

C H A P. IV.

NATIONAL DISLIKE TO THE AUSTRIANS—CONSTITUTION OF THE KINGDOM—STATE OF THE NOBLES, CITIZENS, AND PEASANTS—THE URBARIUM—STATE OF THE CLERGY—INNOVATIONS OF JOSEPH II.—ANTIEN ORDER RESTORED—TRANSACTIONS OF THE DIET OF 1790—AND STATE OF THE PROTESTANTS.

AT Vienna I learned that the Hungarians neither liked the Austrians, nor the Austrian government, and during my stay in Hungary, in every society I found a confirmation of it.

In antient animosities, handed down from father to son in opinions kept alive by vulgar proverbs and sayings, we may often find the cause of national hatred ; so to the frequent wars which were carried on between these two nations may be attributed some part of the mutual dislike now subsisting. But Hungary has been at war with its other neighbours, and yet with these, national animosities have ceased : we must therefore look further.

Hungary

Hungary has had its turbulent times, and its public misfortunes, like other nations, probably more than an equal share; and what history of a country is not so full of them, as almost to deter one from turning over the page of history, which is hardly more than a recital of disasters; where years, if years there have been of peace and public happiness, are passed over in a few words, whilst wars, famines, pestilences, and other great calamities which vex society, are detailed in forcible language? But that page of history fills the Hungarian with the deepest sorrow, which records that the crown of Hungary was worn by a prince from a foreign house, and that he kept his court out of Hungary.

This has now been the case for a long series of years. The crown from being elective has become hereditary in the house of Austria, whose court is at Vienna. The sovereign seldom visits his Hungarian dominions; the high office of Palatine was for many years vacant; no diet was called for twenty six-years, but the kingdom, like a province, was governed by royal mandates. Hence this nation considers itself as treated like an Austrian province, and not like a powerful kingdom; discontent and unwillingness to support the public burthens on their part arise, and dissatisfaction and indifference to their prosperity in the court, which in turn considers them as perverse subjects and useless to the state; and hence a general feebleness; and thus a country under a warm sun,
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with a fertile soil, and near eight millions of inhabitants, makes no more figure amongst the nations of Europe, than a province.

It is certainly an unfortunate circumstance for a privileged kingdom or province to be under the same government as those which are arbitrarily governed. Where even governments have nothing in view but the public good, so many hindrances in conducting public affairs are thrown in their way, through party spirit and unjust jealousies, by the leaders of the people; that often the best disposed rulers are inclined to act without enquiring the sense of the nation, and are anxious to get rid of the inconvenience of obtaining its consent; and the facility they find in governing those parts of the empire which they can arbitrarily govern, is always contrasting itself with the difficulties they find in governing the privileged.

Though some of the neighbouring parts of the Austrian monarchy have still their diets, yet they are for form sake alone, and in none of the important acts of legislation or taxation are they consulted. But Hungary has still retained the invaluable right of giving itself laws and imposing its own taxes, and it jealously watches the incroachments of the court. How then could the despotic government of Joseph II. fail to be to this nation a cause of great complaint, when it had almost alienated from him the allegiance of his other subjects accustomed to be arbitrarily governed?

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The whole government of this well-meaning Monarch was a continued series of alterations and innovations in the governments of those which had no privileges, and of infringements on the rights of those which had; where established principles of government, modes of taxation, and general police, were, by sovereign mandates, annulled, and replaced by others. I have seen a list of the ordinances published by Joseph II. from January 1781 to November 1783, that is, less than three years, and they amounted to two hundred and seventy-one.

It was the avowed intention of this Sovereign to form, out of his extensive hereditary dominions, peopled by twenty-five millions of inhabitants, governed by different laws, enjoying different privileges, speaking different languages, and in different degrees of civilization, one uniform government; where the same code of laws, the same mode and quantity of taxation, and even where the same language should prevail*; in which privileges should cease, and the burthens of the state be equally borne.

