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THE ANCIENT CITY

A STUDY ON THE
RELIGION, LAWS, AND INSTITUTIONS
OF GREECE AND ROME

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THE ANCIENT CITY

INTRODUCTION.

THE NECESSITY OF STUDYING THE EARLIEST BELIEFS
OF THE ANCIENTS IN ORDER TO UNDERSTAND
THEIR INSTITUTIONS.

It is proposed here to show upon what principles and by what rules Greek and Roman society was governed. We unite in the same study both the Greeks and the Romans because these two peoples, however two branches

of a single race and the same political organization, have passed through a series of similar evolutions.

We shall attempt to set in clear light the radical and essential differences which at all times distinguish these ancient people from modern societies.

In our system of education we live from infancy in the midst of the Greeks and Romans and become accustomed to daily companionship with ourselves; we judge of their history by our own and to explain our revolutions by theirs. What we have received from the poets leads us to believe that we resemble them. We have some difficulty in considering them as foreigners.

It is almost always ourselves that we see in them. Hence our many errors. We rarely know ourselves regarding these ancient nations when we see them through the opinions and facts of our own time.

Now errors of this kind are not without danger. The ideas which the moderns have had of Greece and Rome have often been in their way. Having in-

perfectly served the institutions of the ancient times, they have dreamed of reviving them among us. They have received them as a foundation for the ancients and on this very account liberty among the moderns has been put in peril. The last eighty years have clearly shown that one of the great difficulties which impeded the march of modern society was the habit which it has of

always going to Greece and Rome in quest of the lost virtues.

To find a standard of conduct in Greece and Rome is, it is wise to study them without thinking of ourselves as if they were entirely foreign to us, with the same disinterestedness with which the mind is freed as if we were studying ancient India or Arabia.

Thus observed, Greece and Rome appear to us in a character absolutely

imitable, nothing in modern times resembles them, nothing in the future can resemble them. We shall attempt to show by what rules these societies were regulated, and it will be freely admitted that the same rules may govern humanity again.

Whence comes this? Why are the conditions of human government not longer the same as in earlier times? The great changes which have happened from time to time in the constitution of society are the effect either of chance or of force alone.

The cause which produces them must be powerful, and must be found in man himself. If the laws of human association are no longer the same as in antiquity, it is because there has been a change in man. There is in fact a part of our being which is modified from age to age, this is our intelligence. It is always in movement, it is always progressing, and on this account our institutions and laws are subject to change. Man has not in our day the

longer the same mind as he had a few centuries ago, and this is why he is no

The history of Greece and Rome is a witness and an example of the intimate relation which always exists between men's ideas and their social state. Examining the institutions of the ancients without thinking of their religious

the spirit and the mind of the people, and the state of the mind of the people, when we come to the modern world, we find a difference which we find between these classes. What was the meaning of those sacred institutions which appeared so so contrary to nature? How are we to explain those an-

justified and unchangeable laws of antiquity? The better we have known brother and sister, what did the jurists understand by *agnation* and *gens*? Why those revolutions in the laws, those political revolutions? What was that singular patriotism which sometimes faced a very natural sentiment? What

did they apprehend that the laws of which they were so vainly talking have vanished today could become established and reign for so long a time? What is the superior principle which gave them authority over the minds of men?

But this is not the only question which arises. These institutions are no longer doubtless, ongoing back to the first ages of this race—that is to say, to the time when the institutions were founded—where we have which had human existence, of life or death, of a second life or of the divine principle we perceive the relation between these opinions and the ancient rules

of private law between the cities which spring from these opinions and their political institutions.

A comparison of belief and law shows that a primitive religion constituted the Greek and Roman family established marriage and paternal authority, fixed the order of relations and consecrated the right of property and the right of inheritance. This same religion after having enlarged and extended the family formed still larger associations, the city and reigned that it had reigned in the family. From it came all the institutions as well as all the private law of the ancients was from this that the city received its principles, rules, usages and its magistracies. But in the course of time this ancient religion became modified or effaced in private law and political institutions were modified with it. There came a series of revolutions and social changes regularly followed the development of knowledge.

It is of the first importance therefore to study the religious ideas of these

people and the difficulties that this brings to light. For the best time are only the development of those of an earlier age we must seek the roots of them in the very distant past. The Greek and Italian populations in many centuries before the Romulus and Home it was an epoch more ancient,

in some times with the old institutions preserved and that their

But what hope is there of arriving at knowledge of this distant past? Who can tell us what men thought ten or fifteen centuries before our era? Can we recover what is so intangible and fugitive—beliefs and opinions? We know

from the hymns of the Vedas, which they found in the laws of Manu in which we can distinguish passages that are of an extremely early date. But where are the hymns of the ancient Egyptians? They as well as the Italian had ancient hymns and sacred books but nothing of this has

remained to us. What traditions remain to us of those generations that

Fortunately, the past never completely dies. So man, Man may forget, but he always reserves within him. For take him at any epoch and he is the product of the epitome of all the earlier epochs. Let him look into his own soul,

and he can find and distinguish the different epochs by which each of them

Let us observe the Greeks of the age of Pericles and the Romans of Cicero's time; they carry within them the authentic mark and have unmistakable signs of the most remote ages. The contemporaries of Cicero (I speak especially

of them and of the people) as an imagination full of legends, the legends

come to him from a very early time and they bear witness to the manner of thinking of that time. The contemporary Cicero speaks a language whose roots are every ancient this language, expressing the thoughts of ancient ages, has been modelled upon them and has kept them impressing and transmits it from century to century. The primary sense of a root will sometimes reveal an ancient opinion or an ancient sagacity, but these have been transformed, and the recollection of them has vanished, but the words have remained, immutable witnesses of beliefs that have disappeared.

The contemporary Cicero practices rites in the sacrifices, funerals, and in the ceremony of marriage, the rites were older than his time and what proves is that they did not correspond to his religious belief. But if we examine the rites which he observed, the formulas which he recited, we find the marks of whatever beliefs fifteen or twenty centuries earlier.

BOOK FIRST.

ANCIEN BELIEFS.

CHAPTER.

NOTIONS ABOUT THE SOUL AND DEATH.

DOWN to the latest time in the history of Greece and Rome we find the common people lingering to thoughts and usages which certainly dated from a very distant past and which enabled us to discover what notions man entertained at first regarding his own nature, his soul and the mystery of death.

Goback as we may in the history of the Indo-European race of which the Greek and Italian are branches and we do not find that this race has ever thought that after this short life all was finished for man. The most ancient generation long before there were philosophers believed a second existence after the present. They looked upon death as a dissolution of our being, but simply as a change of life.

But in what place and in what manner was this second existence passed? Did they believe that the immortal spirit once escaped from a body went to animate another? No—the doctrine of metempsychosis is never able to take root in the minds of the Greco-Italians, was it then the ancient belief of the Aryas of the East in the hymns of the Vedas each of these doctrines. Did they believe that the spirit ascended upwards to the sky towards its region of flight? Not at all—the thought that the departed soul entered a celestial home is relatively recent in the West, we find it expressed for the first time by the

poet Phocylides the celestial body was never regarded as anything more than the recompense of a few great men and of the benefactors of mankind. According to the oldest belief of the Italian and Greek the soul did not go into a foreign world to pass its second existence; it remained at home and continued to live underground.

They even believed that a very long time had in this second existence the soul remained associated with the body, for together they were not separated by death and were buried together in the grave.

Old as this belief is, authentic evidence of it still remains. These evidences are the rites of sepulture which have long survived in primitive belief but which certainly grew with it, and which enable us to understand it.

The rites of sepulture show clearly that when a body was buried the soul of the people believed that they buried something that was living. Virgil, who always describes religious ceremonies with so much care and precision, con-

cludes that the grave of the sacred Priamides is the soul of the Priamides. The young Priamides did not correspond to the idea which the writers had of the soul, but front immemorial had been perpetuated in language, attesting an ancient and common belief.

When Priamides had been buried, they would that he might live happily underground. At the time she said to him, 'Far thee, well! They added, 'May hee earth rest tightly upon thee?' Thus firmly did they believe that the person would continue to live underground, and that he would still

there receive the joys of the underworld. They would that he should live happily throughout many centuries, out of time, without employment, though surely no one today thinks that an immortal being exists in a tomb. But in those ancient days they believed so firmly that a man lived there that

there was a failure of memory with him the day after which his name was

1 *Sul terra ense beati quantum in morte uiuunt*. If they supposed that the dead pass the rest of their existence underground. *Cicero Tuscul.* 1.6 *Euripides Alc.* 163 *Hec passim*.
2 *Ovid Fast.* IV.45 *Pliny Letter.* VII.27 *Virg. En.* III.67 *Virgil's description of the employment of the dead is admitted that when the body of a relative could be found, the high performance of the ceremony exactly produced the rites of sepulture and was believed that in this way in the absence of the body they enclosed the soul in the tomb. *Eurip., Helen* 106 *Il.* 24 *Scholia ad Pind. Pyth.* IV.284 *Virg.* VI.505 *XII.* 214.
3 *Iliad* XXIII.22 *Pausanias* 7.2 *Euripides Alc.* 463 *Virg. En.* III.68 *Catullus* 98 *Ovid, Trist.* III.3 *Fast.* IV.852 *Metamorph.* 62 *Juvenal* VII.207 *Martial* I.89 *N.* 35 *IV.* 30. *Servius ad En.* II.644 *III.* 68 *XI.* 97 *Tacitus Agricola* 46.*

quench his thirst and place food there to satisfy his hunger. They slaughtered horses and slaves with the dead, and he being buried with the dead, would serve him in the tomb as he had done during his life. After the taking of Troy the Greeks were about to return to their country, each taking with him his beautiful captive, but Achilles who had sunk the earthlain his captive also and he gave him Polyxena.

A verse of Pindar has preserved a curious vestige of the thought of those ancient generations. Rixus had been compelled to quit Greece and had fled as far as Colchis. He had died in that country, but dead though he was he wished to return to Greece. He appeared therefore to Pelias and directed him to go to Colchis and bring away his soul. Doubtless his soul regretted his loss of his native country and the tomb of his family, but being attached to its corporeal remains could not quit Colchis without them.

From this primitive belief came the necessity of burial. In order that the

soul might have no need of this body and that the mind might be attached to it, the body was covered with earth. If the soul had no tomb had no dwelling-place, was a wandering spirit in vain its sought there, possible which it would naturally desire, the agitation and labor of this life, it must wander forever under

the influence of the powers which have no rest. Without rest, soon became a malevolent spirit, it tormented the living, it brought disease upon them, ravaged their harvests, and frightened them by gloomy apparitions, war, then to give sepulture to its body and to itself. From this came the belief

in ghosts. All by this time persons who had died without the proper signs of the performance of funeral ceremony were feared as the souls of the unhappy of the dead.

We must remark, however, that to place the body in the ground was not

an ancient custom. In the earliest times the body was placed in a tomb, it was a soul that was compelled to wander because its body had been placed in the ground without attention to the rites. Suetonius relates that when the body of Caligula was placed in the earth without due observation, the

1 Eurip. *Hec. passim*. *Mc. Iphig.* 162. *Iliad* XXIII. 166. Virg. *En.* V. 77. VI. 22. IX. 81. Pliny *N. H.* VIII. 40. Suet. *Caes.* 41. Lucian *De Luctu* 14.

2 Pind. *Pythid.* V. 284. ed. Heyne. See the Scholiast.

3 *Odyssey* XI. 72. Eurip. *Troia* 1083. Hds. V. 92. Virg. VI. 37. 1379. Horace *Odes* 23. Ovid *Fast.* V. 48. Pliny *Epist.* VII. 27. Suetonius *Calig.* 59. Servius *ad En.* III. 68.

4 Plautus *Mostellaria*

funeral ceremony his soul was not at rest and continued to appear to the living until it was terminated in the body and given a burial according to the rules. These two examples show clearly that effects were attributed to the rites and formulas of the funeral ceremony since without the souls continued to wander and appeared to the living. It must have been by then that the soul became fixed and enclosed in the tomb and just as there were formulas which had this virtue, there were others which had a contrary virtue—that of evoking the soul and making it come out for a time from the sepulchre.

We can see an ancient writer how man was tormented by the fear that after his death the rites would not be observed for him. It was a source of constant inquietude. Men feared death less than the privation of burial for rest and eternal happiness were at stake. We ought not to be too much surprised at seeing the Athenians put general death to a test after a naval victory had neglected to bury the dead. These general disciples of philosophy distinguished

death from the soul and did not think that the soul could be affected by the little consequence of the body's decomposition. The heart of the man in the water therefore did not brave the tempest for the vain formality of collecting and burying the dead. But the multitude who went to Athens,

shuddered at this ceremony. They had seen the souls in pain and had felt the agony of the dead. The relative of the dead, thinking of the long suffering which the souls must bear, came to the tribunal of the dead mourning and asking for vengeance. The ancient cities had a condemned

those guilty of crimes and the souls of the dead were in pain. The punishment was eternal.

