingian epoch had brought about in the minting and circulating of currency.

Alfons Dopsch ends his study with a rapid and conclusive glance at the long period whose characteristics he had described with so much independence and breadth of vision. After reading this work, one is left with the impression that the author's constant desire has been to throw light on all aspects of public and private life of the period, without becoming discouraged, nor hesitating to engage in a polemic to defend himself on all those points—and very numerous they are—that collide with traditional doctrine. After this general outline of Dopsch's work, it will not be necessary to list such points; the reader, in any case, will do so himself, the more easily as the author has never hesitated to cite the names of those scholars with whom he disagrees. It is sufficient, then, to point out that his dialectic greatly contributes to the incisive and lively quality of his work.

Nevertheless, one question taken up and vigorously dealt with by this author should not be left obscure, for it dominates all medieval history. It has to do with the origins of feudalism and Dopsch's own conception of this. In his view, vassalage dates back to a distant past, and he finds its sources both among the Romans and in ancient Germania; in the case of the Romans, in patronage (*patrocinium*); of the Germans, in the role of the "following" (*comitatus*). Tacitus brought to light the role played by the *comitatus* in the bellicose undertakings of the Germans: these men, who lived at the side of their chiefs, received endowments of land in return for their support. Dopsch discovers the equivalent of this custom among the *bucellarii* of the late Roman Empire. Thus vassalage and *beneficia* are, according

<sup>4</sup> *Historia Francorum*, Book III, Chapter 34. King Theudebert reigned in Austrasia from 534 to 547.

to him, very ancient practices and mutually interdependent. He notes that they were developed and generalized under the Merovingians by means of the decline of royal power and had as their consequence the strengthening and enrichment of the aristocracy. Once again a historian has had the pleasant experience of reminding us that there is nothing new under the sun, that it is not necessary to await the coming of the Carolingians to discover the birth of these two institutions, vassalage and *beneficia*, nor to seek the explanation for an association which is in the very nature of things.

I would add in closing that this typical example is likewise testimony to the characteristic tenacity with which Alfons Dopsch has defended a thesis dear to him—that of the continuity which he has never ceased to consider the fundamental law of the evolution of humanity.

## INTRODUCTION TO THE ENGLISH EDITION

This book is a translation in a somewhat shortened form of the second edition of my German work, *Die wirtschaftlichen und sozialen Grundlagen der Europäischen Kulturentwicklung*, which was published in Vienna in 1923-4.

Cuts have been made first in the sections concerned with the older historical theories of the problems here dealt with, and secondly in the discussion of opposing theses and of the material yielded by research. In many places, also, the investigation into the origin of place-names and the examples put forward in illustration have been considerably shortened. Certain passages referring more particularly to England have been omitted, since a more detailed presentation of this material can be found in the works of English scholars, while in this English edition of my book stress is laid rather upon conditions prevailing on the Continent. The reader desirous of a fuller exposition than is given in these abbreviated sections, may refer to the footnotes indicating the corresponding passages in the German edition.

I should consider it a great honour if by means of this translation the results of my historical research may be spread throughout the English-speaking world.

My special thanks are due, above all, to Professor Eileen Power, who is the instigator of this translation, and who has throughout given her expert advice and support to the undertaking. Then I would extend my very warm thanks to the translators themselves, Miss M. G. Beard and Mrs. Nadine Marshall, and to the publisher for the pleasing appearance of the book. To my colleague, Professor Erna Patzelt, I am once again most deeply indebted for the difficult task she has fulfilled in shortening the German edition—a task which demanded not only the greatest familiarity with the subject-matter, but also a sympathetic understanding of the whole conception of the work. Finally particular thanks are due to Miss Richenda Payne, who has performed the arduous work of checking footnotes and seeing the book through the press.

ALFONS DOPSCH.

VIENNA.  
January, 1937.

## KEY TO ABBREVIATIONS USED IN THE FOOTNOTES

AA.	. . . .	Auctores Antiquissimi.
Abhandl.	. . . .	Abhandlungen.
Altert.	. . . .	Altertümer.
Ann.	. . . .	Annalen
Beit.	. . . .	Beiträge.
Bll. Bl. (bl.)	. . . .	Blätter.
DAK.	. . . .	Deutsche Altertumskunde.
DRG.	. . . .	Deutsche Reichsgeschichte.
DWG.	. . . .	Deutsche Wirtschaftsgeschichte.
Epp.	. . . .	Epistolae.
Ges.	. . . .	Gesellschaft.
Gesch.	. . . .	Geschichte.
Jb., Jhb.	. . . .	Jahrbuch.
kde.	. . . .	kunde.
KG.	. . . .	Kirchengeschichte.
Korr. Bl.	. . . .	Korrespondenz Blatt.
l.c.	. . . .	loco citato.
LL.	. . . .	Leges.
MA.	. . . .	Mittelalter.
MG.	. . . .	Monumenta Germaniae.
MG.D.	. . . .	Mon. Germ. Dipl.
Mitt. d. Instit. (M.I.O.G.)	. . . .	Mitteilungen des Instituts für österreichische Geschichtsforschung.
N.	. . . .	Neue.
NA.	. . . .	“Neues Archiv.”
NF.	. . . .	Neue Folge.
ob.	. . . .	ober.
RA., Ra.	. . . .	Rechtaltertümer.
Reg. Imp.	. . . .	Regesta Imperii.
RG.	. . . .	Rechtsgeschichte.
SB., Sitz-Ber.	. . . .	Sitzungsberichte.

## KEY TO ABBREVIATIONS

UB.	. . . . .	Urkundenbuch.
U.B. d. L. o. d. Enns.	. . . . .	Urkundenbuch des Landes ob der Enns (=ober- öst. UB.).
vaterl.	. . . . .	vaterländisch.
Ver.	. . . . .	Verein.
VG.	. . . . .	Verfassungsgeschichte.
Vjschr.	. . . . .	Vierteljahrschrift.
Westd.	. . . . .	Westdeutsche.
Zeitschr. d. D. u. Ö. A-V.	. . . . .	Zeitschrift des Deutschen und Österreichischen Alpenvereins.
Zeitschr. f. SOZ. und WG.	. . . . .	Zeitschrift für Sozial- und Wirtschaftsgeschichte.

## ERRATA

For "Aryans, Aryanism" read "Arians, Arianism" throughout.

# THE ECONOMIC AND SOCIAL FOUNDATIONS OF EUROPEAN CIVILIZATION

## CHAPTER I

### THE INFLUENCE OF CONTEMPORARY MOVEMENTS ON HISTORICAL RESEARCH

THE relationship of the Germans to the Romans and their civilization at the beginning of the so-called Middle Ages is one of the oldest of historical problems, and one upon which, as long as a science of history has existed, historians have been obliged to adopt a definite position. But, however much their opinions may have differed in detail, one fundamental idea has persisted, and in spite of occasional challenges still maintains its sway even in the most recent works of historical research. That fundamental idea is the conception of the German Barbarians as a people without culture, enemies of civilization, who fell upon the old world and brought about its ruin and destruction. It is usually assumed that a sharp opposition existed between the Roman administration as it then existed and the embryonic political development of the newcomers, and it is this hostility which is held to have caused the downfall of Antiquity, together with the pillage of most of its countless treasures. In many books it is suggested that this amazing period of destruction in world history was of short duration, and was brought about by the great migrations or *Völkerwanderung*, which were sometimes even thought to have occupied no more than a century (approximately from A.D. 350-450). At best this great transition from Romanism to Germanism was described as if, without any intermediate stage, the "barbaric" Germans had appeared side by side with ancient civilization at its height and had only gradually assimilated some elements of its culture through the expansion of the Roman Church. Even Karl Lamprecht took this view. "Thus," he wrote in 1898, "the land had a dual appearance. Side by side with the subtle luxury of the Roman officer and merchant there appeared the pitifully uncivilized native barbarians; there was no harmonious mingling of the two."<sup>1</sup>

Although D. Schäfer attributes the rise of European civilization to the usual sources—Roman Empire, Christian religion, and German national characteristics<sup>2</sup>—he, too, considers that "a development on a new basis" began with the German states in the fifth century, and that a new world then appeared in place of the Græco-Roman one. "It was unavoidable that some details should be adopted from the Romans,"<sup>3</sup> but the medieval state was nevertheless "a German invention, for a long time clumsy, and not to be compared in the extent of its influence, either external or internal, with the gigantic organization of the Roman Empire. But from the ruins a new seed germinated." The

<sup>1</sup> Lamprecht, *Deutsche Geschichte*, i, 225.

<sup>2</sup> Schäfer, *Deutsche Geschichte*, i, Mittelalter. 4th edit., 1914, 67.

<sup>3</sup> *Ibid.*, 71 f.

independence of the German spirit seemed to him unquestionable. He thought that the foundations of human society were quickly relaid to suit the German temperament and were capable of development, but that the gains of antiquity disappeared and were for centuries almost forgotten.<sup>1</sup> Therefore Schäfer, too, speaks of a "retrograde step", a "destruction of Roman culture by the barbarians".