But before we enter into the detail of those innovations, which produced such dissatisfaction, let us take a view of the constitution of the kingdom, and observe the spirit of the people, for the spirit of a people is the only guardian of its constitution.

* His Belgic subjects may be excepted.

The Hungarians are a brave, generous, and hardy race of men. Voltaire, in his Eloge of Montesquieu, speaking of this nation, says, "Une nation fiere et généreuse, le fléau de ses tyrans et l'appui de ses souverains."

This spirit has preserved to them some of the most valuable rights of a people, and has kept hitherto the power of the Monarch from rising into arbitrary sway;—though this has varied here, as in other countries, as a weak and unfortunate, or as an ambitious and successful one has reigned. Not only when the crown was elective, as till 1682, in the reign of Leopold I., but even now that it is become hereditary, in the house of Austria, in gratitude for that Emperor's driving the Turks out of Hungary, it is the fundamental law of the land, that every new Sovereign, on ascending the throne, shall solemnly swear to the nation, to grant them their rights. These rights have been thought most sacred, and King Andrew II. in the thirteenth century, went so far as to promise, in his *diploma*, or coronation oath, to allow his subjects to take up arms against him, if he infringed them. Several of his successors have signed this *diploma*, and the same is still in use, except that this particular article, permitting the rebellion of the subjects, is protested against; but a coronation oath, of which such an article could be a part, must certainly be very favourable to the liberty of the nation.

The two greatest privileges of a people, those of legislation

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and taxation, are still in their hands; and the Sovereign has only a *veto* in the legislation. The choice of the Palatine, a kind of viceroy, from four candidates presented by the Sovereign, and the reception of strangers as denizens, are privileges likewise belonging to the people. But the King has the unquestioned right of deciding on war and peace; he has a *veto* in the legislation; the gift of the great offices in the church and state, those of the Palatine, and keepers of the crown, excepted: it is he who creates nobility; and coining, and pardoning criminals, are his prerogatives.

Thus the executive government of the kingdom is in the hands of the Sovereign. On his ascent to the throne, in public parade, on horseback, he draws his sword, and strikes towards the four points, indicating that he takes upon him its defence against its enemies from every quarter. But the raising of supplies for carrying on of war belongs to the nation, who can only grant them in a Diet; and before standing armies were so general, when the defence of the kingdom depended on the nobility, it was here where they met, to consider of the number of troops that were to be brought into the field, being convened by the Sovereign for that purpose.

But what is the nation?—Who constitutes the people?—To whom do these valuable rights belong?—In this country, as in others, where society is in its childhood, the nation, alas! is only the great aristocratic body of nobles and clergy; and the productive part of the

the community, the citizens and peasants, have few or no rights, and no interference in public affairs; yet must submissively bear *all* the burthens of the state.

As the peasants were, till 1785, under the *glebæ adscriptio*, or in the state of villanage, they could never be considered as forming a part of the nation; and the deputies of the free towns being considered almost as intruders, it was, and still is, the aristocratic body which checks the power of the Crown; and it is this body that, according to the spirit of the Hungarian constitution, the Sovereign should consult with, upon all important state affairs, by calling them together in a Diet.

This Assembly is composed of magnates, archbishops and bishops, lord lieutenants of the counties, abbots, prelates, deputies of the chapters, deputies from the counties, and deputies from the royal free towns.

The magnates were originally only the great officers of the Crown, as the Palatine, the supreme judge, the lord marshal, the great cup-bearer, the steward of the household, the master of the horse, &c. but now the princes, counts, and barons are considered as such. Those who pretend to be acquainted with the true spirit of the constitution, regard the reception of the princes, counts, and barons, amongst the magnates, as an innovation. The eldest sons of this
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great nobility, with the two archbishops, diocesan and titular bishops, with the lord lieutenants of the counties, and keepers of the crown, constitute the first table, or upper house; and the lower house, or second table, is composed of the abbots and prelates, the deputies of the chapters, from each at least two; two or three deputies from each of the two-and-fifty counties into which this kingdom is divided, and a deputy from each of the royal free towns. If the free towns send more than one deputy, they have only one vote; it is so likewise with the deputies of the chapters; and if the members of the upper house cannot attend in person, their deputies sit in the lower house.