We must observe that there was among the ancients another opinion concerning the body of the dead. They pictured to themselves a region also sub-

terranean where the souls of the dead were placed. The souls of the dead were placed according to the lives they had led in this world. But the rites of burial, such as we have described, manifestly agree with this belief—certain proof that at the epoch when these rites were established, it did not yet be-

lieve that the soul was the only thing that remained after the body and that it remained fixed to that portion of ground where the bones lay buried. Besides, a man had no account to render of his past life. Once placed in the tomb he had neither reward nor punishment to expect. This is a very

crude opinion, surely, but it is the beginning of the notion of a future life.

The being who dived under ground was not sufficient from human frailties to have a need of food and therefore on certain days of the year meat was carried to every tomb. Ovid and Virgil have given us a description of this ceremony. The observance continued unchanged to the time, although the religious belief had already undergone great changes. According to these writers the tomb was surrounded with garlands of grasses and flowers and cakes, fruits and flowers were placed upon it; milk, wine and sometimes even the blood of a victim were added.

We should greatly deceive ourselves if we thought that these funeral repasts were nothing more than a sort of commemorative feast of food that the family brought as a gift for the dead—exclusive of this. What proved this is that the milk and wine were poured out upon the earth by the tomb, that the earth was hollowed out so that the solid food might reach the dead, that if they sacrificed a victim, its flesh was burnt so that none of the divinity could have

any part of it, that they who offered the food from their own hands never ate, that no one touched the food that in fine when they went away they took great care to leave a little milk and a few cakes in vases and that it was considered gross impiety for any living person to touch this sacred provision destined for

the dead.² The Greeks tested in the most formal manner if they poured upon the earth by the tomb, says Phigeneia in Euripides, milk, honey and wine for it is with these that we rejoice the dead. Among the Greeks there was in front of every tomb a place destined for the immolation of the victim and the cook-⁴

ing of the flesh. The Roman tombs, however, were separated from the altar of the battle of Plataea. The slain having been buried upon the field of battle the Plataeans engaged to offer them the funeral repast every year. Consequently, on each anniversary they went in grand procession, conducted by the first

magistrate, to the place where the dead lay. The offerings and the portions had been placed upon the tomb. The Plataeans pronounced a formula by which they called the dead to come and partake of this repast. This ceremony was still performed at the time of Plutarch, who was enabled to witness the six

1 Virgil *En.* III. 300 et seq. V. 77 Ovid *Fast.* II. 535-542.

2 Hds. II. 40. Eurip. *Hec.* 536 Pausanias, I. 10 Virgil *IV.* 98 Ovid *Fast.* II. 566 Lucian, *Charon*.

3 *Æsch. Choeph.* 176 Eurip. *Ph.* 162.

4 Euripides *Electr.* 813.

5 Festus, *Culina*.

hundredth universes.¹ A little later, Lucian, ridiculing these opinions and saying how deeply rooted they were in the common mind: "The dead," says he, "are nourished by the provision which we place upon their tomb and drink the wine which we pour out there, so that none of the dead to whom nothing is offered is condemned to perpetual hunger."

These are very old forms of belief and are quite groundless and ridiculous, and yet they exercised a powerful and lasting influence upon the minds of generations. They governed the minds of the heathen, and they governed the societies even in the great part of the domestic and social institutions of the ancient world derived from this source.

CHAPTER I.

THE WORSHIP OF THE DEAD.

HIS belief, very soon, gave rise to certain rules of conduct. Since the dead could be made to supply the wants of the living, it was but natural to the caprice of the variable sentiments of men it was obligatory upon a complete religion of the dead was established, whose dogmas might soon be effaced, but whose rites endured until the triumph of Christianity. The dead

was held to be a being of the same nature as the living, and they were respected as they had all the venerations that man can have for the divinity whom he loves or fears. In their thought the dead were gods.

This sort of apotheosis was another privilege of greatness; no distinction

was made among the dead. Cicero says, "Quam res tota in se habet, non est necesse, ut habeat, ut virtuosus, anthe wicked man as well as the good man became god, but he retained these conditions if he had inclinations which had ornamented him in the first.

The Greeks gave to the dead the name of subterranean gods. In Eschylus,

1 Plutarch *Aristid.* 21.

2 Lucian *De Luctu.*

3 Esch *Choeph.* 469 Sophocles *Antig.* 451 Plutarch *Boet.* 21 *Rom. Quest.* 52 *Gr. Quest.*

5 Virgil *Æn.* 47 *V.* 80.

4 Cicero *De Legib.* 22 St. Augustine *City of God* IX. 11 VIII. 26.

as one thus invokes his deceased father "O thou who art a god beneath the earth Euripides says, speaking of Alceſtis Near her tomb the passing day will stop and say, This is now a thrice happy divinity!"

The Romans gave to the dead the name of *Manes* Render to the manes what is due to them, says Cicero; they are men who have quitted this life consider them as divin beings."

The tombs were the temples of these divinities and they bore the sacramental inscription *Dis Manibus* "to the spirits of the dead" and in Greek, θεοῖς ὑπογείοις ["to the underworld spirits"] There the gods dwelt beneath the soil *manesque pulchre*... and the interred manes" says Virgil Before the tomb there was an altar for the sacrifices before the temple of the gods.

We find this worship of the dead among the Hellenes among the Latins, among the Sabines among the Etruscans we also find it among the Aryas of India Mention is made of it in the hymn of the Rig-Veda It is spoken of

in the *Chandogya* Upanishad, the most important sacred passage of the Vedas. This belief even before the religion of Brahma was established, still beneath the worship of Brahma beneath the doctrine of metempsychosis, this religion of the souls of ancestors still subsists, living and indestructible, competing

with the doctrine of Moksha, the doctrine of liberation. It is not that it has preserved the rules relative to this ancient belief, but it was evidently prepared to change when belief entirely different had gained the ascendancy. This proves that much is required to transform a human belief and still

and to avoid its own contradictions. It is not that the ancients offered to the ancestors the same offerings as the ancients did, but these offerings were made in the same manner and the most persistent of anything pertaining to the Indo-European. This worship was the same in India as in Greece and Italy. The Hindu had to supply

the same with the same which was called *pitru* "to the fathers" of the for himself the good-will of the manes."

The Hindu believed that at the moment when he offered this funeral repast to the manes, his ancestors came to eat themselves beside him and took

then their nourishment which was offered them. Heals believed that this repast

1 Euripides, Alc. 1003, 1015.

2 Cicero, *De Legibus* II, 9. Varron, St. Augustin, *City of God* VIII, 26.

3 Virgil, *En.* IV, 34. Aulus Gellius, 18. Plutarch, *Rom. Questions* I, 4. Euripides, *Troades* 96. *Electra* 51. Suetonius, *Aug.* 50.

4 Varron, *De Lingua Latina*, V, 74.

afforded the dead great enjoyment. When the sacrifice was made according to the rites the ancestors of the new holder of the office experienced satisfaction."

Thus the Aryas of the East had in the beginning the same notions as those of the West relative to man's destiny after death. Before believing in metempsychosis, which supposes an absolute distinction between the soul and the body, they believed in the vague and indefinite existence of man in visible but not in material form, requiring mortal nourishment and offerings.

The Hindu like the Greek regarded the dead as divine beings who enjoyed a happy existence, but their happiness depended on the condition that the offerings made by the living should be carried to them regularly. If the sacrifice for a dead person was not offered regularly, his soul fits peaceful dwelling and became a wandering spirit which tormented the living so that if the dead were really gods, this was only whilst the living ignored them with

the Greeks and Romans, exactly the same belief of the funeral feast past ceased to be offered to the dead, they immediately by their tombs and became wandering spirits that were heard in the silence of the night. They reproached the living with their negligence, or they sought to punish them by

afflicting them with diseases, or with storms, or by destroying their crops. The offering of nourishment, the libation stored in the tomb, and gave them back their souls and their divine attributes, and was the means of peace with them.

If a deceased person had been neglected or forgotten, his spirit was supposed to bring down ruin and destruction on the family. The living were supposed to protect them, and they continued to take part in human affairs and frequently played an important part. The dead though he was supposed to be strong and active, the living prayed to him and

asked his support and aid for all their human concerns.

We can judge of the power which the ancients attributed to the dead by this prayer which Electra addressed to her father, "Take pity on

1 *Laws of Manu*, 95, 118, 212, 274, 618, 974.

2 *Ovid Fasti*, 1. 549-556; *Æschylus*, *Agamemnon*, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

3 *Euripides*, *Alceste*, 1004, 1016. The belief that if we have a car for the dead and if we neglect their worship, they will punish us and that on the contrary, if we render them propitious by offering sacrifices, they will protect us.

Laws, *Book X*, p. 926, 927.

me and on my brother's sake in return to this country, he may pray for my father's grant, my wish is receiving libations. The powerful gods did not give material only for Elect and's; Give me a heart more chaste than my mother's and pure hands. Thus the Hindu asks of the manes "that in his family the number of good men may increase and that they may have much to give."

The human soul is chiefly by death, ever what the Greek called *demon* or *heroë*. The Latins gave them the name of *Lares* *Manes* *Genii*. Our ancestors believed, says Apuleius, that the Manes, when they were malignant, were to be called *larvæ*; they called them *Lares*, when they were benevolent and propitious. Elsewhere we read, "Genius and Laus is the same being, so our ancestors believed." And in Cicero, "Those that the Greeks called demons we call *Lares*."

This religion of the dead appears to be the oldest that has existed among

this race. The belief in the dead is the first principle of superstition. Religious sentiment commenced in this way; it was perhaps, still looking upon the dead that man first conceived the idea of the supernatural, and began to have hope beyond what he saw. Death was the first mystery, and it placed

man on the brink of the mysterious, the sublime, the high, the noble, the divine.

CHAPTER II.

THE SACRED FIRE.

1. *Æsch Choeph.* 22-135.

2. The primitive sense of this last word appears to have been that of dead men. The language of the inscription which is that of the common people among the Greeks, after employs it in this sense. *Boeckh Corp. Inscript.* Nos. 1629, 723, 781, 784, 786, 789, 398. Ph. Lebas, *Monum. Moréot.* 203. *Vide Theognis* Welckey, 513. The Greeks gave to one dead the name of *psuchê* ["departed soul," tutelary deity, Euripid., 1146.] *Schole* *Æsch. Pers.* 620. *Pausanias*, 1, 6.

3. *Servius ad Æn.* III. 63.

4. *Censorinus*, 6.

5. *Cicero* *Timæus* 11. *Dionysius Halicarnassensis* translates *τὸ κατ' οἰκίαν ἥρος* (*Antiq. Rom.* IV. 2.)

IN the house of every Greek and Roman was an altar on this altar there had always to be a small quantity of ashes and a few lighted coals. It was a sacred obligation for the master of every house to keep the fire alight night and day. Wood to the house where it was extinguished. Every evening they covered the coals with ashes to prevent them from being entirely consumed. In the morning the first star was to revive this fire with a few twigs. The fire ceased to glow upon the altar only when the entire family had perished and extinguished the altar. Next to extinguish the family were synonymous expressions among the ancients.

It is evident that this usage of keeping fire on the altar was connected with an ancient belief. The rule and the rites which they observed regard it show that it was of an importance which no one was permitted to feed this fire with the very sort of wood religion distinguished from the trees that could be employed for this use from those it was impious to

use. These are religious precepts that this fire must always remain pure, which mean literally that no filthy object ought to be cast into it, and figuratively that no blame worthy thing ought to be committed to its presence. There was one day in the year—a month the Romans it was the first of March—when

the sacred duty of purification of the altar was performed. The high priest observed especially they avoided sinning and for this purpose the only process allowed were to concentrate the solar rays into a focus or to rub together rapidly pieces of wood of a given sort. These different rules

sufficiently prove that the dropping of the sacred fire was not a matter of trifling importance. The fire that burnt upon the altars.

This fire was something in which they adored it, and offered it a real worship. They made offerings of it of whatever they believed to be agreeable to

power, flowers, fruits, precious incense, and incense. They believed to have

1 The Greeks called this altar by various names: ἄλтарь ["altar"] τὸ φῶς ["hearth fire-place"] ἡ φῶς ["hearth"] this is finally prevailed use and was the name by which they afterwards signified the gods' vest. The Latins called the same altar *ara* or *focus*.