How did this fundamental theory concerning the origin of European culture come to be held? It grew up, in my opinion, with the great intellectual movement which set in in the middle of the fifteenth century, and is easily comprehensible if we remember this historical origin. The renaissance of classical antiquity involuntarily gave rise to a particular attitude of mind in Italy on the subject of the important problem of the German conquest of Rome. The more the ancient world was studied and admired by scholars, the more strongly did they feel its downfall as a national misfortune. The marvellous picture of that perfect culture, painted by the fancy of its admirers, makes it easily comprehensible that the conquerors of the Roman Empire should have seemed mere rough and violent savages, all the more so because the picture was based not on conditions during the period of conquest (the fifth century A.D.) but on those of the golden age of Roman art and literature. Cæsar and Tacitus were read and their term *barbari* was adopted, but with quite a different meaning from that which it had held for their contemporaries. From the point of view of the Renaissance Humanists, the Germans, who were outside the great civilization of Rome, were the enemies and destroyers of civilization, neither did the Humanists observe how completely they were giving the lie to their own authorities, nor how strongly this view conflicted with that held by the Roman authors. For Tacitus, with his high ethical evaluation and even admiration of those "barbarians", was contrasting German customs with the degeneration of Roman administration and the striking decline of ancient culture, and drawing an implicit moral.

The more splendid the works of art which were discovered by the newly-awakened interest in antiquity, the more hostile to civilization did the German conquerors seem. The highly sensitive imagination of these Southerners, whose enthusiasm so quickly leads to ecstatic exaggeration, could visualize that transition from classical to Germanic rule only in the light of a catastrophe, the violent shattering of a Roman world, which was believed to have remained untouched until that time; for they had no conception of the process of historic continuity. Upon the Germans, or the Goths, as the Italian Humanists called them, was placed the main responsibility for the downfall of the Roman world. To the neo-classical artists of the Renaissance, everything that lay between them and their admired models seemed "Gothic barbarism", an attitude which was, perhaps, most harshly expressed by Filaretus, crying in 1450: "Cursed be the man who invented this wretched Gothic architecture; only a Barbarian people could have brought it to Italy."<sup>2</sup>

Italian Humanism, then, crossed the Alps and created in Northern Europe also an enthusiasm for classical culture. It is true that a national opposition against the extreme Italian position soon made itself felt, especially in Germany, and led to active research into the German past.<sup>3</sup> But it must not be forgotten

<sup>1</sup> Ibid., 72.

<sup>2</sup> See C. Neumann, *Byzantinische Kultur und Renaissancekultur* (1903), 37.

<sup>3</sup> See Joachimsen, *Geschichtsauffassung und Geschichtsschreibung in Deutschland unter dem Einfluss des Humanismus*; (*Beiträge zur Kulturgeschichte des Mittelalters und der Renaissance*), ed. Walter Goetz, vi, 76 ff.

that German Humanists, too, believed the fall of the Roman Empire to have been a calamity and held the Germans responsible for it. Even men like Beatus Rhenanus, who was perhaps the first to approach a better understanding of the relationship of Germans and Romans, lament bitterly over the destruction of the much admired Empire. To him, also, the Germans are pillagers, barbarians in the modern sense of the word, i.e. savages. He does, it is true, praise as a valuable possession the high degree of freedom they had cultivated; but he regards even the Franks as being primarily destroyers, who devastated the towns and enslaved the Roman provinces which they had conquered, as the Huns of Attila had done before them.<sup>1</sup> The German Humanists had too great a respect and admiration for classical antiquity, and the sources from which they drew were too biased, for them to be able to understand the real and independent part played by German culture in the development of the new states of the early Middle Ages.

This Humanistic theory of the past held sway for a long time. It was the fundamental hypothesis on which subsequent theories were always built, and its continued existence was due to the peculiar line taken by later historical research, especially in the history of culture (*Kulturgeschichte*). For although the seventeenth century brought with it a great advance in historical knowledge in Germany, this advance was made in a different direction. The great motive forces of German political organization, territorialism, and princely despotism, also influenced historical interpretation and research,<sup>2</sup> and although, when the period of the creation of great new states began, historians once again turned to more general subjects, by this time the French Era of Enlightenment in the eighteenth century had imparted fresh life to the catastrophic theory of the humanists. Count Boulainvilliers put a very low estimate on Frankish culture, for he started from the political preconception that the French nobility descended from the Frankish conquerors of Gaul, whereas the conquered Romans formed the subject class; according to this view the Franks were nomads without fixed property in land, which they developed only after the subjection of the Romans by Clovis.<sup>3</sup> It was of little use that the learned Abbé Dubois attacked this view, holding that there was peaceful co-operation between Germans and Romans and asserting that the Germans came not as conquerors but as associates of the Romans, leaving the Roman system unchanged, and that the servitude of Gaul was first brought about in the ninth century by the rise of the nobility.<sup>4</sup> Montesquieu and Voltaire, who has been regarded—not quite correctly—as the founder of the history of culture, have on the whole the same Romanophil, or, rather, Germanophobe standpoint as the Humanists. Both Frenchmen were inspired by an extraordinary admiration for the Greeks and Romans. Voltaire, indeed, called them the two most gifted nations of the world,<sup>5</sup> and Montesquieu devoted a special work to the greatness of the Romans and its cause.<sup>6</sup> According to them the Roman empire became the prey of the barbarians, whose invasions caused general misery.<sup>7</sup> The destruction of a flourishing trade is, for Montesquieu, only one aspect of these melancholy negative influences, though as a writer

<sup>1</sup> *Ibid.*, 140.

<sup>2</sup> See in general F. Wegele, *Geschichte der Deutschen Historiographie*, 342, where, however, the connecting links are not sufficiently worked out or understood.

<sup>3</sup> *Histoire de l'ancien gouvernement de la France* (1737) and *État de la France* (1737).

<sup>4</sup> *Histoire critique de l'établissement de la monarchie française dans les Gaules* (1734).

<sup>5</sup> *La philosophie de l'histoire* (1765), chap. lii.

<sup>6</sup> *Considérations sur les causes de la grandeur des Romains et de leur décadence* (1734).

<sup>7</sup> Montesquieu, *L'esprit des lois* (1748), xxi, 17.

in the age of mercantilism he felt it nearest to his heart. His line of argument should be noticed. He gives a detailed description of the peculiar talent of the Romans for trade, their far-reaching commercial connections, and above all their encouragement of urban life. This trade, he thinks, was for the barbarians a mere object of plunder. "Soon there was no more trade in Europe!"

Compare with this Voltaire's picture of the transition from the Roman to the German world, in his *Essai sur les mœurs et l'esprit des nations*.<sup>1</sup> "If we pass from the history of the Roman Empire to that of the peoples who destroyed it in the West, we feel like travellers who leave a splendid city to find themselves in a thorny waste. Twenty barbaric dialects are the heirs of the beautiful Latin language, which was spoken from Illyria to the Atlas mountains. Whereas, up to that time, wise laws had ruled over half our hemisphere, now there are only savage customs. All the signs of civilization, amphitheatres, circuses, and the rest, which were erected throughout the provinces, are destroyed and lie in ruins, overgrown by grass. The excellent roads, which had led from the capital itself to the distant Taurus, are covered by stagnant pools." He sees the same upheaval in the sphere of intellectual culture. The whole of Europe fell into this shameful barbarism, and for long remained submerged; in Voltaire's opinion it did not recover until the sixteenth century. The Middle Ages are for him centuries of barbarism, horror, and superstition, of senseless tales of wonder—a monstrous negation of all civilization.

Not only do we find this supposed destruction of ancient culture playing an important part in later theories, but the positive interpretation given to internal German conditions was also influenced by these French writers, and especially by Montesquieu. It is he who is responsible for the view that the German tribes lived in forests and marshes, partly separated from one another by lakes.<sup>2</sup> Nay more, these conditions lasted, in his opinion, for a long time; the barbarians kept their habits and customs even after the conquest. They had little agriculture, but lived a pastoral life, and they had no industries. The general result of the conquest was to turn freemen into serfs. Great estates, particularly ecclesiastical estates, were now formed. Industry was carried on by serfs.<sup>3</sup> For Montesquieu the age of Charles the Great was merely an imitation of the Roman empire; after it, further disorders and wars brought about a relapse into that state of illiterate ignorance which Charles, by returning to Roman methods, had for a brief moment alleviated.

Here already we have, in its essential features, the unaltered and permanent basis, which was simply taken for granted in all later conceptions of this early period. It is interesting to note its further development by Guizot in France, at the beginning of the nineteenth century. The influence of Montesquieu is obvious; Guizot edited the Abbé Mably's work, *Observations sur l'histoire de France*, to which Montesquieu had already frequently referred.<sup>4</sup> Guizot holds the catastrophic theory of Voltaire and Montesquieu, and we find almost the same description of a highly developed civilization, vigorous trade, wealth, and a splendid way of living destroyed and completely swept away by the barbarian invasions.<sup>5</sup> Never have human beings had more evils to bear or more sorrows to endure. The treatment of the problem of the fall of the Roman Empire is

<sup>1</sup> At the end of the twelfth chapter.