Though the Diet is thus composed of two tables, or houses, yet they form but one body, as their votes are taken together. It must always be recollected, that the deputies of the counties are only the deputies of the nobility. Even the towns are generally represented by the nobility; but this is their own fault.

The Diet, besides being convened upon all great national events, should meet at stated times. Under Matthias Corvinus and Ferdinand I. it was decreed they should be annual. Under Leopold I. it was decreed they should be triennial; and this was confirmed by Charles VI. and is still considered as the constitutional period. But sovereigns and their ministers often wish to get rid of these incumbrances, and lately, from 1764 to 1790, which is twenty-six years,

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no Diet was held, though many important affairs had happened within this period. It ought not to sit more than two months.

This interference of the *people* in all the weighty affairs of state, is justly considered by them as one of their greatest advantages; but the people here, or, as they are called in their public acts, which are in Latin, *populus*, are, as I have just said, only the great aristocratic body, the nobility and higher clergy. Their exemption from bearing any part of the public burthens they consider as another valuable privilege, of which they ought to be no less jealous. So that the whole taxes for defraying the expences of government must fall immediately upon the productive part of the community; the burghers and peasants.

The nobility, which is composed of titled and untitled, the former of which may be considered as the real nobility, and the latter only as gentlemen, have the exclusive privilege of enjoying all the posts of honour, and of filling all the public offices, and are *the exclusive owners of the soil*, except what lies within the precincts of the free towns; and a burgher or a peasant may as well think of possessing the throne, as of possessing one inch of land, without being first ennobled. Their persons likewise are privileged, except in a few cases, as high treason, murder, &c. They cannot be arrested, till they have been legally tried and convicted. And the simplest kind of knight service is the only duty they owe the state. When summoned

moned by their sovereign, they must defend their country. Their taking the field is called an *insurrectio*, and the high clergy are not exempt. This service, from the frequent wars in which Hungary was engaged, and principally against the Turks, was formerly a pretty severe obligation, for they served as a kind of barrier to the rest of Europe against this ferocious people. As long as the war continued within the limits of their country, they were obliged to maintain themselves; but when the war was carried on abroad, they were maintained by the sovereign. The number of combatants each brought into the field was proportioned to his estate. The archbishop of Gran and the bishop of Erlau brought each two stands of colours, and under each stand a thousand men; the archbishop of Collotza and several bishops a thousand each. In the fatal battle of Mohatch seven bishops were left on the field. But since standing armies have become general, little use has been made of this mode of defence, and no general *insurrection* has been summoned for a great length of time, so that the nobility at this day, except now and then by a *don gratuit*, contribute nothing to support the state. So far therefore as they consider only their own immediate advantages, they have reason to be jealous of their privileges; and these are assured them by the constitution: but an immunity to one part of the community, since government must be supported, is an imposition on the others; for since the nobility will bear no share of the expences of government, the heavier these fall on the burghers and peasants.

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The burghers being under the more particular care of the sovereign, and having their own magistrates, are pretty independent of the nobility, and have only to bear the burthens of government. But this is not the case of the peasants; theirs is a harder lot: for, living upon the estates of the nobility, they are under their immediate care and direction, and may be greatly molested and injured by their severity; though likewise assisted by their protection and generosity.

As this part of the community is so very important, by being the most numerous, and the most productive; and as its state generally shows the state of the nation in general, which in its progress in improvement has its different stages pretty constantly accompanied by particular disadvantages, I shall be rather diffuse on it; as by this it becomes a key to the knowledge of the state of the whole society. How unreasonable would it be to expect to find a country powerful and opulent through an improved agriculture, flourishing manufactures, and an extended commerce, whilst the peasantry are in the state of villanage!