2 *Homer Hymn* XIX, *Orphic Hymn* LXXXIV, *Hesiod Opera* 32, *Esch. Aqum* 1056, *Eurip. Her. Fur.* 503, 599, *Thuc.* I, 136, *Aristoph. Plut.* 795, *Cato De Re Rust.* 143, *Cicero, Pro Dom.* 40, *Tibullus* 1, 4, *Horace Epod.* II, 43, *Ovid A. A.* 1, 63, *Virgil* III, 512.

3 *Virgil* II, 71, *Festus, Felicitas* luterarum.

4 *Eurip. Her. Fur.* 713, *Cato De Re Rust.* 143, *Ovid Fast.* III, 698.

5 *Macrobius Saturn.* I, 12.

6 *Ovid Fast.* III, 143, *Festus, Felicitas* luterarum *Speo* on the Sun.

is hand level the body of the god. This was the reason why they gave him wood before everything, for the same reason they afterwards poured wine upon the altar—the inflammable wine of Greece—oil, censers and the fat of victims. The god received these offerings and devoured them radiant with satisfaction, rose above the altar and lighted up the worship with his brightness. Then was the moment to invoke him and the hymn of prayer went out from the heart of man.

Especially were the meals of the family religious acts. The god presided there. He had cooked the bread and prepared the food; a prayer therefore, was due at the beginning and end of the repast. Before eating they placed upon the altar the first fruits of the food before drinking they poured out a libation of wine. This was the god's portion. No one doubted that he was present at the feast and drank for did they not see the flames increase if it had been nourished by the provisions offered. Thus the meal was divided

between man and his god. It is said that the torch which he held faded from the minds of men but which he left behind for many ages, ites, usages and forms of language which even the incredulous could not free themselves from. Horace, Ovid and Petronius still suppose before their fires and

pot the gods sit and feed and drink with the living. Exclusively the populations of Greece and Italy we find it in the East. The Laws of Manu as they have come to us show the religion of Brahma completely established and ever going towards decline but they have preserved its ancient remains

Brahma is still more ancient than the gods of the Hindoos. His worship has his fire to keep night and day every morning and every evening he feeds it with wood but as with the Greeks this must be the wood of certain trees. As the Greeks and Italians offer wine the Hindu pours spout a fermented

liquid which is called Soma and the gods are said to drink it, as in Greece they offer the first fruits of rice, butter and honey. We read that the Brahmins should eat the rice of the new harvest without having offered the first fruits to fit to the hearth-fire for the sacred fires are greedy of

grain and that the men of the Hindoos themselves are greedy of food and drink.

1 Ovid *Fast* VI.315.

2 Plutarch *Rom. Quest* 64 *Common Hesiod* 44 *Homer Hymn* 49.

3 Horace *Sat.* II.6, 66 Ovid *Fast* II.63 Petronius 60.

Man believed himself compelled to satisfy his hunger and thirst if he wished to avoid the wrath.

Among the Hindus his divinity of the fire is called *Agni*. The Rig-Veda contains a great number of hymns addressed to this god. In one it is said: "O Agni thou art the fire, thou art the protector of man. In return for our praises bestow upon the father of the family whom I implore the glory and riches. Agni thou art a prudent defender and a father to the poor and the feeble of thy family. Thus the fire of the hearth is as in Greece a tutelary power. Man asks abundantly of it: "Make the earth have labor and wealth. He asks of it: "Grant that I may enjoy long life and that I may arrive at old age like the sun at his setting. Heaven asks wisdom of it: "O Agni thou placest upon the good way the man who has wandered out of the bad. If we have committed a fault if we have gone astray from the path, pardon us. This fire of the hearth was, as in Greece essentially, to the Brahmins forbidden to throw anything

fit to burn on the fire of the hearth. As in Greece the guilty man could

It is a strong proof of the antiquity of this belief and of these practices, to find them at the same time among men on the shores of the Mediterranean and among those of the peninsula of India. Assuredly the Greeks did

not the Greeks believed that the fire had belonged to the same Greek ancestors as a very distant past lived together in Central Asia. There this creed originated and these sites were established. The religion of the sacred fire dates therefore from the distant and time-poor when there were no

Greeks and the Hindus. It is thus that the religion of the sacred fire has been carried to the shores of the Mediterranean where the tribes had no intercourse with each other. Some adore Brahma, others Zeus and still others Janus, each group has its own gods but all preserve an ancient

legend of the fire, which they had known and practiced in the common

If the existence of this worship among all the Indo-European nations did not sufficiently demonstrate its high antiquity, we might find the proofs of it in the religious rites of the Greeks and Romans. In all sacrifices we find

the offering of a portion of the food. In the sacrifices of the Greeks and Romans a portion of the food was offered to the fire. At Olympia the first sacrifice was assembled to be offered

1 Porphyry *De Abst.* II p. 106. Plutarch *De Frigido*

2 Homer *Iliad* 29 *ibid.* 3 v. 33. Plato *Cratylus* 88. Hesychius *ἐστιας* Diodorus V. 1. 2. Aristophanes *Birds* 665.

ferred to the hearth-fire, the second was to Zeus Sothō at Rome, the first adoration was always addressed to Vesta, who was no other than the hearth-fire. Ovid says of this goddess that she occupied the first place in the religious practices of men. We also read in the hymns of the Rig-Ved, "Agni must be invoked before all the other gods. We pronounce thee venerable, before thee all the other immortal Agni, whatever the god we honor with our sacrifice, thou shalt always offer to thee." It is certain, therefore, that at Rome in Ovid's time and in India in the time of the Brahmins, the fire of the hearth took precedence of all the gods, so that Jupiter and Brahma had not acquired great importance in the religion of men, but it was remembered that the hearth-fire was much older than those gods. For many centuries it had held the first place in the religious worship, and the newer and greater gods could not dispossess it of this place.

The symbols of this religion became modified in the course of ages. When

the Greeks first appropriated the name of the goddess to the hearth-fire, they admitted the common law which human intelligence of that period imposed upon every religion. That altar of the sacred fire was personified. They called it *ἑστία* ["hearth"], its name was *hestia* in Latin and

in Greek, and by a process of the imagination, which is very common, it became a proper name. By degrees a legend was formed. The picture of this divinity to themselves wearing female form, because the word *ἑστία* or *hestia* was of the feminine gender. They even went so far as to represent this goddess

statue. Still they could not refrain from maintaining the old notion which led them to admit that Vesta was nothing else than "living flame."

If we compare this worship of the sacred fire with the worship of the dead, of which we have already spoken, we shall perceive a close relation between

the two. In the first place, that this fire which was kept burning upon the hearth was not in the thought of men the fire of material nature. What they saw in it was not the purely physical element that warms and burns, that transforms bodies, melts metals, and becomes a powerful instrument of hu-

man's desire. The fire of the hearth, by the fact of its existence, and its use upon only with certain kinds of wood, is a chastity, the union of the sexes

1 Pausanias 1.4.

2 Cicero *De Nat. Deorum* II. 27 Ovid *Fast.* VI. 304.

3 Ovid *Fast.* VI. 291.

nus heremove dū fronts present. The pray it not only for rich and
 health butals for purity of heart temperance and wisdom. Rendres rich
 and flourishing a yā Orphidym/ makes also wise and chastel h
 the earth. fias aort famora beint shine and varman d ook the
 sacred but at the same timet think and hasa conscience. It knows
 men duties and sees that they fulfill. Onemight allth humafont
 hashd oblaution of man physically blasz it move lives pro
 cures abundance preparest to past nourishes the body morally. It has
 sentiments and affections. It gives narpurity. It enjoins the beautiful and
 the good. It nourishes onemighs that support humafient the
 doublerisnt manifestati at the same timethesource of wealth
 of health. It virtut is truly the god of human nature. Later in this worship
 has been assigned a dease of clasp by Brahmay by Zeus. he still
 remained the earth. five ated of divine a mos accessible manant

became the player and the offering of his mind to bring the gods back to him. Still later, when they made the great feast of this myth of the sacred fire, Vesta was the virgin goddess. She represented the world, neither fecund nor powerless, she was order but not rigorous abstract mathematical

only the motions in the celestial world are ordered by necessity, but as
asorbuniversally, which regulate the different movements of worlds as
the human soul keeps order in the human system.

Thus we are permitted to look into the way of thinking of primitive gener-

ation. The principle of this work is his outside-of-physics nature and found

This brings back the worship of the dead. Both of the same antiquity. They were so closely associated that the belief of the ancients made but one religion of both. Heathenism and hero-worship were confounded.

Was Cicero's point to offend, and if so, what? He certainly had some reason.
Cicero said they did not distinguish between the Penates or
the Penates from the Lares. In Servius' reading, by hearing the ancients under-

1 Hesiod *Opera* 73 Plutarch *Commun* Hesfrag 43

2 Tibullus 1.2. Horace *des* v. 11. Ovid *Trist.* III. 13 v. 5. The Greeks gave to their domestic gods or heroes sheep that ἐφ' ἑστίαις ["household gods"] ὀρεστίουχοι ["guardians of the house"].

3 Plaut. *Aulul.* 117, 16–*Infoc nostr. Bari* ["in (honour) of our household upon the hearth"] Columell. XI, 1, 19–*Lare focum q[ue] familiare est* ["household and hearth"].

CiceroProDomo41ProQuintia2728.

stood the are and Virgil has written in different part for Penates and Penates for earth in a famous passage of the *Eneid*. He tells Eneas that he is going on trust to him in the Trojan Penates and to the earth – that he commits to his care another passage of Eneas in voking these same gods, calling them the same Penates and *estā*.

We have already seen that those whom ancient called heroes, were not theath souls of the dead, who merit attributed to superhuman diving power. The collection of these sacred words always attached to the earth-fire adoring, the worshipper could not forget that the hero was associated the response and the prayer of the descendant and they spoke of the earth-fire called name of the ancestor. Leave this place, say Orestes, his sister and advance toward the ancient earth. Pelops to be my words. So too, Eneas speaking the sacred which transports to the waters designate by the name of

the Chaparral San Francisco mission of Fr. Juan Antonio Fontana (an antiquary which he studied much more in his time than in the time of Cicero), says it was very ancient usage to bury the dead in the houses and heads, "As result of this custom they honor the Lares and Penates the houses."

This explanation is not only supported by the fact that the first fire was the beginning only of the worship of the dead, but under the stone of the hearth, as we propose, that the fire was lighted there to honor him and that this fire seemed to preserve life in him or represented

his Son, he is big, but we have no proof of it. Still it is certain that the oldest generation of the race from which the Greeks and Romans sprang worshipped both the dead and the earth-fire—ancient religion that did not find its god in physical nature but in man himself, and that has its ob-

jeopardization of their visible being which is inusthemora and thinking

This religion after a time began to lose power over the soul it became enfeebled degrees at a time did not disappear temporarily with the first ages of the Aryan race it became rooted deeply in the minds of this race

that the brilliant logic of the Greek Olympians could not extinguish only

1 Servius, *En.* III.134.

2 Virgil IX.259v.744.

3 Euripides, *Orestes*, 140-1142.

4 Servius in En. V.84-VI.152 See Plato *Minos* 315.

this religion exercised on the domestic and social institutions of the ancient world was conceived and established at a distance from the place where it was just forming its institutions, and determined the direction of their progress.

CHAPTER IV.

THE DOMESTIC RELIGION.

We are not to suppose that this ancient religion resembled its founder when he became more enlightened. For a great number of centuries the human race admitted that religion, and it was accessible to all men and was accessible to all systematic classes of men. But this primitive religion fulfilled neither of these conditions. Not only did it not offend only god, but the adoration of men put its gods in the place of adoration of all men. They did not offer themselves as the gods of the human race; they did not even resemble animals, as was the case with the gods of the whole of the Panhellenic Zeus, who was the god of an entire nation in this primitive religion, each god could be adored only by one family. Religion was purely domestic.

We must illustrate this important point to the reader with the intimate relation that existed between this domestic religion and the constitution of the Greek and Roman family may not be fully understood.

The worship of the dead now resembles the Christian worship of the saint. One of the first rules of this worship was that it could be offered by each family only to those deceased persons who belonged to it by blood. The funeral feast, which was a religious duty, was performed by the nearest relative. As to the funeral meal, which was a new feast, each family alone had the right to take part in it, and every stranger was strictly excluded. They believed that the dead ancestor accepted offerings from his own family; he desired to be worshipped by his own descendants in the presence of one

1 Cicero *De Legibus* II. 26 Varro, *L.*, VI. — *Ferunt pulchra sepulcrum quibus sibiparentes* "they carry food to the tomb of those to whom it is a duty to offer ancestors worship". Gaius *I.* 5, 6 — *Simodum mortuorum dno pertinet* "the songs of the burial of the dead man concern him". Plutarch *Solon*

who was of the family disturbed the rest of the manes. The law, therefore, forbade a stranger to approach a tomb. To touch a tomb with the foot even by chance was a misprophesy, after which the guilty one was expected to pacify the dead and purify himself by the word by which the ancients designated the worship of the dead, significant in the Greek *καταδύειν*, the Romans said *parentalia*. The reason of this was because the prayer and offering red-dressed each one only to his father. The worship of the dead was nothing more than the worship of ancestors. Lucian, while ridiculing the common beliefs explained the clearly by whom he says that man who had died without leaving one receive offerings, was exposed to perpetual hunger.