<sup>2</sup> *Ibid.*, xxx, 6, 11, 12.

<sup>3</sup> *Essais sur l'histoire de France* 1823, 3 and 53 ff.

<sup>4</sup> *Op. cit.*, xxviii, 2.

<sup>5</sup> *Ibid.*, xxviii, 11.

significant. Guizot lays special stress on the fact that in the war with the barbarians no resistance on the part of the Roman nation can be traced, that indeed it seems to be entirely lacking; and this he considers to be one of the most surprising facts in history.<sup>1</sup> His important observation as to the silence of contemporary documents on this point did not, however, lead him on to take the next logical step and to doubt the correctness of his fundamental thesis; he was so sure that it was true.<sup>2</sup> He could only find an indirect answer to his question as to how this surprising silence was to be explained, and (in accordance with the sentiments of his time) he made imperial despotism responsible for the apathy of the people and their demoralization. A biased and truly characteristic method of writing the history of culture! He was unable to correct his general theory by a detailed examination of conditions, but attempted by devious subterfuges to reconcile his thesis with the catastrophic theory, which remained unchallenged and intact, although the contradictions embodied in it had already been shown up by the sources and were well known.

Beside this catastrophic theory, which is essentially of Romance origin, another and quite independent theory, starting from a different angle, had meanwhile found expression in Germany. It began by considering existing conditions, and tried to explain the past by the present. This was not accidental, for its originator was a man of practical experience, a lawyer taking an active part in public administration, who stood for the improvement of the economic and social conditions of his homeland. This man was Justus Möser of Osnabrück. In attempting to find historical foundations for his proposed reforms, he was led to link the present with the past. The basis of his work is to be found in the conditions prevailing in his own country, Westphalia, especially in the bishopric of Münster, which he considered particularly appropriate for an investigation of primitive forms of organization. Möser actually thought that the agrarian system of his own day was "still like that of the earliest times".<sup>3</sup> Like the French, he went back to Cæsar and Tacitus, seeking analogies for comparison with the present, but his practical experience in administrative technique enabled him to criticize them from an independent point of view, and he rejected Cæsar's description of the German agrarian system, since it did not correspond to Westphalian conditions. By so doing he made an important step forward in our knowledge of social and cultural history. His inductive reasoning from nature led him to a bold attack on the accepted authority of historical tradition. The practical expert attaches more importance to natural conditions of the soil than to descriptions of classical authors. Möser realized that Cæsar's descriptions could not have a general application, but were due to conditions of war, and consequently gave logical preference to the condition of his own part of the country, which was little affected by great political upheavals, least of all by wars. Thus he declared that the Westphalian isolated homesteads (*Einzelhöfe*) were the original form of settlement, and considered the *house* of fundamental importance.

Möser's views were determined by a second main influence. He was writing in the time of the peasant liberation and was politically active on its behalf. He

<sup>1</sup> Op. cit., 1 f.

<sup>2</sup> He considers that the age of Clovis was still one of chaos: "où l'on ne rencontre guère, que la lutte des forces et des indépendances individuelles." Ibid., 65.

<sup>3</sup> *Osnabrückische Geschichte* (2nd edit., 1780), i, 10.

was personally convinced that his age was especially favourable to liberty,<sup>1</sup> and he wrote the history of his country<sup>2</sup> as a good German patriot. The ideal of freedom plays a large part in it. Möser hoped to bring about a change in the interpretation of German history by showing that ordinary landowners were the true components of the nation and were therefore to be regarded as the proper subject of historical investigation. The earliest period seemed to him to be of the first importance, and he saw in it a "golden" age of free German farmers, associated with each other for purposes of self-government under an elected magistrate. This first period of "high and universal honour" lasted, according to Möser, till the time of Charles the Great; but it must be noted that he looked on this golden freedom as a survival from antiquity.<sup>3</sup>

Since Möser considers the separate homestead as the original form of settlement, he begins with private ownership. "Each homestead was, as it were, an independent state, which stood apart from its neighbour in peace or war."<sup>4</sup> But his Münster home caused him to adopt a second theory which suited conditions there. The isolation of the individuals was consummated in a union, which again rose out of natural conditions. "It would seem that the common use of forest, pasture, moor, or mountain, where no one could fence off his own share, first united a few of these men in our part of the world. We call such common preserves Marks; and perhaps the earliest tribes who settled in isolated communities were members of a Mark-association (*Markgenossen*)."<sup>5</sup> We must observe, however, what he means by these Marks. "Our whole diocese is divided into Marks, in which villages and separate dwellings lie scattered, and their boundaries do not coincide with any other boundaries, whether of district, local government, jurisdiction, parish, or hamlet. Nature and necessity alone seem to have directed the division, and we may therefore conclude that the boundary of the Mark is older than any other."<sup>5</sup> Common usage extends only to those pieces of land which are economically unsuitable for private property, or which may be more useful from an economic point of view if left undivided.

Möser may to-day be regarded as one of the founders of German economic history. For although Anton's later work on the history of German rural economy (*Geschichte der Deutschen Landwirtschaft*) was much more correct in some of its details, it was the fundamental views of Möser, and not those of Anton, which were adopted by later scholars. Möser's views were chiefly influential because they became the basis of German legal history. K. D. Hüllman, in his book on the origin of classes in Germany (1806), which was planned on a large scale, was the first to work out a formal system, which made him appear as the father of the so-called "manorial theory". In this study he uses many of the arguments of the Westphalian patriot. He describes the German national states on Roman soil as composed of settled peasant-farmers. According to him, their public constitution is a larger and more splendid imitation of the internal organization of the great homestead of the time.<sup>6</sup> The lord is the law-giver and judge of his tenants, who perform agricultural and military services. "A mere aggregate of landed properties and of isolated farmsteads, each of the

<sup>1</sup> *Patriotische Phantasien*, iv, 321.

<sup>2</sup> See the preface to the *Osnabrückischen Geschichte* (1768).

<sup>3</sup> *Ibid.* "This golden age continued to a considerable extent . . . under Charles the Great. But Charles was only the head on that ancient body."

<sup>4</sup> *Ibid.*, i, 11.

<sup>5</sup> *Ibid.*, i, 13.

<sup>6</sup> *Geschichte des Ursprunges der Stände in Deutschland*, i, 13 ff.

little kingdoms was little more than a great estate with many independent farms. The richest and therefore the most respected landowner was the head of the confederated landowners; he took the command in national wars, had chief place in national councils, and superintended the autonomous jurisdiction of the citizens of the state. Copy and original differed only in the fact that in the former the members of the community were settled on their own lands and were fully free, but in the latter they were on their ruler's land and were thus really not free." It will be seen that in spite of differences the fundamental ideas of Möser's theory are adopted here; free settlers in isolated homesteads forming as it were the nucleus of the state, and at the same time ruling it by virtue of their autonomy.

Then came a further development of Möser's Mark theory, in a form identical with that which he himself had introduced. This is found in K. F. Eichhorn's *Deutsche Staats- und Rechtsgeschichte*. In the first edition of this work (1808) the Mark-association still plays only a modest part and is again considered to be merely a form of unification, binding together privately-owned and isolated settlements.<sup>1</sup> Eichhorn expressly rejected the idea of common ownership of inherited or of landed properties<sup>2</sup>, and only allowed co-ownership.<sup>3</sup> He described the former as an unfounded hypothesis, which was unnecessary to explain the limitations on the right of disposal of property, apparently so disadvantageous to the heirs. He remarks that in any case these limitations may have originated for the most part in the following period, and therefore does not regard them as a survival from primitive times. It is true that later Eichhorn's own researches led him to another conclusion, but it should be noted how he arrived at these later views. In his famous thesis (*Über den Ursprung der städtischen Verfassung in Deutschland*) (1815), Möser is still clearly his starting-point<sup>4</sup>; moreover he refers expressly to Möser's works and follows him in taking for granted, as a "known and proven" fact, "that according to German ideas all law proceeded from the whole body of full citizens, by means of which they preserved their life, their honour, and their property."<sup>5</sup> The fundamental conception of the freedom and equality of the German peoples led Eichhorn at once to conclude, from the mention in Frankish documents of the eighth and ninth centuries of the right of the Mark to allot individual holdings (*Hufen*), that originally all Marks were divided into portions with equal rights, each held by several free owners.<sup>6</sup> Then, still clearly under Möser's influence, he formed the hypothesis that "the undivided Mark was owned in common by the inhabitants of the isolated homesteads (*Einzelhöfe*)", their rights of usage in it being decided by a "Mark-law", which "in accordance with the Germanic constitution" doubtless "grew up out of the decisions and decrees of all the Mark-associates."<sup>7</sup>

Thus legal constructions were used to build up a theory based upon comparatively late sources, despite the fact that in these sources the fundamental thesis of a free society of German land-owners no longer held good.<sup>8</sup> After

<sup>1</sup> 35 note b.

<sup>2</sup> *Ibid.*, 140.