It appears, however mortifying the thought, that the same hard state has been the lot of the peasantry almost throughout Europe, but at different times; and that it differs not so much in regard to the country, as the time in which it has prevailed. A Polish and an English peasant, how different now in the eighteenth century! Yet the peasants in our happy island *were* once much in the condition they *are* in now in Poland.

Poland. Under the Saxons, "there was," as Sir William Temple says, "a sort of people in our island in a condition of downright servitude, used and employed in the most servile works, and belonging, both they and their children and effects, to the lord of the soil, like the rest of the cattle or stock upon it." And upon their fate after the Norman conquest, it is further said, "that these villains belonging principally to lords of manors, were either annexed to the manor or land, or to the person of the lord, and transferable by deed from one owner to another. They could not leave their lord without his permission, but, if they ran away, or were purloined from him, might be claimed and recovered by action, like beasts or other chattels: they held indeed small portions of land by way of sustaining themselves and families; but it was at the mere will of the lord, who might dispossess them whenever he pleased; and it was upon villein service, that is, to carry out dung, to hedge and ditch the lord's demesnes, and any other the meanest offices; and these services were not only base, but uncertain both as to their time and quantity. A villain could acquire no property either in land or goods: but if he purchased either, the lord might enter upon them, oust the villain, and seize them to his own use; unless he contrived to dispose of them again before the lord had seized them, for the lord had then lost his opportunity." Such has formerly been the state of our peasantry. "There are not," says Cowel, "truly any villains now in England, though the law concerning them stands unrepealed." They have risen by progressive amelioration into copy-holders, and now bear but

a small part of the original burthens of this base tenure. "Tenants at will by copy of court roll," says Bacon, "being in truth bondmen at the beginning, but having obtained freedom of their persons, and gained a custom by use of occupying their lands, they are now called copy-holders, and are so privileged, that the lord cannot put them out, and all through custom*."

It is pleasing to consider, however slow the progress of society may be, that the state of this order of it is continually ameliorating: the interest of sovereigns, the interest of religion, the efforts of enlightened men, and even the more humane and enlarged views of the lords of soil, all tend to render the state of the peasantry less debased and oppressed.

The peasantry of Hungary are farther advanced than their northern neighbours, the Poles and Russians. That hardest of states, the being bound to the soil, yet removeable at the will of the proprietor of it, with undetermined labour and dues, is past; and it is some consolation to think, that often, before the law has fixed bounds to the rapacity of the landlords, by determining the dues of the peasant to his lord, custom in some degree has done it. So I believe custom had in some degree determined this in Hungary, before the Empress Theresa, in 1764, had made known her *Urbarium*; which, though pub-

* Bacon on the Use of the Law, p. 43.

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lished without the knowledge of the states, has been received as law. Nevertheless, Seventeen Hundred and Sixty-four must be considered as forming an epoch in the history of the amelioration of the state of the peasants, not only by more accurately fixing the reciprocal obligations of the lord and his peasants, but by shewing that the latter were thought worthy of the protection of government. This *Urbarium* I think too interesting not to be generally known; I therefore present the public with a translation of it.

THE URBARIUM; OR,

CONTRACT BETWEEN THE LANDLORD AND PEASANT, AS
FIXED BY LAW.

I. *Of the Quantity of Land.*

AS the dues from the peasant must be settled according to the nature of the farm, which is not everywhere the same, but various, in regard to the situation, and the quality of the land, as well as to its advantages and disadvantages; it is thought equitable in the village of A B that the house-ground for the cottage, yard, garden, and barn shall be equal to so much land as is usually sown with two Presburg measures*; and if it be more or less, allowance must be made for this difference in the other ground, unless this difference should not exceed a quarter of a measure, which then shall not be thought

* The Presburg measure is about as much as two English bushels.