In India, as in Greece, an offering could be made to a dead person only by one who had descended from him. The law of the Hindu is, Athenian law forbade a stranger, even if he were a friend, to be invited to the funeral banquet. It was one necessity that these banquets should be offered by the de-

were slapped and bound by this fish. May the fish be a pressing place
of four lines on who in all coming time may offer us rice boiled in milk,
honey and larified butter.⁴"

Hence it was that in Greece and Rome as in India it was the son's duty

his neglect of his duties was the cause of his father's death, and possibly the interruption of his worship caused the dead to fall from their happy state. His negligence was nothing less than the crime of parricide, multiplied many times as there were ancestors in the family.

If of the province he sacrificed to the gods, and planted and then
 the ancestor he came protecting, no Hostile all which had not descended
 from him driving them from him, combining, inflicting seasons on them if they
 approached was good and provident in his own family.

There was a penalty, interchanged for good deeds between the living and the dead, as at a funeral, where the only enjoyment left to him in his second life The descendant received from the ancestor aid and strength which he had need in this The living could do without the dead or the

¹ *Pittacus omnino accedere me quaerit in funus lior ufi* ‘Pittacus together for bade
from attending the funeral of strangers’ Cicerō *De Legib.* II. 26 Plutarch *Solo.* 21.
Demosthenes Timoc. sæk.

2 In the beginning of the 4th century, the cities had their local and national heroes, we shall see.

4 *Laws of Manu* III.138ff.274.

dead without the living. Thus power and was established among the generations of the same family which made of it a body forever inseparable.

Every family had its tomb where its dead went to repose, and after another always together. This tomb was generally at the house, not far from the door; in order that one of the ancients, that the sons entering and leaving their dwelling might always see their fathers, and might always address them in invocation. Thus the ancestors remained at the hemid of his relatives; invisible but always present, he continued to make a part of the family and to be its father. Immortal, happy, divine, he was still interested in all of his whom he had left upon the earth. He knew their needs and sustained their feebleness, he who still lived, who labored, who according to the ancient expression had not yet discharged his debt of existence, he had seen him in his guides and his supports—his father, his hemid, his difficulties, he invoked the ancient wisdom, in grief he asked consolation from him in danger,

So that the reported filial piety of the Chinese could do for his father or his ancestor, to make of man a god, appears to us the reverse of religion. It is almost as difficult for us to comprehend the ancient deeds of these men as it would have been for them to understand ours. But if we reflect that the

was on the mind of the Chinese, in the same way, they were not appeared to them to be a divine being and they adore the ancestor. This sentiment must have been very natural and very strong for it appears as a principle of religion in the origin of almost all human societies. We find it among the Chi-

Ancient Chinese, among the Greeks, the Romans, the Egyptians, among the tribes of

The sacred fire which was intimately associated with the worship of the dead, belonged to its essential character. Properly, each family represented the ancestor, it was the providence of the family, and had nothing in common

with the gods, which were beings of a higher nature, known in legend, enclosed within the walls of each house. The worship was not public. All the ceremonies, on the contrary, were kept strictly secret. Performed at the hemid

1 Euripides, *Electra* 163-1168.

2 Among the Romans, the custom was a custom for every religious family to keep the image of its ancestors arranged around the atrium. Were these images simple family portraits, or were they idols?

3 Έστία πατριώδης, *focus patriæ*, the hearth. In the Veda, Agni is sometimes invoked as a domestic god.

4 Isæus, *V*, III, 1718.

of the family, and they were once called on every stranger if the heart was never placed in the outside of the house, even near the outer door where it would have been too easy to see. The Greeks always placed it in an enclosure, which protected it from the contact of the gaze of the profane. The Romans concealed it in the interior of the house. All the gods, the sacred fire, the Lares, and the Manes were called the consecrated gods or gods of the interior. To all the acts of this religion, a ceremony was necessary. If a ceremony was looked upon by a stranger as disturbed, it was considered an unfortunate simply by this look.

There were neither formulas nor common ritual for this domestic religion. Each family was most completely independent. No external power had the right to regulate the ceremony, the creed. There was no other priest than the father, as a priest he knew no hierarchy. The pontifex of Rome or the archon of Athens might indeed ascertain the father of a

family, and if he found the father's name in the list of the fathers, he might make the sacrifice according to his own will. — such was the absolute. Every family had its ceremony, which were peculiar to itself, its particular celebrations, its formulas, its prayers, its hymns. The fathers alone interpreted

and performed the religion. The father was the head of the family, and he was the essential part of this domestic religion, a patrimony, sacred property, which the family shared with no one and which they were even forbidden to reveal to strangers. As the sam in India, "I am strong against my enemies,"

so the father was the head of the family, which he received from his family and which

Thus religion was not in temples but in the house, each house had its gods, each god protected the family only and was a god only in one house. We cannot reasonably suppose that religion of this character was revealed

made by a power, the sign of a power, or a power, though it was taught by the family, each family created its own gods.

This religion could be propagated only by generation, the father giving

1 This enclosure was called *cloaca*.

2 *cloacina* ["concealed"] *Penates*.

3 Cicero *De Arus. Resp.* 7.

4 Varron *De Ling. Lat.*, VII. 88.

5 Hesiod *Op. et Dies* 5. Macrobius *Sat.* I. 10. Cicero *De Legib.* II. 11.

6 *Rig-Veda* Langlois transv. I. p. 113. The Laws of Manu often mention the peculiarities of each family. II. 3. IX. 7.

life to his song gave him at the same time his creed, his worship, his right to continue the sacred fire to offer the funeral meal, to pronounce the formulas of prayer. Generation established a mysterious bond between the infant, who was born to life and all the gods of the family. Indeed the gods were his family—θεοὶ ἑγγεῖς ["gods of the race; country they were of his blood—θεοὶ σὺναιμοὶ ["kindred gods"]. The child therefore received his birth, the right to adore them and to offer them sacrifices, a date when death should have claimed him, he also would be counted in his turn among the gods of the family.

But we must notice this peculiarity—that domestic religion was transmitted only from male to male.

This was winged doubt to the idea that generation was entirely by the males. The belief of primitive ages we find in the Vedas and we find vestiges of it in all Greek and Roman law, was that the reproductive power

resided exclusively in the father. In the primitive Semitic polytheism it followed that the domestic worship was passed from male to male, that woman participated only through the father or the husband, and finally that the dead women had no other share in the worship and the

revenue of the domestic fire than the support of this worship, that the male proceeded.

1 Sophocles *Antig.* 199 *ibid.* 659 Comp. πατὴρ θεοὶ ["paternal gods" gods of the father-land] Aristophanes *Wasps* 888 Eschylus *Eur.* 104 Sophocles *Electra* 11 θεοὶ γένεσθαι ["gods of the family" paternal gods"] Plato *Laws* II. p. 729 *Generis* *vid. Fast.* II.

2 The Vedas all the sacred fire because of male posterity. See the *Mitakcha* for *Varianes'* transp. 139.

BOOK SECOND.

THE FAMILY.



CHAPTER.

RELIGION WAS THE CONSTITUENT PRINCIPLE OF THE
ANCIENT FAMILY.

If we transport ourselves, as I thought to those ancient generations, we find in each house an altar, and around this altar the family assembles. The family meets every morning to address its first prayer to the sacred fire, and in the evening to invoke it for a last time. In the course of the day the members are once more assembled at the fire for the meal of which they partake piously after prayer and libation. In all these religious acts hymns which their fathers have handed down are sung in common by the family.

Outside the house, near the altar and in a neighboring field, there is a tomb — these are the homes of this family. There every generation of ancestors repose together, and death has not separated them; they remain grouped in this second existence, and continue to form an indissoluble family.

1 These offices of family piety by the ancients is incontestable. It disappears only when the beliefs relative to the worship of the dead became obscure. The words *ταφὸς πατρῶος* ["grave of their fathers" *ταφὸς πατρῶος*] ["grave of their fathers"] appear continually in Greek writers as *τὸ μνησθῆναι τῶν πατρῶων* ["paternal ancestors"] and *τὸ σπυλῆναι τὴν τομὴν* ["to bury the gens"] and found in Roman writers. See Demosthenes, *Eub.* 28; in Macar, 79; Lycurgus, in *Leoc.* 25; Cicero, *De Officiis*, 1. 17; *De Legibus*, 1. 22; *Mortuorum gentem inferre funegant* ["they then that it is right for the dead to be interred apart from his gens"] Ovid, *Trist.* IV. 345; Velleius, 1. 11; Suetonius, *Nero* 50; *Tiberius Digest* XI. 5; XVIII. 1, 6. There is an old

Between the living part and the dead part of the family there is only this distance of a few steps which separate the house from the tomb. On certain days which are determined by his domestic religion the living assemble at the ancestral hearth to offer the funeral libation of milk and wine to the lay-out cake and fruits or burn the flesh of a victim to them in exchange for the offering they ask protection for all the ancestors to the gods and ask them to render the field fertile, the house prosperous and the heart virtuous.

Generation alone was not the foundation of the ancient family. What proved this is that the sister did not bear the same relation to the family as the brother. That the emancipated and the married daughter ceased completely to form a part of the family and in fine several of the important provisions of the Greek and Roman law show that we shall have occasion to examine farther along.

None of the family principles of the Greeks is the heart, but it is not in the law. The father may have affected for his daughter, but he cannot will her property. The laws of succession—~~that~~ say those laws which most faithfully reflect the ideas that men had of the family—are

opposed to the idea of the blood of the father and of the mother. The father's birth or affection was the foundation of the Roman family. We have concluded that this foundation is based on the power of the father or husband. They make a sort of primordial institution of this power, but they do not

explain it. The power was established by the father or husband. Now we deceive ourselves when we thus place force as the origin of law. We shall see farther on that the authority of the father or husband has from having been a first cause, its effect was derived from religion and

was established by religion. Superior strength therefore was another principle

anecdote that shows how necessary it was thought to be that every one should be buried in the tomb of his family. It is related that the Lacedæmonians were about to join battle with the Messenians and that their right arm was the name and those of the father, and that in case of death each body might be recognized in the field of battle and transported to the paternal tomb. Justin II. 5. See Schylus p. 689. 14 ἡμεῖς οὐκ ἀποφύγομεν τὰς πατρὸς τάφους. The Greeks so frequently refer to this custom as *ekukysia* Demosthenes when he wishes to prove that a man belongs to a certain family and has the right to inherit its property. He says that this man has been buried in the tomb of his family. 1. It must be understood that we speak of the most ancient law. We shall see that at a later date these laws were modified.

The members of the ancient family were united by something more powerful than birth affection or physical strength; this was the religion of the sacred fire and of dead ancestors. This caused the family to form a single body both in this life and the next. The ancient family was religious rather than a natural association, and we shall see presently that the wife was counted in the family only after the sacred ceremony of marriage had initiated her into the worship. But the son was so long regarded as it were a child, and he had renounced the worship which he had been taught to the other hand and adopted son was counted as a reason because though he had no ties of blood he had something better—a community of worship with the heir who refused to adopt the worship of this family had no right to the succession, and finally that the relations and the rights of inheritance were governed by birth but by the rights of participation in the worship which as religion had established them. Religion it is true did not create the family but certainly gave the

family its sacred character, and it was the chief institution of domestic life on a natural affection.

The ancient Greek language has a very significant word to designate family. It is *ἐπίστυον*, a word which signifies literally *that which is near the hearth*

and family and to the persons who are permitted to share the same

CHAPTER I.

MARRIAGE.

The first institution of the domestic religion established in the family was the sacred fire, which was transmitted from male to male; it did not belong to all exclusively, but only to those who had a part in it. As a daughter took part in the religious acts of the father, so the wife in those of the husband.

From the time when the sacred fire was kindled in the house, among one young daughter takes part from her infancy in the religion of the father; she invokes the sacred fire every day, she offers libation, she surrounds it with flowers and garlands on festal days, she asks its protection and returns

thanks for its favors. This paternal fire is her god. Let a young man of the

neighbor or family she in marriage and something more is at stake than to pass from one house to the other. She must abandon her paternal fire and henceforth invoke that of the husband. She must abandon her religious practice and pronounce the prayer. She must give up the god of her infancy and put herself in the protection of a god whom she knows not. Let her oath to remain faithful to the new while honouring the other; for in this religion it is an immutable principle that the same person cannot invoke two sacred fires or two series of ancestors from the hour of marriage," says one of the ancient wives as long as anything common with the domestic religion of the fathers she sacrifices to the hearth of her husband."