<sup>3</sup> *Ibid.*, 148, note c.

<sup>4</sup> *Zeitschrift für geschichtliche Rechtswissenschaft*, i, 150: "Yet the term 'marca' is better suited to Low German colonization, where the separate farms of the peasants lie scattered in the Mark."

<sup>5</sup> *Ibid.*, 172.

<sup>6</sup> *Op. cit.*, 156.

<sup>7</sup> *Ibid.*, 169.

<sup>8</sup> Eichhorn himself had to acknowledge that our documentary information about individual settlements goes back no farther than the eighth century, and that the condition of the villas in earlier times was not what it appears in Carolingian sources.

Eichhorn had abandoned his original view<sup>1</sup> and that of his master, Möser, and had developed a definite theory of Mark-law and Mark-association, he described it in the later editions of his *Deutsche Staats- und Rechtsgeschichte* as the actual "basis of the earliest constitution".<sup>2</sup> He spoke of a complete "Mark-system" which "in later times was either laid down by the Mark-associates by virtue of their common ownership, or granted by the lord of the Mark".<sup>3</sup> This began to assume an ever-increasing significance. Private property in arable land (in which Eichhorn formerly admitted that there was private ownership, and which he did not include in the Mark) now also appears as "subject to common use, and takes on the character of a right of *usufruct* regulated by the community". According to Eichhorn, this explains Cæsar's statement that there was no real private property in land among the Germans. Thus Möser's theory was further developed, and wider generalizations were made from statements which he had applied only to the narrower sphere of Westphalia. Eichhorn's reputation and the wide circulation of his book, which went through many editions and gradually became the standard history of German law, created more and more adherents of this theory in Germany. His Mark theory was destined to become the cornerstone of the whole constitutional and legal history of that country.

It is interesting to note Eichhorn's position with regard to the old catastrophic theory. Here his scientific mode of investigation, based on a study of the sources, appears in sharp contrast to the speculative tendency of the French. He stresses the obvious lack of definite information, and cautiously rejects as improbable the theory of a systematic re-organization of the conquered Roman provinces by the Germans. He emphasizes the conservatism of the German conquerors in respect of the earlier population and their legal system.<sup>4</sup> In later editions he went so far as to maintain "that neither their civil organization nor their customs show any trace of savagery or barbarism".<sup>5</sup> In general, however, he adhered from the beginning to the view that in the Roman provinces of the Frankish kingdom there was a fusion of Germans and Romans into a new nation.<sup>6</sup> This new people is described by Eichhorn as undergoing a rapid increase of barbarism<sup>7</sup>; the former Roman culture is lost and gives way to an unbridled degradation. At the same time, however, he stresses as the special German contribution to this new development, their warlike character, and the liberty shown in their customs and constitution. We have already seen the influence of this last idea in his account of the development of law.

This theory of Germanic freedom and of the participation of all freemen in the government, Möser's *gemeine Ehre*, which had its origin in the ardent aspirations of the eighteenth century, continued to recur as a *leitmotif* in all accounts of the earliest German period. On it K. A. Rogge based his study, *Über das Gerichtswesen der Germanen* (1820), in which he maintains that the free Germans wielded a completely unfettered authority, without recognition of any superior or ruler.<sup>8</sup> In other contemporary or later works on economic and legal history this conviction appears again and again.<sup>9</sup> It was regarded, so

<sup>1</sup> In the second edition, 1818, i, 44, he holds to the older theory and directly quotes Möser (p. 46), but on 232 f. his conversion to the new point of view is to some extent indicated.

<sup>2</sup> See for example 4th edit. (1834), 61, or 5th edit. (1843), 57.

<sup>3</sup> Ibid. (4th edit.) 63, or (5th edit.) 58.

<sup>4</sup> Op. cit., 59 f.

<sup>5</sup> (5th edit.), i, 57.

<sup>6</sup> i, 245, § 117 = i (5th edit.), 471.

<sup>7</sup> i, 99, § 42.

<sup>8</sup> 1 f.

<sup>9</sup> See, for example, Savigny, *Geschichte des römischen Rechtes im Mittelalter* (1815), 160; Kindlinger, *Geschichte der deutschen Hörigkeit* (1819), 9, etc.

to speak, as a German national inheritance, the more so since the conditions of the moment made such a state of affairs appear a goal most ardently desired. This is clearly seen in those German patriots of the Romantic period, whose enthusiastic nationalism brought about a lively interest in the history of the past.

We find an important counterpart to this pivotal conception in Guizot's work (already mentioned) of 1823. Here an impressive antithesis between the Romanist and the Germanist conception of history is revealed. Guizot, also, interprets the name Frank as "freeman"<sup>1</sup>; he, too, thinks that the free alod was to be found when land-ownership first began. Every warrior was master of the piece of land which he himself had taken or which fell to him by lot. There was free land-ownership as well as personal freedom, and the settled Frank was as little under obligations to the state as in the time when he was still a hunter and a warrior.<sup>2</sup> But from this Guizot goes on to give a picture of the social development of that early time which is quite different from that of the German scholars. He attacks those who see in freedom a general characteristic of any young society, and will allow that it was so only at the very earliest stage.<sup>3</sup> In his opinion it is found only in humble circumstances, among shepherds, hunters, or savage warriors; but it disappears as soon as there is growth and expansion into more complicated political and social relationships. And, according to Guizot, the German tribes were already in this position when they settled in the West Roman Empire.<sup>4</sup> The simple conditions of earlier times, when the Germans were still beyond the Rhine, had become more complicated and diverse. Freedom was no longer the chief social characteristic; side by side with the rich Roman estate-owner we find the poor Frank, who was merely a simple tenant-farmer. There is every sort of variety and mixture, but no uniformity of social and economic development. The free population recedes more and more<sup>5</sup>; free organization is limited to local administration.<sup>6</sup> But Guizot says nothing of a Mark-system; he saw no trace of it in contemporary sources, though he used them in detail. To him the new system seems to be one of territorial lordship, and it is interesting to note how he imagines this transition *in concreto*. In his opinion, the hordes of warriors did not at once break up after their successful raids, to live separately each with his family. That would soon have endangered the conquerors. The Franks did not like working themselves, but preferred to spend a social life in games and drinking. As a consequence of this, land was appropriated as a whole by the leaders of a horde, and their followers lived on their property; hence the numerous free tenants on the land of others, and the comparatively small number of real land-owners among the Franks.<sup>7</sup>

Guizot's work shows an unmistakable advance in the history of culture. It avoids mechanical imitation and tries to give a rational explanation of definite historical facts. Instead of proceeding from certain fundamental views, regarded almost as axiomatic, he takes the concrete historical phenomena as the basis of his theory, even though his description of developments thereby loses uniformity. But his historical acumen and correct knowledge had no lasting effect on later works. Even Augustin Thierry's *Considérations sur l'histoire de France*, a widely-read book, which succeeded in describing the Germanic occupation of Gaul

<sup>1</sup> Op. cit., 56.

<sup>2</sup> Ibid., 186.

<sup>3</sup> Ibid., 236 ff.

<sup>4</sup> Ibid., 111.

<sup>5</sup> Ibid., 98.

<sup>6</sup> Ibid., 189 ff.

<sup>7</sup> Ibid., 256 f.

much as recent historians have done, assumed that there was a far-reaching destruction and devastation of Northern France, which the Frankish conquerors invaded in greater numbers than the centre or the south, where they had less influence; and his description of the social reconstruction of that area resembled in its main lines the view of Count Boulainvilliers. Jakob Grimm, whose *Deutsche Rechtsalterthümer* had meanwhile appeared (1828), was also unable to accomplish much on this important point, since his position was not sufficiently sharply defined. He correctly emphasized the existence of divided and undivided property, the latter especially to be found in forests and pastures, and tried to limit the conception of the Mark to such land; yet at the same time he admitted that in certain cases it included arable land also, and that the Mark-community had a certain authority even over the house and arable property divided among its members. The undivided ownership seemed to him the more primitive, although he pointed out that German history gives very scanty indications of its existence, and that the by-laws (*Weistümer*) of the Mark were not written down till the Middle Ages were over.<sup>1</sup>

The theories which governed the history of culture during the succeeding period owed their special character to the fact that they were, on the whole, put forward mainly by lawyers. The part which Beseler played in this matter does not seem to have been sufficiently appreciated. He proceeded from the basis of German civil law. In his work *Die Lehre von den Erbverträgen* (1835), he first described death legacies according to early German law. He did not, as others had done, seek an economic explanation for these legacies with their peculiar limitations, by assuming a characteristically German communal ownership, but found instead a social explanation in the principle of association (*Genossenschaft*). The corporative motive seems to him the peculiar characteristic of Germanic life, throughout which a ramification of associations is to be observed.<sup>2</sup> Here Beseler is referring in particular to the Mark-associations, and the town and village communities. It is to be observed how dependent he is on the older theory; he also starts from the freedom of the Germans and assumes their equality. The people was responsible for its own laws, which were not the result of legislative action, but of free discussion among the members of an association, extended and fortified by agreement.<sup>3</sup>

This association theory was certainly, in the first place, the offspring of contemporary ideas about the freedom and equality of the early Germans, which Jakob Grimm also held in great honour. But it received a special impetus from the great public agitation for co-operation which began in the first half of the nineteenth century in Europe. Such democratic movements were greatly in its favour. In 1836 Weiske<sup>4</sup> described the Mark as the earliest type of settlement made by an association group in which, instead of all the land being divided up without exception, the uncultivated land or that less suitable for cultivation remained as the common property of the associates. Here, therefore, a situation which Möser considered to be the result of natural conditions or of agricultural technique, is already represented as the conscious expression of the will of the

<sup>1</sup> *Deutsche Rechtsalterthümer*, 495 ff., especially 501.

