

disposal upon a principle of liberty in this, as well as every other action; though, perhaps, it had not been amiss, if the parent had been bound to leave them at the least a necessary subsistence.'

And he adds:—

'By the custom of London indeed (which was formerly universal throughout the kingdom) the children of freemen are entitled to one-third of their father's effects to be equally divided among them; of which he cannot deprive them.'

Roman law recognizes no such liberty to disregard the claims of family. So much did it regard the rights of children that even a gift made *inter vivos* by a childless donor was revocable by subsequent birth of a child (Code 8, 55 (56), 8); and this is followed in the modern law of France, Italy, Spain, Porto Rico, Austria, Mexico, Chile, and Argentina (Sherman, Roman Law in the Modern World, vol. 2, p. 227).

As to testamentary power, from very early times, at Rome, a man's power to will away his property was confined to three-fourths of his estate, each child being entitled, in spite of the provisions of his father's will, to one-fourth of what he would have received on intestacy, unless disinherited on certain specified grounds. In default of children a similar right attached to parents. This was known as the *quarta legitima*. As a recent writer says:—

'Roman law justly and wisely looked upon with disfavour and regarded as pernicious to the welfare of the family, all testamentary dispositions of property which beggar children or parents in favour of strangers to the blood.' Sherman's *op. cit.* vol. 2, p. 268.

And the Roman rule in this respect lives on in the modern civil law systems of France, Italy, Spain, Germany, Louisiana, and Scotland. In the last two, at all events, it retains the Roman term of "*legitim*." In Scotland the rule is that a child has a right to succeed to one-third of the whole free movable estate of the last deceasing parent which is called the *legitim*. It is to be noticed that in Scotland the rule does not extend to lands. In France it is more general. Section 913 of the French Civil Code provides:—

'A man can only dispose of a half of his property by gift *inter vivos* or by will if he leaves a legitimate child surviving