Marriage is therefore a grave step for the young girl and of less grave for the husband for this religion requires that he shall have been borne to the sacred fire in order to have the right to sacrifice to it. And yet he is now about to bring a stranger to this hearth, with her he will perform the mysterious

patrimony of his family. He will reveal the power of his inheritance; the gods of his fathers, the hymn which he has received from his fathers, the whaprotection in this life and promise of riches, happiness and virtue. And yet instead of keeping to himself this tutelary power, the savage keeps

his father's worship and his father's gods, the hearth of his own wife is not so great an important to him as the conjugation and how necessary it was the intervention of religion. Was not quite necessary that the young girl should be initiated into the religion that she was henceforth to follow by

some sacred ceremony. Was not a sacred fire in which she was to be born by birth?

Marriage was this sacred ceremony which was to produce the important effect. The Greek and Roman writers habitually designate marriage by a word

indicative of religion as Pollux did designate the marriage of the Antonines, ancient times instead of designating marriage by its particular name *γάμος*, they designated it simply by the word *ἐλός* ["consummation of fulfilment", "end" which signifies a sacred ceremony if marriage had been in those an-

cient times the ceremony was a religious act that of Jupiter of Juno or of the gods of Olympus. The ceremony did not take place in a temple, it

1 Stephen of Byzantium *πάτρις* ["fatherland"].

2 *Θεῖον γάμον* ["to sacrifice on account of the marriage"] *crumuptia* [euphonia].

3 Pollux II.3.38.

was performed in a house and a domestic god presided. Whether the religion of the gods of this kingdom became preponderant could not be told, but invoking them in the prayer of marriage is true; even became habitually to go to the temple before the marriage and offer sacrifices to the gods. These sacrifices were really the preludes of marriage, but the principal essential part of the ceremony was to place before the domestic earth.

Among the Greeks the marriage ceremony consisted of three acts. The first took place before the hearth of the father, γυναικός ["betrothal"]; the third before the hearth of the husband, γαμῶνος ["marriage ceremony"]; the second was the passage forth on to the other, πορεύειν ["solemn procession"]³.

1. In the paternal dwelling, in the presence of the future bridegroom, the father, surrounded in turn by his family, offers a sacrifice. The sacrifice concludes, he declares—pronouncing a sacramental formula—that gives his

27 The young girls carried the basket of the dust of mourning, belongs to one of those men who among the Greeks were clothed with a sacerdotal character, and who were called *Idæi*. The bride was usually placed upon a bier, her face was covered with a veil, and on her head was a crown. The crown,

worshipful character used with new uses as a blotter on his
all the religious. She preceded by torch—the torch. For the
whole distance sang round her religious hymns whose refrain was
ὕμνην, ὧ μέναις. This hymn they called the *hymenean*, and the importance

[illegible]

shame has not yet come for what is now to take place is a religious ceremony.

1 Πρωτεύειν ["before the marriage"] προγάμει, ["sacrifice before marriage"] Pollux II.38.
2 Homef. II. XVIII 39 Hesiod Scutum 27 Herodotus I. 129.3 Plutarch These 10;
Lycourgeus Solon 2 Aristid. 80 Gr. Quest 27 Demosthenes Stephanus 115 s.v.;
3 Euripides Helen 72-72 Phn 34 Harpocration 267 s.v. Pollux II. c.3 The
same sacra month Macedonia 80 s.v. Intus Curtius III.16.

Wast not to mark more strongly that the wife who was now to sacrifice this fire had herself brought it, that she had not approached it of her own free will, and that the master of the place and of the god introduced her by an act of his power. However, this may be a feigned struggle; the husband raised her in his arms and carried her through the doorway, taking great care, however, that the feet did not touch the sill.

What preceded this preparatory *aprelude* to the ceremony? The sacred act now commenced in the house.

3. They approached the hearth; the wife brought into the presence of the domestic divinity. She sprinkled with the *ustravate*. She touched the sacred fire. Prayers were repeated. Finally the husband and wife shared between themselves a *keraloaf*.

This sort of light meal which commenced and ended with libation and prayer, this sharing of nourishment in the presence of the fire put the husband

and wife in religious communion with each other and in communion with

The Roman marriage closely resembled that of Greece and like it, comprised three acts: *traditio, deductio, and nuptiarum* *farredtio*.

1. The young girl quits the paternal hearth. As she has not attached to this

hearth the *peny* which she brought with her, of this family she can say pensable ceremony.

2. The young girl is conducted to the house of the husband. As in Greece, she is veiled. She wears a crown and a nuptial torch precedes the cortege.

Though the *beis* is a magical incantation, the words of this charm believed to those of the language, the sacramental formula continued from age to age without change. It was the word *Talassia*, word whose sense the Romans of Horace's time no more understood than the Greeks understood

the word *τῆ μέναι*, which was probably the sacred and inviolable remains

The cortege stopped before the house of the husband. There the bride presented with fire and water. The fire is the emblem of the domestic divinity; the water is the *ustravate* that serves the family for all religious acts. To

1 Varro, *L.*, 61 Dionysius of Halicarnassus, II, 2526. Ovid, *Fas* II, 558. Plutarch, *Rom. Quest* I, 29. *Romul*, 5. Plin., *N.H.*, XVIII, 3. Tacit., *Ann.*, IV, 16 XI, 27. Juvenal, *Sat.* X, 329-336. Gaius, *Inst.* I, 112. Ulpian, *X. Diges* XXIII, 2, 1. Festus, *Rap*, Macrobius, *Sat.*, I, 15. Servius, *En.*, IV, 168. The same custom among the Etruscans, *Narr.* De Re Rust. III, 4. The same custom among the ancient Indians, *Laws of Manu* III, 27-30, 72y, 152, III, 227 X, 194. Mitakcharya, *Ann.*, I, 166, 672, 36.

introduce the bride to the house, violence is to be pretended in Greece. The husband must take her in his arms and carry her over the sill without allowing his feet to touch it.

3. The bride is then led before the hearth, where the Penates and all the domestic gods and the images of ancestors are grouped around the sacred fire. As in Greece the husband and wife offer a sacrifice pouring out libation, pronouncing prayers, and eating cake of wheat flour (*panis farreus*).

This cake is eaten during the recitation of prayers in the presence and under the very eyes of the domestic divinities, as the union of the husband and wife is sacred henceforth, they are associated in the same worship. The wife has the same god, the same rites, the same prayers, the same festival as her husband. Hence his old definition of marriage which the jurists have preserved to us: *Nuptia sunt in iure et humani communis et divini* "Marriage is a communication of divine and human law" and his other *Xosocia*²

This is the origin of the wife's name, her worship, her husband's duty, to whom according to the expression of Plato the gods themselves have introduced her into the house.

The wife thus married is vowed to the dead, but it is not to her own

ancestors alone that she is bound. Her family, her own, and the religion of the religion she has had with it. Her offerings are carried to the ancestors of her husband and his of their family, they have become ancestors. Marriage has been for her a second birth, she is henceforth the daughter of

her husband's family, and of his religion. We shall see the consequences of this rule in the rights of succession.

The institution of sacred marriage was as old in the Indo-European

race as the domestic religion. For the husband was as with the other, a relation of the sexes and fleeting affection united man and wife by the power of blood of the same worship and the same belief. The marriage ceremony, so solemn and producing effects so grave, that it is not

surprising that the men did not think it permitted possible to have more

1 We shall here present to the forms of marriage as among the Romans in which religion had a part. Let us suffice to say that the sacred marriage appears to be the oldest; for it corresponds to the most ancient belief and disappeared as that belief died out.

2 *Digest* X. XIII. title 2. *Codex* IX. 324. Dionysius of Halicarnassus II. 8, 5. Κοινωνία καὶ ἡμετέραν

καὶ ἡμετέραν "partnership in his good and sacred rites" (Stephanus Byzantium).

that one wife each house. Such a religion could not admit of polygamy.

We can understand, that such a marriage is indissoluble, that divorce was almost impossible. The Roman law did indeed permit the dissolution of the marriage by *coemptio* "fictional sale" or by *usus* "use." But the dissolution of the religious marriage was very difficult. For that a new sacred ceremony was necessary, religion alone could separate what religion had united. The effect of the *confarreatio* could be destroyed only by the *diffarreatio*. The husband and wife, who wished to be separated, appeared at the same time before the common hearth, priests and witnesses were present. On the day of marriage, a cake of wheat flour was presented to the husband and wife. But instead of sharing it between them, they rejected it. Then, instead of prayer, they pronounced a formula of strange and spiteful, frightful character, a sort of malediction, by which the wife renounced the worship and gods of the husband. From that moment the religious bond was broken. The

existence of the marriage dissolved every other common interest based on

CHAPTER II.

CONTINUITY OF THE FAMILY, CELIBACY FORBIDDEN.
DIVORCE IN CASE OF STERILITY, INEQUALITY BETWEEN THE
SON AND DAUGHTER.

THE belief relative to the dead and to the worship that was due them, founded the ancient family and gave it the greater part of its rules. We have seen above that man after death was reputed a happy and divine being,

in that condition that the disjunction of the limbs of the departed was malevolent omen. For when these ancient generations gazed at pictures of future life to themselves, they had not dreamed of rewards and punishments; they imagined that the happiness of the dead depended upon the fidelity

in this state of existence, and upon the way in which his descendants treated

1 Festus, *Diffarreatio*, Pollux, II. C. 3 ἀποπομπή ["divorce"] were in an inscription *accidat on farreatio et diffarreatio* (priest of the *confarreatio* and *diffarreatio*) Orelli, No. 2648.

2 Φρικώδη ["horrible"] λόκοι ["strange"] θρόνα ["melancholy"] Plutarch, *Rom. Quest.* 50.

them. Ever father therefore expected his posterity a series of funeral repasts which was as sure to his manes as to his happiness.

This opinion was the fundamental principle of domestic law among the ancients. From it followed in the first place his rule that every family must perpetuate itself for ever. It was necessary to the dead that the descendants should do it. In the tomb where they lived his was the only quietude which they experienced. He only thought he in any interest as that there should be a man of his blood to carry the offerings to the tomb. The Hindu, too, believed that the dead repeated continually. May he be born in our lines, says who shall bring rice, milk and honey. The Hindus had this saying. The extinction of a family causes the ruin of the religion of this family. The ancestors deprived of the offering of cakes fall into the abode of the unhappy. The men of Italy and Greece long held to these notions. If they have not left us in their writings no opinion so clearly expressed.

While the Athenians did not think that the duty of the family was to the dead, they did think that the duty of the family was to the living. It was necessary that the family should become extinct in the same way. The Roman law made provision that a family should fail and become extinct. We read in the discourse of an Athenian orator, There is no man who knowing that

he must die, can then be so careless of his family as to leave it without issue to the dead. Every one therefore had an interest in leaving some after him, convinced that his immortal happiness depended on it. It was even a duty towards his ancestors whose happiness could last no longer than the

family of his descendants. All the oldest of the new was begotten

Here we touch upon one of the most remarkable characteristics of the ancient family. The religion that had founded it required that it should never perish.

When a family became extinct, the responsibility was laid on the surviving family. The religion and gods were precious to us, but which was required to watch. The greatest misfortune that a pious man had to fear was that his descendants might cease to come to an end for their religion would disap-

pear. It was not to be feared that the family would become extinct, but that the

1 Bhagavad-Gita.

2 Cicero *De Legibus* II. 19.

3 Isæus VII. 30-32.

4 Isæus VII. 30.

life was so continued the descent in order to continue the worship.

Inviewofthesepinionsellibabysagrapimpetyandmisfortune
 impietbecausehedidnotmarrythathappiesthemenasthe
 familyperilhisfortunebecausehimselfcoulddeceiveworship-
 tehisleatandcouldnotknowwhathemenjoye&otforhimself
 andhisancestorswasorbfdamnation.

We can easily believe that in the absence of laws such a belief would be sufficient to prevent the libel but it appears more obvious that as soon there were laws the pronounced libel would bring on a punishment and a fine. Dionysius of Halicarnassus, such a search of the ancient manuals of Rome, asserted that there had been a law which required every people to marry. Cicero treats in the laws—treatise which almost always produces under a philosophy of the ancient laws of Rome—contains which forbids libel. At Sparta the legislation of your gods deprived a man who did not

when Pollux was the first to display his sign of manhood. Pollux appears in a passage of Pausanias in many Greek cities the law punished celibacy as a crime. This was in accordance with the ancient belief that did not belong to himself he belonged to the family. Hewas a son, a member, a

hardship, and life with light. He was a born preacher
 give life till he assure that this worship will be continued after him.