<sup>2</sup> *Op. cit.*, i, 80.

<sup>3</sup> See his inaugural speech at Basel, 1836: "Über die Stellung des römischen Rechts zu dem nationalen Recht der germanischen Völker," 7.

<sup>4</sup> *Die Grundlagen der früheren Verfassung Deutschlands*, 5.

community. R. Zeuss in his famous work *Die Deutschen und ihre Nachbarstämme* (1837) interpreted Cæsar's well-known account of the Germans in the same way. "There is as yet no established or regulated land-ownership. The inhabitant is not attached to a definite portion of the land; there is undivided common ownership."<sup>1</sup>

Thus the fundamental observations which J. Möser had drawn from nature itself were re-shaped by legal arguments into a Mark-association theory, which was really something quite different. It is true that it was not entirely uncontradicted. "Möser's assumptions," said Jakob Grimm, "soared into a realm of uncertainty; and, dazzled by their rashness, none of his successors was able to imitate his great gift of observation."<sup>2</sup> For his own part he realizes that it is difficult to justify the overbold combination and comparison of distant periods of time. He realizes in particular the doubtful nature of Möser's use of sources,—passages from Tacitus, from the old laws, from medieval records, and from *Weistümer*, which were written perhaps only a century ago, all quoted in the same connection.<sup>3</sup> But not only was doubt awakened by the complete disregard of the rule that sources must be contemporary, which is one of the fundamental conditions of modern historical research, but the whole method of building a vast structure on the foundation of merely arbitrary theses was soon called in question. In 1842 Wilda attacked Rogge's conception of Germanic freedom and declared that his edifice of German political and legal administration hovered between heaven and earth.<sup>4</sup> He also attacked the historians who assumed that the German state arose in the beginning out of isolated settlements and homesteads, and that the Mark-association was the origin and central point of all German constitutional development. In opposition to this, Wilda emphasized the state, in which national and local communities took a subordinate place.<sup>5</sup> Already in Tacitus' earliest accounts of the Germans, although their agrarian system might indicate conditions still close to those of nomadic life, he sees the elements of a state, especially as regards subordination to the collective will.<sup>6</sup>

Two years later (1844) Heinrich von Sybel opposed the Mark theory still more emphatically. He follows Wilda and Weiske in pointing out the lack of all definite evidence for the existence of Marks and Gaus before the age of folk migrations<sup>7</sup>; and he realizes the contradiction between that theory and the accounts of Cæsar and Tacitus.<sup>8</sup> He also expresses doubts as to the retrospective method of investigation, which seeks to prove "an everlasting permanency in the apparently accidental" from German antiquity as a whole. "The Mark-judges of the Germans were aboriginals, like their temples and priests, their kings and gods."<sup>9</sup> v. Sybel rightly urged that development and change had taken place in the course of time, and he found support in the evidence of historical conditions, according to which this seemed "natural and necessary."<sup>10</sup> v. Sybel was undoubtedly right to emphasize the fact that "the germ of truth in these opposite views is not the civilization, but the capacity for civilization of our

<sup>1</sup> Op. cit., 52.

<sup>3</sup> Ibid., p. viii.

<sup>5</sup> Ibid., 122.

<sup>7</sup> *Die Entstehung des deutschen Königthums*, 3.

<sup>8</sup> "If we look on the mark as the earliest German corporation, we must inevitably conclude that Cæsar's statements about German agriculture are to be doubted and the passages in Tacitus must be explained in some other way."

<sup>9</sup> Ibid., 4.

<sup>2</sup> *Deutsche Rechtsalterthümer*, Preface, p. vi.

<sup>4</sup> *Geschichte des deutschen Strafrechts*, i, 120.

<sup>6</sup> Ibid., 124.

<sup>10</sup> Ibid., 5.

nation in its historical beginnings", and this happy statement gives his position also with regard to the catastrophic theory of the Romance peoples.

v. Sybel's demands that the gaps in our historical knowledge should be filled received an immediate answer from two directions. In the first place, a comprehensive account of the whole of early German constitutional history was undertaken by Lehuërou in 1843 in France<sup>1</sup>, and by G. Waitz in 1844 in Germany.<sup>2</sup> As this necessitated further investigation of German sources, peculiar and local conditions were brought into larger groups and thus more correct standards were reached for the whole. Waitz, it should be observed, as a thorough student of his sources, declared that "the view according to which Mark associations were the basis of all political combination among the Germans, must be abandoned."<sup>3</sup> He complains in particular that although Möser had limited the scope of his theories to his own part of the country, an unhistorical generalization had been made from them.

In the second place, our knowledge of early economic and social development was considerably enriched by the publication and elucidation of great and important historical sources. Among the numerous commentaries on early German law two in particular should be mentioned, Pardessus' edition of the *Loi Salique* (1843) and Guérard's standard work, *Le polyptyque de l'abbé Irminon* (1844); the latter, in his publication of the estate-book of St. Germain des Prés (near Paris), took the opportunity of collecting early sources for economic history and making scientific use of them. In the same year (1844) Gaupp, in his still valuable work *Die germanischen Ansiedelungen und Landtheilungen in den Provinzen des römischen Westreiches*, developed important ideas, which are accurate social history and even social politics. His preface on the relationship between his research and his own time deserves to be remembered to-day. He praises above all in recent historical investigations "the respect for the characteristic way in which each nation expresses the spirit of humanity, and a conviction that beside the great historical personalities the nations themselves are to be regarded as the individuals, into whose soul and spirit research must try to penetrate."<sup>4</sup> "Germans and Romans became the representatives of the new civilization."<sup>5</sup> By an examination of their intimate historical interrelations "of the way in which the lands of the Roman empire in the west became germanized, of the fusion of the two peoples, and of the extraordinary stimulus this process received from the very nature of the early settlements, resulting as they did in the transference of so many Roman elements to the Germanic world," he hopes to "show an ever increasing approach of each to the other." He is especially glad that the tendency to look on everything Germanic as barbarism has ceased, and that even Romance scholarship has realized the high ethical gifts which the youthful German race brought to the languishing Roman world.

Gaupp's work raised the treatment of this great problem in the history of civilization to a higher level. Research is placed beyond general opinions on a concrete basis, and the necessary distinction is made between the different settlements of the various German tribes, which had by no means the same

<sup>1</sup> *Histoire des Institutions Mérovingiennes*, the second volume of which gives a constitutional history of Carolingian times.

<sup>2</sup> *Deutsche Verfassungsgeschichte*, i. *Die Zeit vor den grossen Wanderungen*.

<sup>3</sup> *Ibid.*, i, 31.

<sup>4</sup> Preface, vi.

<sup>5</sup> *Ibid.*, ix.

methods of colonization.<sup>1</sup> Most important of all, Gaupp had a better understanding of the real basis of this new development, for he began by trying to describe the late Roman conditions with which the Germanic conquerors now came into contact. No longer did a more or less vague and idealistic picture of classical Roman civilization serve as the starting point of his investigations. The simple assertion by which he safeguarded himself against any suspicion of political bias indicated in fact an immense advance: "My only purpose throughout has been to describe things as they really were."<sup>2</sup>

While scholarship was thus gaining in breadth and depth, Möser's theories continued to find new adherents. Economic history especially seemed to profit by his method of proceeding from present conditions to the past. The Dane, Olufsen, followed his example and as a practical surveyor arrived at new conclusions concerning the economic development of the past by technical arguments drawn from existing field-divisions.<sup>3</sup> Georg Hanssen in his *Ansichten über das Agrarwesen der Vorzeit*, published from 1835 onwards,<sup>4</sup> materially assisted in spreading this new criterion in Germany, and helped to give scholars a special bias towards agrarian history. He realized the novelty of this procedure, and felt that it was helping in the progress of historical study.<sup>5</sup>

Dönniges' popular work on *Das deutsche Staatsrecht und die deutsche Reichsverfassung* (1842) relies on Möser's theory, and on its further development by Eichhorn and Savigny.<sup>6</sup> But the theory also spread outside Germany. I need only mention Kemble's great work, *The Saxons in England* (1848), which followed German scholars (Eichhorn, J. Grimm, Dönniges, and others) and saw in the Mark "the original basis on which the whole social order of the Germans rested". Kemble went even farther.<sup>7</sup> For him the Mark is a voluntary union of freemen with full self-determination in the management of their affairs. His method of investigation is noteworthy. He relied on Grimm's *Weistümer*, i.e. on sources of a much later period, confirming still further the method of reconstruction so popular since Möser's day, in spite of the hesitation which even Grimm felt about using these documents as sources for the elucidation of early times. He emphasized the fact, however, that there was no historical material in England for the early period, but held that there was no reason to doubt that the course of development there had been the same as in Germany.<sup>8</sup>

Later scholars in Germany unhesitatingly adopted the assumption that primitive conditions continued throughout the centuries. It appears clearly in Georg Landau's book about the German Territories (1854). A native of Hessen,

<sup>1</sup> Thierry, *Lettres sur l'histoire de France* (1827), had already helped in this direction; see especially 11.