But to begot is not sufficient. The son who stops perpetual domestic religion must be the fruit of religious marriage. The bastard, the natural νόθος

performing the ceremony designed for the Roman pagans, he could not
did not fit self alone constitute the family tie of common worship
to be added. Now the son born of a woman who had not been associated
the worship of the husband, the ceremony of marriage could do himself

take any part in the worship I had the right to offer the funeral prayer and same reason he had the right of inheritance.

Marriage then was obligatory. Its aim was not pleasure, its principal object was the union of two beings who were pleased with each other and who

wish to be united through the pleasures and trials of life. The effect of

1 Dionysius of Halicarnassus 22.

2 Cicero *De Legibus* II.2.

3 Plutarch *Life of Alcibiades*

4 PolluxII.48.

5 Isæus VII. Demosthenes Macart

marriage in the eyes of religion and of the laws was the union of two beings in the same domestic worship, in order to produce from them a third who would be qualified to continue the worship. We see this plainly by the sacramental formula that was pronounced at the act of marriage, *duce uxorem liberum, quærendo cum se* [“to lead a wife toward for the sake of getting children.”] was the Roman expression; *ἄρτον ἡγησάμενος* [“for the sowing of legitimate children.”] was the Greek.

This marriage having been contracted only to perpetuate the family, it seemed that it should be broken if the wife was sterile. The right of divorce in this case always existed among the ancients. It is even possible that divorce was an obligation in India, religion prescribed that the sterile woman should be replaced by another at the end of feign years. That the duty was the same in Greece and Rome, there is no formal text to prove. Still Herodotus mentions the kings of Sparta who were constrained to repudiate their wives

Roman law. *Si mulier in ista re deficiat, non videtur in ista re deficiat* [“Carvilius says, Aulus Gellius, a man of frank separation from his wife by divorce because he could not have children by her. He loved her tenderly, and had no reason to complain of her conduct, but the sacrifice of love to the

sovereign was a sacrifice to the law.”] the formula of marriage was

Religion demanded that the family should become extinct in affection and in nature, and had to give way before this absolute self the sterility of a marriage as due to the husband, was no less necessary that

of families should be continued in the same sphere, and to others relative connections held to be the son of the husband and continued worship. Such were the rules among the ancients. If in India we find them again in the laws of Athens, and in those of Sparta, so powerfully was the empire of this

religion. She who had no children with her husband, the widow, when she had no children with her nearest relative of the husband. The son born of such a union was reputed to be the son of the deceased. The birth of a daughter did not fulfil the object of the marriage, and the

1 Menander, 185; Didot Alciphron, 16; Esch Agam, 16; Hermann.

2 Laws of Manu, IX, 81.

3 Herodotus, 391; 161.

4 Aulus Gellius, IV, 3; Valerius Maximus, 14; Dionysius, 25.

5 Xenophon, *Memorabilia*, 20; Plutarch, *Life of Solon*, 20; Laws of Manu, IX, 121.

6 Laws of Manu, IX, 69, 146; The same truth of the Hebrews, Deuteronomy 25.

daughter could not continue the worship for the reason that on the day of her marriage she renounced the family and worship of her father and belonged to the family and religion of her husband. The family like the worship was continued only by the males—capital fact the consequence of which we shall see farther on.

It was therefore the son who was looked for and who was necessary, it was he who the family, the ancestors, and the sacred fire demanded. Through him, according to the old laws of the Hindus, if at the paysh he bled due to the manes of his ancestors, as assured immortality to himself. His son was not less precious in the eyes of the Greeks for late he was to perform the sacrifice of the funeral pyre and preserve by his worship the domestic religion in accordance with this ideal. Eschylus calls him the savior of the paternal hearth.

The entrance of this son into the family was signalized by a religious act.

First he had to be presented to the household gods and to the gods of the new community. He was now a part of the family. Birth formed only the physical bond; the declaration of the father formed the religious and moral bond. This formality was equally obligatory in Greece, in Rome, and in India.

At birth the infant was placed in the arms of the mother and was held in her arms for the first time. In Greece the tenth or twelfth day in India the father assembled his family and the women and offered a sacrifice to his fire. The child was presented to the domestic gods and female deities in her

arms and was held in her arms for the first time. To free him from the stain which the ancients supposed he had contracted by the mere fact of gestation and second initiation into the domestic worship. From this moment the infant was admitted to this sort of sacred society, small

church, that was called the family. He was now the religious heir of his father and in the late period he would himself become an honored ancestor.

CHAPTER IV.

1. Esch. Choep. 264 (262).

2. Aristophanes, *Wasps*, 422. Demosthenes, *Prooem.* 101. Macrobius, *Sat.* I. 17. Laws of Manu, II. 30.

3. Plato, *Theætetus*, 151. Harpocration, *μφορμ. α.*

THE duty of perpetuating the domestic worship was the foundation of the law of adoption among the ancient Hindus, a religion which obliged a man to marry, which pronounced a divorce in case of sterility, which in case of impotence or premature death substituted a relative place of the husband still better to a family in a resource to escape the so much dreaded disaster of extinction. This resource was the right of adoption. He to whom a man had denied a son, and adopted one, so that the funeral ceremonies might not cease. Thus speak the old legislators of the Hindus. We have a curious example of an Athenian ratum case, where the legitimate son's adoption was contested. The defendant shows first the motive for which one adopted a son. "Menecles," says, "did not wish to die without children, he was desirous of leaving behind him some one to bury him and at a time to perform the ceremonies of the funeral worship. If he were to go to show what will happen if the tribunal annuls his adoption, what will happen not only to himself, but to the one who has adopted him. Menecles is dead, and still it is the interest of Menecles that is at stake! If you annul my adoption, you will leave Menecles dead without a son, and consequently one will perform the sacrifice in his honor, no one will bury him, the funeral repast and he will be without worship."

To adopt a son was then to watch over the perpetuity of the domestic religion, the safety of the sacred fire, the continuation of the funeral offerings, and the repose of the names of the ancestors. There being no reason for adoption except the necessity of preventing the extinction of a worship, it was permitted only to one who had a son. The law of the Hindus forbade on this point. That of the Athenians, not less so, all the orations of Demosthenes again echo and are proof of this. No particular passage proves that this was the case in the old Roman law, and we know that in the time of Gaius a man might have at the same time a son by nature and a son by adoption. It appears, however, that at this point was not admitted. Legally, Cicero is of opinion that no orator could express himself thus: "What is the law concerning adoption? Why that they may adopt children who are no longer able to have children themselves, and who failed of having them when they were of an age to expect it. To adopt is to seek by regular and sacred law that which by the

1 *Laws of Manu* X. 10.

2 *Isæus* II. 10-46.

3 *Laws of Manu* X. 168, 74 *Dattaca-Sandhi* and *Cranius* cap. 260.

4 See *Laws of Manu* II. 11-14.

ordinary process of nature is no longer able to obtain. Cicer attacks the adoption of Clodius taking the ground that the man who has adopted him already has a son and he declares that his adoption is contrary to sacerdotal law.

When a son was adopted it was necessary for all that he should be initiated into a form of worship introduced to a domestic religion brought into the presence of new Penates. Adoption therefore was accompanied by a ceremony very like that which took place at the birth of a son. In this way the new comer was admitted to the hearth and associated with the new religion. Gods sacred to his subjects prayers all became common to him and his adopted father. He said to him *Insacrtransi* "He has passed to the worship of the new family."

By this very ceremony he renounced the worship of the old one. We have seen indeed that according to this ancient belief the same man could not

be a son to the father and to the mother. He could not be a son to the new family with the hearth at which he was born and could no longer offer the funeral rites to his own race. The ties of birth were broken. The new tie of a common worship took the ascendant. The man became completely

signified that he was a son of the new family. He was now bound to the new family and could not return again to the old family, or at most the law permitted this only when having a son he left that son to take his place in the adoptive family. They considered that the perpetuity of his family being thus assured,

he might leave it; but in this case he severed all the ties that bound him to his

Emancipation corresponded, a correlative to adoption in order that a son might enter a new family it was necessary that he should be able to leave the old, that is to say that he should be emancipated from his religion. The

principal effect of emancipation was the renunciation of the worship of the

1 Cicer. *Pro Dom.* 31. 4 Aulus Gellius 3. 19.

2 *Εἰς τὰ ἱερὰ ἀγαγεῖν* ["to lead to the rites"] Isæus VII *Venerin Sacrif* "to come into the family worship" Cicer. *Pro Dom.* 3 in *Penates* *adsciscere* "to receive into the family" Tacitus, *Hist.* I. 15.

3 Valerius Maximus VI. 1. 7.

4 *Amis* *sacra* *patris* "with his paternal rites forsaken" Cicer. *ad*

5 Isæus VI. 44; X. II. Demosthenes *gainst Leochares* Antiphon *Erag* 15 *Comp Laws of Manu* X. 142.

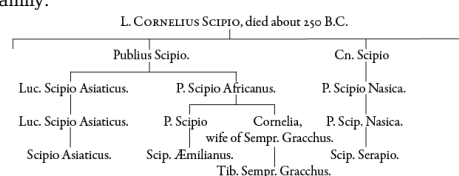
6 *Consuetudo antiqua* *fit ut qui in familia transiunt ut subdican et in quatuor fuerit* "it was a convention among the ancients that a man who passed to a family should first renounce that in which he had been born" Servius *ad En.* II. 156.

mother of the Afterwards descend still higher but always in the same line, he makes no offering the fourth fifth and sixth ascend again the offering of the last light it is a libation of water and a few grains of rice Such is the funeral feast and it is according to the accomplishment of these rites that relationship is reckoned. When women who offer their funeral feasts separately on each line by ascending through series of six ancestors find one who is common to both they are kin They are called *amanodachi* as the common ancestor is one of those to whom they offer only the libation of water *apinda* is he of those to whom the cake is presented counting according to our usage the relation of the *apinda* would go to the seventh degree and that of the *amanodachi* to the fourteen In both cases the relationship shows by the fact that both make no offering to the same ancestor; and we see that in this system the relationship through females cannot be admitted.

With the Roman system the words *agnation* and *consanguinity* are solutions soon as we bring nation and the domestic religion together just as this religion was transmitted only from male to males, so it is attested by all the ancient jurists that women can be "agnates" only when descending from

male ancestors. Hence the fact that women simply are called *consanguineae* is nothing as a manifestation of *agnation* is nothing more than the relationship which as a religion had originally been established.

To render this truth clearer deconstruct the genealogical table of a Roman family.



In this table the fifth generation which lived down to the year 40 B.C. is represented by four personages. Were they all kin? According to our mod-

1 *Laws of Manu* IV. 60; Mitakshara on Dharmaśāstra, 213.

2 Gaius I. 156 II. 10 Ulpian 26 *Institutiones Justinianae* II. 2; III. 5.

erridea on this subject they were in the opinion of the Romans all were not. Now let us inquire if they all had the same domestic worship; that is to say if they all made offerings to the same ancestors. Let us suppose the third Scipio Asiaticus who alone remains of his branch offering the funeral repast in particular as ascending from male to male to find forth the third ancestor Publius Scipio. Again Scipio Emilianus offering his sacrifice will meet in the series of his ascendants the same Publius Scipio Scipio Asiaticus and Scipio Emilianus are therefore related to each other. Among the Hindus they would be called *apinda*. On the other hand Scipio Serap has for a fourth ancestor Cornelius Scipio who is also the fourth ancestor of Scipio Emilianus. They are therefore *agnates*. Among the Hindus they would be called *amanodatta*. In the judicial and religious language of the Romans, the three Scipios are *agnates*—the first are *agnates* to the sixth degree, the third the *agnates* to the eighth degree.

To the same class as with the Scipios related to Scipio Emilianus is not related to him in the remote degree it was a small account indeed for Tiberius that he was the son of Cornelius the daughter of the Scipios. Neither he nor Cornelius himself belonged to that family in a religious point of view.

He is adopted into the family of the Gracchi. He is not related to the Scipios Scipio Emilianus and Tiberius Gracchus therefore are not *agnates*. The tie of blood does not suffice to establish this relationship; a common worship is necessary.

We are not to understand by the eyes of the Romans however that we cannot say that descent by male was a immutable principle which relationship was founded. It was not by birth it was by worship alone that the *agnates* were recognized. It is on whom a man's path had detached on the

adoption as long as he remained in the family. The stronger principle has been *agnates* of the one adopting man even of the whole family. So true is it that it was religion that established relationship.