<sup>2</sup> Preface, ix.

<sup>3</sup> *Bidrag til Oplysning om Danmarks indvortes Forfatning i de aeldre Tider, isaer i det trettende Aarhundrede*. Copenhagen, 1821.

<sup>4</sup> These appeared first in *Falcks Staatsbürgerlichem Magazin III und VI. 1835 und 1837*, and were later collected in Hanssen's *Agrarhistorischen Abhandlungen*, i (1880).

<sup>5</sup> "Recent historians," he said in this essay, p. 1, "unlike earlier scholars, have directed their attention much more to the investigation of conditions, as well as to the study and report of events, thus putting history on a firmer foundation."

<sup>6</sup> See what is said on pages 5 and 6 on freedom and the community.

<sup>7</sup> "This is the original basis upon which all Teutonic society rests, and must be assumed to have been at first amply competent to meet all the demands of society in a simple and early stage of development: for example, to have been a union for the purpose of administering justice, or supplying a mutual guarantee of peace, security, and freedom for the inhabitants of the district." Kemble, *The Saxons in England* (1848), i, 53-4.

<sup>8</sup> *Ibid.*

he had already in 1840 published a *Beschreibung des Kurfürstentums Hessen*, and it then occurred to him that there was a "similarity between the past and the present" and that development must have been conditioned, not by chance, but by an organic life based on definite laws. In order to study this connection he used the retrospective method of investigation, proceeding from the known present to the unknown past. It must be remembered that Landau purposely and consciously limited his research to matters concerning the land. He gave as his reason that territorial conditions were the substructure of the whole, the true basis on which the national life was built up.<sup>1</sup> It was agrarian history. The same ideas appear in G. L. v. Maurer's work of the same year (1854): *Einleitung, zur Geschichte der Mark-Hof, Dorf- und Stadtverfassung und der öffentlichen Gewalt*. "The state," he says, "like the individual, is more or less the creation of its own history, which, like nature, is subject to certain rules and laws." The constitution of the state, according to v. Maurer, originated in interconnecting arrangements about land and property, and, above all, in the Mark. But beside these he places, in the first instance, the types of village and town constitution, the conditions of seigniorial land ownership with its manorial system, and lastly the history of public authority itself. These are all closely connected and one cannot be made clear and comprehensible without the others. v. Maurer proceeded to deal with them in separate works.<sup>2</sup>

Thus research was more and more forced in one definite direction. All public arrangements seemed to be the result of the territorial system in Hüllmann's sense. It is true that G. L. v. Maurer's works to some extent altered the old theory of Möser. The separate homestead system as the basis of the whole development, an idea derived from the study of Westphalian characteristics, did not appear convincing to Maurer. On the contrary he thought that the village was the starting point. "The first cultivation of the land was not carried out by individuals but by whole families and tribes."<sup>3</sup> To a very great extent Maurer also used later conditions to explain earlier accounts. Indeed, it may be said that Grimm's edition of the late medieval *Weistümer* was the real basis of his whole exposition. At first, in his preface of 1854, he was careful in his use of early sources and cautious in criticizing and limiting his assumptions, but subsequently he followed more freely the accounts given in later sources; the manorial system appears to an increasing extent as the basis of sovereignty, and the constitution of the state as the root of all public institutions.

Thudichum in 1860 supported the researches of Landau and G. L. v. Maurer. Like Landau, he described the system of Gaus and Marks (*Die Gau- und Markenverfassung in Deutschland*), proceeding from the history of his homeland, in this case the Wetterau. He pays still less attention to the chronological analysis of his sources,<sup>4</sup> and, following Maurer and Landau, unhesitatingly accepts not only the late medieval *Weistümer*, but also even later sources, as evidence for the earliest systems. He, too, was influenced by the theory of primitive freedom. Most of the German peoples formed, according to his theory, "completely

<sup>1</sup> See the Preface, p. iv.

<sup>2</sup> *Geschichte der Markenverfassung in Deutschland* (1856); *Geschichte der Fronhöfe, der Bauernhöfe und der Hofverfassung* (1862 ff.); *Geschichte der Städteverfassung in Deutschland* (1869 ff.).

<sup>3</sup> Introduction, p. 3.

<sup>4</sup> On the very first page he states that the documentary sources of German history begin in the eighth century.

free states," with republican administration even in the time of Tacitus.<sup>1</sup> Thudichum's work is certainly of some value even to-day. Many explanations have been made possible by using these later sources, and there is no reason to dispense with their help. But even though in details he was able partially to correct, and to formulate more clearly, the knowledge already gained, in general he could not escape from the magic circle of the manorial theory of development.

Only Waitz, in his great work on German constitutional history, was able to break away from this biased method of approach. But the extraordinary merit of Waitz, in my opinion, lies elsewhere, in the fact that by the most careful analysis of his sources he set limits to their application, and as far as possible avoided the use of late documents.<sup>2</sup> Only thus could the process of development be understood, only thus could the hypothesis be reached which v. Sybel had recognized to be requisite for a successful advance in research.<sup>3</sup> The very "faults" with which later historians reproached Waitz's exposition, his prosaic and dry reliance on the actual words of the sources, and his direct quotation of them, often at full length—"the great card index" as his work has been mockingly called—first made it possible to clear up the old unscientific treatment of these great problems in the history of culture. Thus, in the first volume of his constitutional history, he could coolly shake off those earlier theories of German barbarism<sup>4</sup> which were deduced from a superficial reading of the sources and a misinterpretation of texts in Cæsar and Tacitus—theories which were partly the result of political prejudices, falsely read into the sources. Waitz thus caused the problem to be regarded as a single whole, and so the state came into its own again. He not merely rejected the old Mark association theory<sup>5</sup>; he also emphasized the fact that "among the Germans full political power was vested in the community; its council contained within itself all law and dominion, and all authority proceeded from it."<sup>6</sup> In this Waitz is thinking of the greater council of the whole Gau, of the tribe. It chose the authorities. The king, or if there were no monarchy, the elected prince, did not compete for power, but was the executive organ of the people.

The researches of Paul Roth were later of fundamental importance for the whole theory of early German civilization. The more recent French supporters of the earlier barbarian theory logically denied that among the uncultured Germans, living like savages in bands and hordes, there could exist a public authority or a state; but Roth attacked this theory and set out from the beginning to prove that "the basis of the German state was not a vassal relationship or dependence on the chief of a band, but a simple bond between subjects, the dependence of every free inhabitant on the common authority of the German state. . . ."<sup>7</sup> Even before the folk migrations German community-life rested on the subordination of all freemen to a common authority. In most of the Middle German tribes the national council was the sovereign power; it took the place occupied by the king in the Frankish kingdom. Individuals were obedient to it; its decrees were binding on all. . . . "It is the equality of all freemen that forms the main basis of the German state. Authorities are chosen by the community and responsible to it. . . . Everything is permeated by the principle of self-

<sup>1</sup> See his *Der altdeutsche Staat*, 1862, 57.

<sup>2</sup> See above, p. 11 f.

<sup>3</sup> See above, p. 12.

<sup>4</sup> *Geschichte des Beneficialwesens*, 1850, Preface, vii.

<sup>5</sup> See above, p. 12.

<sup>6</sup> See i, 6.

<sup>7</sup> See i, 53 ff.

government. As the individual rules his family, so the village, the Mark association, the Gau, rule themselves. And yet this multiplicity is not without a common centre. The national council of all freemen is the head of the tribe and guides the whole." <sup>1</sup>

Thus Roth holds in the main to the earlier theory of German scholars, concerning the freedom and equality of the Germans and their self-government. According to him, however, this democratic constitution then gave way to monarchy, "not by a sanguinary upheaval, not by usurpation or a cunning exploitation of circumstances on the part of an overpowering force, but by the free choice of the people." And this new monarchy is not a "shameful despotism", but is of such a kind that even princely rule is magisterial in character. Roth sees a survival of this old German system in England "which remained comparatively free and happy because it suppressed the Celtic and Roman elements". <sup>2</sup>

Thus, although Roth adopted some points in the earlier theories of Möser and Eichhorn, he subordinated them to the idea of the state as the basis of all German organization. But his great controversy with Waitz about the origin of the feudal system, and his position with regard to J. Ficker's views on the difference between the Roman and the German conceptions of the state, made him emphasize all the more strongly the importance of the state in the earliest Germanic organization.<sup>3</sup> His opposition to Ficker's "German conception of the state" and its supposed tendency to laxity and disruption, gave him a chance of expressing his views about the culture of the German peoples. "Emerging from the isolation of tribal life in which Tacitus depicts them, the Germans rush upon the Roman world, not merely in single tribes or chance unions of several tribes, but in federations which become more and more consolidated during the centuries. The differences between the individual components of these federations are levelled up."<sup>4</sup> Roth is of opinion that the tribes were assimilated by the conquered people. "The Roman provincials themselves became free associates in the Frankish kingdom." He sees in this a difference between German and Roman conquest, in that the former gives to the conquered people the same legal rights as the conquerors. The conquered retain their characteristic systems, though only so far as is compatible with uniformity of government.