There came a time indeed of Indian and Greece as well as for Rome when relationship was recognized by birth alone. But in the Roman law the relationship of birth was recognized in law. The Romans gave the name of *cognatio* to this sort of relationship which was absolutely dependent on the rules of the domestic religion. When we read the jurists from Cicero to Justinian we see the two systems as rivals of each other and contending in the domain of

law. But in the time of the twelve Tables, as the only relationship known and this alone conferred the right of inheritance. We shall see farther on that the case was the same among the Greeks.

CHAPTER VI.

THE RIGHT OF PROPERTY.

HERE is an institution of the ancients of which we must form an idea from many things that we see around us. The ancients found the right of property on principles different from those of the present generation.

With us, when the law is given, it is easy to find the basis for establishing among themselves the right of private property, while they have each of his stage only after long and painful experience. It is not indeed a great problem, in the origin of society, to decide whether the individual may appropriate the

soil he sees. If he has found the vestige of a man and a portion of the earth, he has an idea of the right of property, as a case of flock or herds, but they cannot understand to what it is a question of land. Among the ancient Germans the earth belonged to no one; every year the tribes assigned each one of its

members a portion of land, and he who was allotted the following of the same among part of the Semites and among some of the Slav nations.

On the other hand, the nations of Greece and Italy from the earliest antiquity always held to the idea of private property. We do not find a man when

the soil was common, and then we have found with other nations, and here even not a remarkable fact. While the races that do not accord to the individual a property, the soil allows him at least a right to the fruits of his

¹ Some historians have expressed the opinion that Roman property was first public and did not become private till Numa's reign. This is a common but false interpretation of three passages of Plutarch (Numa 6), Cicero (Republic, 14) and Dionysius of Halicarnassus (14). These three authors say it is true that Numa distributed land to the citizens, but they indicate very clearly that the lands were on conquest. This is precisely what *quod bellum Romulus cepit* in the territory which Romulus had captured in war. As to the Roman soil itself—the *ager Romanus*—it was private property from the origin of the city.

labor—their say to his harvest—prevaling on the contrary, as it prevailed among the Greeks in many cities, the citizens were required to store their crops in common, at least the great part, and to consume them in common. The individual therefore was not the master of the corn which he had gathered; but at the same time by a singular contradiction he had an absolute property in the soil. To him the land was more than the harvest; it appeared that among the Greeks the conception of private property was developed exactly contrary to what appears to be the natural order: it was not applied to the harvest first, and to the soil afterwards, but followed the inverse order.

There are three things which from the most ancient times we find founded and solidly established in the Greek and Italian societies: the domestic religion, the family, and the right of property—things which had in the beginning a manifest relation and which appear to have been inseparable. The idea of private property existed in the religion itself. Every family had its

private altar, and the gods of the family were adored only by this family, and

Now between the god and the soil men of the early ages saw a mysterious relation. Let us first take the heart. This altar is the symbol of sedentary life; its name indicates this. It must be placed upon the ground once

established, and it is difficult to move it. To move it is to wish what is fixed; religiously this is more difficult, and is permitted to a man only when hard necessity presses him, when an enemy is pursuing him, or when the soil cannot support him. When they establish the heart, it is with the thought

and hope that with heaven for an intimate ally, the gods will establish the family here and endure here, and remain, and so support its fire by sacrifices. Thus the sacred fire takes possession of the soil and makes it its own; it is the god's property.

And the family which the gods and the religion make so permanent follows naturally. The family is attached to the altar, the altar is attached to the soil; an intimate relation therefore is established between the soil and the family. There must be his permanent home, which he will not dream of quitting.

Every man is a person, every man has his property, but he is not simply a man, but a family, whose different members must go after

1 Eoria ["receive one's earth"] ἔρμαι ["make to stand"] ἵστασθαι ["to stand and remain." See Plutarch *De primis frigidis* 1, Macrobius 23, Ovid *Fast.* VI. 299.

another born and die here.

Let us follow the idea of the ancient fides sacrae as representing two distinct divinities, which have never united or confounded. It is so true that even intermarriage between two families does not establish an alliance between the gods. The sacred fire must be isolated—that is to say, completely separated from all that is not of itself. The stranger must not approach at the moment when the ceremonies of the worship are performed, he is in sight of it. It is for this reason that the gods are called the concealed gods, ἑκκρυπτοί, or the interior gods, *Penates*, in order that this religion may be well observed. There must be an enclosure round this hearth at a certain distance. It did not matter whether this enclosure was a hedge, a wall of wood or one of stone. Whatever it was, it marked the limit which separated the domain of one sacred fire from that of another. This enclosure was deemed sacred, it was an impious act to pass it. The god watched over it, and kept it under his

care. If there was any theft of the god's property in the region, as the fire itself is a temple, there is no doubt that it was the right of property.

Let us return to the primitive idea of the Aryans. The sacred enclosure, which the Greeks call ἑρκος, and the Latins *herctum*, was the same as the

enclosure of the hearth in the primitive house. It is the same as the enclosure of the succeeding ages. The tribe have reached Greece and Italy and have built cities. The dwellings are brought nearer together, they are not however contiguous. The sacred enclosure still exists, but is of smaller proportions;

after the destruction of the wall, the houses are more open to the street, partly wall as supposed, but impossible to fill. The same wall could be common to two houses, for the sacred enclosure of the gods would have disappeared. At Rome the wall fixed two feet and a half the width of the free

space which was between the two houses, and this space was consecrated

1 ἑρκος ἑρῶν ["sacred enclosure"] *Sophocles* *Œchus* 606.

2 At an epoch when the ancient worship was almost effaced by the younger religion of Zeus, and when they associated it with the fire-god, the new god assumed the title of ἑρκείος. It is not strange that in the beginning the protectors of the enclosure were the domestic gods. Dionysius of Halicarnassus says (I, 68) when he says that the ἑρκαίον "gods of the front court" is the same as the *Penates*. This follows more evidently from a comparison of a passage of Pausanias (IV, 17) with a passage of Euripides (*Electra* 17) and one of Virgil (*Æn.* II, 514). In the three passages it is the same fact, and how the ἑρκείος was no other than the domestic fire.

3 Festus, *Ambitu* Varro, L., V, 22 Servius *ad* *Æn.* II, 469.

A result of this self-religious rule was that community property was never established on the ancient phalansteries, even among them. Every Pythagorean who succeeded in establishing institutions like the most intimate religion of the ancients, neither of the old nor of the new, in the life of the ancients, thought it resembled multitudinous villages, general France, during the twelfth century. Every family having its god and its worship, was required to have its particular place, the soil its isolated domicile, its property.

According to the Greek sacred tradition, to build houses and, indeed, to have a wife were the religious onespot which they believed it their duty not to quit would come begin to think of raising that place some solid structure. Then to cover the earth the wagon of the Tartar family has a domestic hearth, the seat of paperman dwelling. The stone house soon succeeds the mud cabin of the woodcut. The family did not

but in the same way and for generations that were to succeed

The house was always placed in the sacred enclosure. Among the Greeks, the square which composed the enclosure was divided into two parts; the first part was the court, the house occupied the second. The altar placed near

The middle of the enclosure was the ditch, the bottom of the ditch and the principle was the same. The earth remained in the middle of the enclosure, but the buildings were on four sides, so a enclosure with a little court.

The same is also said in the Jewish spiritual system of extraction. As the Greeks said that religion taught men to build houses, in this house the family master and proprietors domestic divinity assure his right. The house is consecrated, the perpetual presence of god, it is a temple which

prewar them more holy, says Cicerō, what the more carefully
 round with the very description of religious respect that the house of each in-
 dividual citizen. Here is his altar, here is his hearth, here is his household;
 here all his sacred rights, all his religious ceremonies preserved & center

this house with animal excrement was sacrilegious, the pilgrims involved according to Roman tradition in the mission of punishing robbers and keeping off the enemy.⁷

1 Diodorus, 68.

2 Cicero, *Pro Domestico*, 41.

3 Ovid*Fast*V.141.

Let us pass to another object of worship—the tomb and veshakē that the same idea were attached to this. The tomb held a very important place in the religion of the ancients. For on one hand, worship was due to the ancestors and on the other, the principal ceremony of this worship—the funeral repast—~~was~~ performed there, every spot where the ancestors rested. The family therefore had a common tomb, where its members, one after another, must come to sleep. For this tomb the rule was the same as for the hearth: it was no more permitted to unite two families to the same tomb than it was to establish a domestic hearth in the same house. To bury one out of the family in the tomb to place a stranger in this tomb was equally impious. The domestic religion, both in life and in death, separated every family from all other and strictly rejected all appearance of community, just as the houses could not be contiguous, so the tombs could not touch each other, each one of them like the house, had a sort of isolating closure.

How does this relate to the part of private property? It is difficult to see. The gods have taken possession of the soil, they live under this little mound and no one except one of the family can think of meddling with them. Furthermore, no one has the right to dispossess them of the soil.

As for the sacred tomb, with the sacred soil, the gods have taken possession of the soil which in the name of religion became an object of perpetual property for each family. The family appropriated to itself this soil by placing its dead there; it was established for all time. The living claim of this family could not be denied.

The dead were not to be alienated. The dead were not to be alienated. It was the dead, tested as an alien, that was imprescriptible. The Romans law required that a family hold the field where the tomb was situated; it should still retain the ownership of this tomb and should always reserve the right to cross the

field to reach the tomb for the ceremony of worship. By the road-side but in the field belonging to the family. This custom of ancient times

1 Such at least was the ancient rule, since they believed that the funeral repast served food for the dead. Eurip. *Troas* 381.

2 Cicero *De Legib.* II. 22, 21. 26. Gaius *Instit.* I. 6. *Digest* XI. VII. tit. 12. We must note that the sacred soil was veshakē, that is, it was part of the family and was buried in the common tomb. The rule which prescribed that every man should bury in the tomb of his family admitted an exception in the case where the city itself granted a public funeral.

3 Lycurgus *gainst Leocrates*. At Rome, before a burial-plot could be changed, the permission of the pontiffs was required. *Ulpian's Letters* X. 73.

4 Cicero *De Legib.* II. 24. *Digest* XVIII. tit. I. 6.

is attested by a law of Solon and by several passages in Plutarch. We learn from an oration of Demosthenes that even in his time each family buried its dead in its own field and that when a domain was bought in Attica the burial-place of the old proprietor was found there. As for Italy, this same custom is proved to have existed by the law of the Twelve Tables, a passage from two jurists consulted by this sentence of Siculus Flaccus. Anciently there were two ways of placing the tombs, some placed on one side of the field, others towards the middle."

From this custom we can see that the idea of property was easily extended from the small mound to the field that surrounded it. In the works of the elder Cato there is a formula according to which the Italian laborer prayed that he might watch his field, take good care against the thief, and oblige him with a good harvest. Thus the soul of the dead extended tutelar action and with it their right of property even to the boundaries.

Had not the Romans themselves found this in the field of their own ownership.

In the great number of primitive societies the right of property was established by religion. In the Bible the Lord said to Abraham, "I am the Lord that

bring thee out of Ur of the Chaldees, saying unto thee, 'Thine is the land.'"

Isaac and Jacob saying, "In the end thou shalt say, 'The Lord will give it.'" Thus God the primitive proprietor by right of creation delegated to man his ownership over a part of the soil. There was something analogous among

the ancient Egyptians. The people believed in the religion of Jupiter. The gods who conferred upon every family its right to a portion of the soil were the domestic gods, the sacred fire and the manes. The first religion that exercised empire on the mind was also the one that established the right

of property. In the primitive property was an institution that the domestic religion made of. This religion required that both the wellings and bury-

1 *Laws of Solon*, cited by Gaius in *Digest*, X. tit. I. 13. Demosthenes, *Against Callicles*, Plutarch, *Aristides*.

2 Siculus Flaccus, edit. Goetz, p. 4. See *Frag. terminalis*, edit. Goetz, p. 14. Pomponius, *Digest*, XLVIII. tit. 125. Paulus, *Digest*, VIII. 1. 14.

3 Same tradition among the Etruscans. *Quoniam Jupiter terra Etruriam vindicavit, instituit jussitque ut in tempore signari quod* "when Jupiter had claimed the land of Etruria for himself, he resolved and commanded that the plain and fields be measured by the *Rei Agrarie* in the fragment entitled *De negotiorum*, edit. Goetz.

ing-places should be separate, and each the living in common was therefore impossible. The same religion required that the heart should be fixed to the soil, that the tomb should either be destroyed or displaced, suppress the right of property, and the sacred fire would be without fixed place, the families would become confounded, and the dead would be abandoned without worship by the stationary heart and the permanent burial-place, the family too, possession of the soil, the heart was some sort of imbued and penetrated by the religion of the heart and of fance to the ushmen of the early ages, save the trouble of resolving a difficult problem. Without discussion without labor without shadow of hesitation they arrived at a single step and merely by virtue of the belief in the conception of the right of property, this right from which all civilization springs, since by it man improves the soil and becomes a provident himself.