Thus a theory arose which directly contradicted the older hypothesis of enslavement. As it could be based on sources belonging to the early Frankish period, the other theories concerning that period, the supposed savagery of the conquerors and their destruction of all Roman culture, lost every logical support. They were seen to be incompatible with the historical facts found in the earliest documents. But at the same time the Mark-association theory, as Maurer had developed it, was assailed by this vigorous emphasis on the principle of public authority as the basis of the whole constitution. Was there indeed any logical compatibility between the two?

A very important combination of v. Maurer's earlier Mark theory with Roth's theory of the state is seen in Gierke's great work, *Das deutsche Genossenschaftsrecht*. The underlying connections here should be noted. The first volume appeared in 1868 at a time when there were vigorous co-operative movements

<sup>1</sup> Ibid., 29 f.

<sup>2</sup> Ibid., 33.

<sup>3</sup> See his later work, *Feudalität und Unterthanenverband*, 1863, 23.

<sup>4</sup> Ibid., 19 f.

in Germany; and the book was dedicated to G. Beseler. It closely follows his theory. The wide expansion and great influence of the corporative impulse, which Beseler had stressed as a peculiar feature of German life,<sup>1</sup> here becomes the foundation of the whole social and political order. Like Beseler and the holders of the earlier freedom theory, Gierke is convinced that all freemen as associates had equal rights and equal duties. The right of the associates was freedom, the conceptions of freedom and of folk-association coincided.<sup>2</sup> The folk-association was identical with the sum of all freemen capable of bearing arms among the people. Each man was equally the co-representative, co-protector, and co-defender of the folk-peace and the folk-law; and among the Germans this folk-association took the place of the state.

It will be seen that here Gierke departs from v. Maurer's views, and introduces the conception of the state according to Roth into the Mark theory, constituting a great advance on the older theory, which he otherwise followed closely.<sup>3</sup> With direct reference to v. Maurer he adds: "The principle which determined the settlements and their earliest development was everywhere the same, a communal occupation of the land, from which there then developed communal ownership from the legal point of view, and communal farming from an economic point of view."<sup>4</sup> But Gierke placed the political associations, Gau and folk, in a higher category than the economic ones. It is true that he arrived at this extension of v. Maurer's theory, not by the help of historical evidence, which is wholly lacking, but by speculation. Gierke tries to surmount the difficulties of combining these heterogeneous developments by supposing a temporary affiliation between them, and at the same time another and higher aim for the later forms. Originally, he says, every political association was a Mark-community. But folk- and Gau-Marks were not used for the individual economic needs of the folk- and Gau-associates, but for the purposes of the community as a whole; this was why the rights of the community were so prominent that they assumed the character of a public ownership, and as such were transferred to the kingdom and its representative the king, as greater states were formed.<sup>5</sup> Gierke must have felt how different these views were from v. Maurer's. The Mark-community of the older theory is essentially only an economic community. While v. Maurer as a logical result of his views about the Mark finally came to the conclusion that whole territories (e.g., Bavaria, Alemannia, Thuringia, Carinthia, Carniola, Austria, and perhaps Brandenburg) originated in such ancient Marks,<sup>6</sup> Gierke realized the absurdity of such a comprehensive definition. He did not, however, draw the obvious conclusion from his realization of the fact that those areas never were Mark-communities in the sense of economic associations, nor did he doubt the general correctness of v. Maurer's view. Instead he tried to reconcile the two ideas. He thinks it possible "that those lands at some time possessed an undivided common Mark", which did not have any determining influence on their development.<sup>7</sup> But does not this admission shake Gierke's theory too? If in so many cases the original Mark-community had no actual determining influence on the development of political communities, how

<sup>1</sup> See above, p. 10.

<sup>2</sup> *Das Deutsche Genossenschaftsrecht*, I, 35.

<sup>3</sup> See, for example, *Ibid.* 60 f.: "As a rule tribes . . . settled in a Mark . . . and thus the community became landowner and possessor of the Mark, and decided the manner of the settlement and the apportioning of the land."

<sup>4</sup> *Ibid.*, 55.

<sup>5</sup> *Ibid.*, 81.

<sup>6</sup> *Op. cit.*, Preface, 49.

<sup>7</sup> *Op. cit.*, 81, note 1.

are we to admit the probability that as a general rule every political community originated in a Mark-community?

These views were soon subjected to a serious and authoritative attack. Waitz had already opposed them, though rather feebly,<sup>1</sup> and now in 1871 Rudolf Sohm attacked them with vigour. He opposed the French school, which denied that the Germanic barbarians had any real conception of the state, and he showed that its views were really supported by the manorial theory of German scholars. "The views of v. Maurer and Gierke change the Frankish kingdom into a great estate and Frankish monarchic rule into a peasant economy."<sup>2</sup> Sohm places Gierke's association-theory of early German law beside that of Rogge concerning the absolute freedom of the Germans. "The old German political community is dissolved into chaos alike by Rogge's feuds and by Gierke's associations (*Genossenschaften*)."<sup>3</sup> Sohm utterly denies that the Germanic conceptions of state and association are identical, and he emphasizes the fundamental difference between association and state in old German law.<sup>4</sup> His exposition has, at any rate, the great merit of showing that v. Maurer's and Gierke's theories are so artificially constructed that opposite opinions can claim to be equally well founded.

Meanwhile, the new method of scientific research in the history of culture was further developed by August Meitzen. A practical surveyor, like Olufsen, he used the present-day divisions of the soil as an important criterion of economic conditions in the past. With their help he drew up in 1868 a series of original types of settlement,<sup>5</sup> which he regarded as survivals of quite definitely early periods, and made use of them to describe the economic characteristics of those times. First, the separate-homestead settlement, which he limited at first to Westphalia and the plain of the Lower Rhine; secondly, the nucleated villages between the Moselle and the Elbe, which "have preserved in a surprisingly early form the remains of a communal system" in their division of the arable into *Gewanne* (in English "shots" or "wongs"), in which the owners of the individual *Hufen* have proportionate shares.<sup>6</sup> He insisted that "the most remarkable system of land division and land cultivation, directly descended from the earliest type of Mark-association", is to be seen in the *Gehöferschaften* of the Moselle country of Trier.<sup>7</sup> With these types of the old German folk-land he contrasted the more recent group of colonial villages of the Slavonic East, which are essentially manorial types, corresponding to the later period of their foundation.<sup>8</sup>

Meitzen acknowledged at once, and realized more and more as he handled his material in greater detail, that these types do not occur uniformly over compact and limited areas of settlements. Quite apart from the occurrence of later forms of settlements within the district of the old folk-land (a co-ordination which may easily be explained by chronological sequence), complete nucleated open *Gewanddörfer* are found in regions of separate homestead settlement, and vice versa. In order to explain these phenomena, Meitzen was often forced into

<sup>1</sup> V.G. ii<sup>2</sup>, 163, note 1 (1870): "Gierke seems to be quite wrong in stating that there was no such thing as a state among the early Germans or the Franks."

<sup>2</sup> *Die altdeutsche Reichs- und Gerichtsverfassung*, Preface, 9.

<sup>3</sup> *Ibid.*, 12.

<sup>4</sup> *Ibid.*, 15.

<sup>5</sup> *Der Boden und die landwirtschaftlichen Verhältnisse des preussischen Staates*, i, 344 ff.

<sup>6</sup> *Ibid.*, 349.

<sup>7</sup> *Ibid.*, 348.

<sup>8</sup> *Ibid.*, 356 ff., 366 ff.

bold fabrications, the contradictions of which barely concealed the artificiality of the whole theory.<sup>1</sup>

One fact must here be emphasized: Meitzen did not arrive at these views independently and gradually as a result of his research into land-division, but was from the beginning decisively influenced by the theories of v. Maurer and Landau. He regards it as certain that the early settlements were the work of the Mark-association,<sup>2</sup> and takes equally for granted the common ownership of the Mark-land by tribal and family groups. He did not reach a knowledge of the types of settlement from the lay-out of the arable (*Flureinteilung*), but adopted them from earlier economic history, and tried, as it were, to illustrate and prove them from that lay-out. The long interval between those early settlements and the conditions of to-day left a back door always open by means of which obvious discords might be eliminated as exceptions or later transferences.<sup>3</sup> In general, moreover, it is surprising how arbitrarily the supposed characteristics of the different types are used in dealing with individual cases. For example, in one village (Domnowitz in Silesia) which he ascribes to later colonization, Meitzen notices that the grouping of the fields in the map has the appearance of *Gewanne*; but there is no trace of the principle that each farmer should receive a proportionate share in each *Gewanne*.<sup>4</sup> The absence of this principle is the decisive factor in classing this village in the group of later colonization. But immediately afterwards he points out that in a village of this group in the same region (Domslau), the arable (*Feldflur*) is divided into absolutely regular *Gewanne*, in which the due shares of individual owners are numerically apportioned according to the number of *Hufen*.

The next ally to come to the help of research into the history of culture was the study of place-names, used as sources for the history of settlement. In Germany the pioneer was W. Arnold, who in his book *Die Ansiedelungen und Wanderungen deutscher Stämme* (1875) sought to describe the settlements and wanderings of the German tribes by the aid of the place-names of his homeland, Hessen. His work laid the foundation for the succeeding period and was later taken as pattern and guide by numerous scholars. I shall here omit the linguistic side of the question and merely point out that different etymological explanations of the same name have been given by different philologists. What is fundamentally more significant, in my opinion, is the fact that the allocation and meaning of these place-names from the point of view of the history of settlement should have been studied by men who were definitely under the influence of certain theories of economic history. Earlier scholars imagined Germany in the Roman period as a great primeval forest, full of marsh and moorland<sup>5</sup>; consequently Arnold ascribed place-names connected with clearing to the early period of the first colonization at the end of the fifth century,<sup>6</sup> because he could only imagine that the sites themselves must have been acquired for settlement by means of clearing. Arnold also holds firmly to the Mark-theory.<sup>7</sup> He attributes

<sup>1</sup> See below, Chapter IV.

<sup>2</sup> Op. cit., 344 f.

<sup>3</sup> Thus, for example, the appearance of big estate-owners in the *Gewanddörfern* of the old folk-land is explained by him as due to early peasant property. Op. cit., 354. Of course, he gives no documentary authority for this.

<sup>4</sup> Ibid., 361.

<sup>5</sup> See below, Chapter II.

<sup>6</sup> Op. cit., p. 249 ff. On 395 he actually states: "After the thirteenth century, the amount of woodland remained on the whole unchanged." See also his *Deutsche Urzeit* (1879), 214, 230.

<sup>7</sup> See especially, 249; and *Deutsche Urzeit*, 231.

the smaller clearings to the common freemen, who on account of their comparatively small property could clear only little portions of the Mark, "as an accessory to land which was already tilled." These were then subject to the common routine of cultivation. The great *Bifangs*, on the other hand, were the sole property of great lords, for the work of reclamation was carried on from their manorial demesnes.<sup>1</sup> Arnold also deals in an even more arbitrary fashion with conditions as shown in the sources. According to him the usual view that the share in the common Mark was an appendage to the divided arable land should simply be reversed: "the Mark-association is the original; and private property in land is a derivation from it."<sup>2</sup> This would explain the primitive routine of common cultivation, in which there was as yet no completely developed system of private ownership but a constant reallocation of the share of each owner in the arable land, "a change not only in the utilization but in the ownership of the fields." It is obvious how little Arnold realized what was proved by the sources, and how freely he has sometimes construed them, at any rate as far as their significance for economic history is concerned.

Long before Arnold's time other scholars had already used groups of particular place-names for the purposes of the history of settlement. I may remind the reader that Kemble in 1848 considered that English village-names in *-ing* (A.S. *ingas*) were in general patronymics, and hence that they were derived from a common tribal ancestor or first founder.<sup>3</sup> These noteworthy conclusions, which later had many adherents,<sup>4</sup> were, however, also dependent on, and determined by, quite definite theories of economic history. We have seen that Kemble adopted and developed the German Mark-theory,<sup>5</sup> and his followers did not question it, since no one doubted its correctness or thought it necessary to examine it critically. In Germany, S. Riezler in 1887<sup>6</sup> explained the numerous place-names in *-ing* of the Munich district as clan or family names, and assumed that "during the immigration of the Baiuvari the clans came in as compact masses, and as compact masses they founded their settlements".<sup>7</sup> In the conclusion which Riezler drew from these place-names, he was influenced by the prevailing theories (as formulated by v. Sybel and Gierke) about the importance of family groups as the basis of the economic and political organization of the community. He expressly quotes these scholars in support of his assumptions.<sup>8</sup> In 1880, however, Waitz had opposed Kemble<sup>9</sup> and had pointed out that "only a certain number of those place-names were of this type. The form is used in general to denote a 'belonging-to'; either geographical or personal relationships may be meant".

After jurists and practical surveyors, especially in Germany, had thus laid down the essential lines of *Kulturgeschichte*, a French historian again took up this important problem. In 1875 Fustel de Coulanges, in the first volume of his *Histoire des institutions politiques de l'ancienne France* undertook a thorough

<sup>1</sup> Op. cit., 267.

<sup>2</sup> Op. cit., 269; see also his *Deutsche Urzeit*, 222, 229.

<sup>3</sup> Kemble, *The Saxons in England*, i, App. A.

<sup>4</sup> So K. Maurer in *der Münchener kritischen Übersicht*, i, 70 (1853); also Stubbs, *Constitutional History of England*, i, 81.

<sup>5</sup> See above, 13.

<sup>6</sup> "Die Ortsnamen der Münchener Gegend." *Oberbayerisches Archiv*, xlv, 33 ff.

<sup>7</sup> *Ibid.*, 57.

<sup>8</sup> See 60, (v. Sybel), and 63, (Gierke).

<sup>9</sup> *V.G.*, 3rd ed., i, 84.

investigation into the German peoples and their relation to the Romans. He went to the sources themselves and brought their evidence again into prominence, displaying a critical ability as ingenious as it was acute, and an admirable lack of prejudice, uninfluenced by the theories which were then dominant, especially in Germany. The result was amazing, above all in France, for it was a definite refutation of the earlier conceptions of German barbarism and of the destruction of Roman culture. To Fustel, that important period of transition does not take the shape of a war between Germanism and the Roman world-empire. He points to Tacitus himself, who makes one of the Germans say that they wished in their own interests to be federated with the Romans. Nothing seems to him more mistaken than the idea that the Germans were hostile to culture and opposed to Roman civilization.<sup>1</sup> He stresses Geffroy's noteworthy observation that the type of the "paysan du Danube" was quite unknown in Roman conceptions, and was first invented in the sixteenth century by a Spaniard, Guevara.<sup>2</sup>

Fustel pointed out that the Germans did not invade the Roman Empire merely as enemies and with violence, but that a peaceful penetration took place over wide areas, by manual labourers and servants, and by soldiers in the Imperial service. He warns us not to imagine the warlike inroads of the Germans as having destroyed everything.<sup>3</sup> Many German tribes placed themselves at the disposal of the Romans not only as soldiers, but also for peaceful employments, as contemporary sources prove.<sup>4</sup> The number of German peasant-farmers (*coloni*) on Roman land was, he says, so great in the fourth century that several recent scholars have even seen in them the origin of the colonate.<sup>5</sup> In particular, Fustel attacked the old idea that the earlier provincial population was enslaved by the conquering Germans.<sup>6</sup> Neither serfdom nor the colonate, in his opinion, originated in this way, as historians of the sixteenth to eighteenth centuries assumed, in order to explain the class-distinctions of their own time. Both phenomena are really found earlier. The former landowners were not robbed of their right to the soil<sup>7</sup>; on the contrary, the Germans to a considerable extent, took over existing conditions. Not communal ownership and reallotment of the land, but rather private ownership was the rule among the newcomers.<sup>8</sup> The Germans were not nomads but permanently settled farmers. Their social conditions show a manifold gradation, similar to that of all early peoples.<sup>9</sup> The horde did not rule; a state system already existed.<sup>10</sup> The freedom of the Germans was not unrestrained, but was compatible with the monarchy, which was the chief form of rule.<sup>11</sup>

It must be considered an important advance in research that Fustel very decidedly emphasized the difference between conditions in the times of Cæsar and of Tacitus and those which prevailed in the fifth century at the time of the German conquest of the West Roman Empire. During these three centuries important changes took place both in social and in political organization,<sup>12</sup> and the combinations of German peoples had moreover changed, as new tribes arrived from the East and pushed the earlier settlers in the West farther westward still.

<sup>1</sup> Op. cit., 322.

<sup>2</sup> Op. cit., 333, especially n. 1.

<sup>3</sup> Ibid., 343.

<sup>4</sup> Ibid., 400 ff.

<sup>5</sup> Ibid., 286 ff.

<sup>6</sup> Ibid., 294.

<sup>7</sup> *Rome et les Barbares*, 80 n.

<sup>8</sup> Ibid., 335.

<sup>9</sup> *Histoire des Institutions Politiques*, 395 ff.

<sup>10</sup> Ibid., 459.

<sup>11</sup> Ibid., 291.

<sup>12</sup> Ibid., 306 ff.