Religion and the law first guaranteed the right of property.¹

had done this they had done what was necessary, and it was not to be separated from the complete domain of the family. This enclosure was not a wall of stone, it was a band of soil a few feet wide which remained uncultivated, and which the plough should never touch. This space was a-

On the Roman law, the estate of a family, the *ager familiae*, was a right of property, went round his field following his line he drove a victim before him, sang hymns and offered sacrifices. By this ceremony he believed that he had awakened the benevolence of his gods towards his field and his house, above all he had

worked his field from the day of consecration until the day of the domestic labe limit of the domain.

On this line at certain points there were placed large stones, trunks of trees, which they called *termini*. We can form a good idea of what the bounds

were and the manner in which they were placed. The *ager familiae* was a right of property, in which our ancestors proceeded. They commenced by digging a small hole, and placing the *terminus* upright in it; next they crowned the *terminus* with garlands of grasses and flowers, then they offered a sacrifice. The victim

1 *Lares agri* tutelae *agri* *lares* the guardian of the field. Tibullus, l. 1, 23. *Religiarum posita fundi villaque conspectu religio* sup. has placed the *lares* in the presence of our villa and farms. Cicero *De Legibus* l. 1, 11.

2 Cicero *De Legibus* l. 1, 21.

3 Cato *De Re Rustica* 14. *Scripsit Agra* edit Goez. p. 30. Dionysius of Halicarnassus l. 1, 34. Ovid *Fast.* l. 639. Strabo, 3.

being immolated, they made the blood flow into the hole; they live
coals kindled, probably that the sacrament of the hearty grapes, fruits,
a little vine and some honey. When all this was consumed, the hole they
thrust down the stone, a piece of wood, or the ashes, while they were still
warm. It is easy to see that the object of the ceremony was to make of this
Terminus a sort of sacred present to the domestic worship, to continue
this character, they renewed the sacrament every year by pouring out
libations and deciding prayers. If the terminus was placed in the earth, it
became in some sort the domestic religion, planted in the soil to indicate that
this soil was forever the property of the family. Later poets, indeed, said the
Terminus was considered as distinct.

The employment of Terminus, sacred boundaries, appears to have been universal among the Indo-European, to exist among the Hindus at a very early date, and the sacred ceremonies of the boundaries among

Before the foundation of Rome, which the Romans considered a holy site, was found among the Etruscans the Hellenes, who had sacred landmarks, which they called *ποτα* ["boundary landmark"], *ἱερα* ["god's landmarks"].

no Roman shrine could displace the one required to ensure peace through all ages. His religious principles expressed Rome by allegory: Jupiter, having wished to prepare himself to sit on the Capitoline for a temple, could not displace the god Terminus. This old tradition shows how

best thing to do for the immovable terminus signified nothing

In fact, the Terminus guarded the limit of the field and watched over it. A neighbour dared not approach near it: "For then," said Ovid, "the god, who felt himself struck by the ploughshare, attacked, cried Stop! this my

field the numerous Tibournae reported for his family was necessary. The sacrilegious homicide and the chastisement served. According to the old Roman law, man and hexer who touched all terms were devoted that to say both man and hexer were immolated expiation. The Etruscan

1 Siculus Flaccus dit Goezp. 5.

2 *Laws of Manu* VIII.245 Vrihaspati by Sice *Hindu Legislation* 159.

3 Varrd., L., V, 74.

4 Pollux IX.9.Hesychius $\sigma\varsigma$ Plato *Laws* p.842.

5 Ovid *Fasti* II.677.

6 Festus-Terminus

laws speaking the name of religion says, 'He who shall have touched or displaced a bound shall be condemned; but the god's house shall disappear; his race shall be extinguished; his land shall no longer produce fruit; his oil, rust, and the fire of the dog-stall shall destroy his harvest; the limbs of the guilty man shall become covered with ulcers and shall waste away.' We do not possess the text of the Athenian law on this subject, there remain fit only three words, which signify 'Don't pass the boundaries.' But Plato appears to complete the thought of the legislator when he says, 'Our first law ought to be this: Let no person touch the bound which separates his field from that of his neighbor; for this ought to remain immovable. Let no one attempt to disturb the small stone which separates his neighbor's field from his, and which the land-owners have bound themselves by oath to leave in its place.'

From all these beliefs, from all these usages, from all these laws, it clearly follows that the domestic religion taught man to appropriate the soil and to

submit his rights to it. In understanding the right of property having been thus conceived and established, a much more complete and absolute inheritance than can be in our modern societies, which is founded upon other principles, property was inherent in the domestic religion that fam-

ily could not break up, nor could it be divided, and could not be alienated. The purpose of them, Plato in his treatise on the Laws did not pretend to advance a new idea, when he forbade the proprietors of his field to do more than to recede and draw. Everything tends to believe that the ancients

made property sacred, and that they forbade the alienation of it. The laws of Locri and of Leucadia, the law of Pheidon of Corinth, the legislator of the ninth century B. C. prescribed that the number of families and of estates should remain unchanged. Now this prescription could be observed only when it

was forbidden to sell the estate, or to divide it. The law of Pheidon of Corinth no longer forbade a man to sell his land, but punished the vender by a severe fine and the loss of the right of citizenship. Finally Aristotle mentions a general law that in many cities the ancient law forbade the

1 *Scripta Agraria* Goetz, p. 258.

2 *Plato Laws* III, p. 842.

3 *Plutarchycurat* *Agis* *Aristotl* *Poliz* II. 6, 1 (II. 7).

4 *Aristotl* *Poliz* II. 4, 4 (II. 5).

5 *Id.* *Ibid.* II. 3, 7.

6 *Eschinas* *gainst* *Timarchum* *Diogenes Laertius* 55.

sale of land.

Such laws ought to surprise Founders of property in the right of labor, and may dispose of it. Founders of religion and the common law to this; at a strong ground the will of man binds the land to him. Besides this field where the tomb is situated, where the divine ancestors dwell, where the family is forever to perform its worship, not simply the property of a man but of a family, is not the individual actually living, who has established his right over this soil, it is the domestic god. Then the individual has intruded only; it belongs to those who are dead and to those who are yet to be born, it is a part of the body of this family, and cannot be separated from it. To detach it from the other is to alter a worship and to offend a religion. Among the Hindus property, also founded upon religion, was also inalienable.

We know nothing of Roman law previous to the laws of the Twelve Tables. It is certain that at that time the sale of property was permitted, but there are

reasons for thinking that the domain of the *domus* was not in this period. There is no evidence of this old law, there remain at least the modifications which were made in it by degrees. The law of the Twelve Tables, though attaching to the tomb the character of final alienability, freed the soil from it. After-

wards it was permitted to divide the property, the *domus* was no longer held that the new partition should be made by a priest; religion only could divide what had before been proclaimed indivisible. Finally it was permitted to sell the domain, but for that formalities of a religious character were also necessary.

This had no doubt its origin in antiquities, which were called upon to be sold. This is, indeed, the case in antiquities, which were called upon to be sold. This is, indeed, the case in antiquities, which were called upon to be sold. This is, indeed, the case in antiquities, which were called upon to be sold.

to be sold, and for a still stronger reason he could not be deprived of it.

The appropriation of land for public utility was unknown among the ancients. Confiscation was resorted to only in case of condemnation to exile—that is to say when a man deprived of his right of citizenship could no longer

1 Aristotle *Polit.* VII. 2.

2 *Mitakchagari* in *Annals*, p. 50. This rule disappeared by degrees as the Brahminism became dominant.

3 This priest was called *grimen*. See *Scripta Res Agraria*.

4 Stobæus 2.

5 This rule disappeared in the democratic age of the cities.

exercised by the creditor of the city. Nor was the taking of property for debt known in the ancient laws of cities. The laws of the Twelve Tables surely do not part the debtor till he pay, nor do they permit his property to be sold for the benefit of the creditor. The body of the debtor is held for the debt, not his land and for the land in separate life from the family. It is easier to subject a man to servitude than to take his property from him. The debtor is placed in the hands of the creditor, and follows him in some sort into slavery. The master has the physical strength of a man for his own profit, and enjoys the same time the fruits of his land, but does not become the proprietor of it. So inviolable are the laws of the right of property.

CHAPTER VII.

THE RIGHT OF SUCCESSION.

1 Nature and Principles of the Right of Succession

Among the Ancients.

THE right of property having been established, the accomplishment of an hereditary worship was not possible, that this right should fail after the short life of an individual. Hence the worship remains before

nothing but the right of property, and the domestic religion is the right of property. Two things are closely allied in the creeds as well as in the laws of the an-

1 A law of the Elea forbad the mortgaging of land. Aristotle *Polit.* VII. 2. Mortgages were unknown in ancient Roman law. What said of mortgages in the Athenian law before Solon is based on a doubtful passage of Plutarch.
2 In the article of the law of the Twelve Tables which relates to insolvent debtors we read *Si volens vivit* "if he wishes he let the debtor drive on his own resources, till the debtor having become almost a slave, still retains something for himself, and if he has any is not taken from him. The arrangement is in Roman law under the name of *fiduciarum pignorationem* and *pignus* were before the introduction of the Servian law the means employed to insure to the creditor the payment of the debt. The provision directly that the seizure of property for debt was not practised, later when they suppressed the *pignus* servitude was necessary that there should be some claim on the property of a debtor if he changed was not without difficulty, but the distinction which was made between property and possession suffered no resource. The creditor obtained the right to sell the property of the debtor, but the goods of the debtor and the only by a disguised seizure the debtor lost the enjoyment of his property.

cients—the family worship and its property—was therefore a rule without exception both in Greek and Roman law that a property could not be acquired without the worship, the worship without the property. Religion prescribed, as Cicero¹ that the property and the worship of a family shall be inseparable, and that the care of the sacrifices shall always devolve upon the one who receives the inheritance. At Athens a norator claims succession in these terms: “Weigh it well, O judge, and say whether any adversary ought to inherit the estate of Philoctemon, and offer the sacrifices upon his tomb? Could one say more directly that the care of the worship was inseparable from the succession? Was he a man in India? How did he inherit, whoever he may be, bound to make the offerings upon the tomb?”

From this principle were derived all the rules regarding the right of succession among the ancients. The first is that the domestic religion being as we have seen hereditary, a male or female property is the same as the son

is the father, and this is in his religion his inheritance. The estate of the father between him and his son is derived from the belief from the religion from that which has the greatest power over the mind. It is not the person, but of the father that causes the son to inherit. The father need not make will the

son inherits. If a son is adopted, he becomes a son, and the inheritance is necessary. He has neither to accept or to reject the inheritance, and the continuation of the property like that of the worship, for him an obligation as well as a right. Whether he wishes to or not, the inheritance falls on him, what

ever it may be, and it is a common hereditary right. The right of the son in Greek legislation was not introduced until a late period in Roman law.

The judicial language of Rome calls the son *heres sui* “self-successor”, if one should say *heres ipsius* “heir of his own right.” In fact he inherits

by the fact of his birth, and the inheritance is not a right of the son, but a continuation of the property of the father. The continuation of the property is *dominium* (ownership) continued at the death of the parent². Already during the life of the father the son was a co-proprietor of the field and house *viva quoque in domo existima* (he is deemed a proprietor

1 Cicero *De Legibus* II. 1920 Festus *Everrator*

2 Isæus *l. 51* Plate calls the *θεοδόχος* θεῶν [“successor of the deified ancestors”] *l. 4* vs V. 740.

3 *Laws of Manu* IX. 186.

4 *Digest* XXXVIII tit. 16 *l. 4*.

even while the father is alive.¹]

To form an idea of inheritance among the ancients we must not figure to ourselves a fortune which passes from the hands of one to those of another. The fortune is immovable like the hearth and the tomb to which it is attached. It is the man who passes away; it is the man who as the family unrolls its generations gives his hour appointed to continue the worship and to take care of the domain.

2. The Son Not the Daughter Inherits.

It is here that ancient law at first sight appears whimsical and unjust. We experience some surprise when we see in the Roman law what the daughter does not inherit if she is married and that according to the Greek law she does not inherit in any case. What concerns the collateral line she appears first sight still farther removed from mature and justice. This is because all these laws flow according to a very rigorous logic from the creed and religion that we have described above.

The rule for the worship is that it shall be transmitted from male to male; the rule for the inheritance is that it shall follow the worship. The daughter is not qualified to continue the paternal religion since she may marry and thus renounce the religion of her father to adopt that of her husband. She has therefore no right to the inheritance. If a father should happen to leave his property to a daughter his property would be separated from the worship which would be inadmissible. The daughter could not even fulfil the first

duty of the religion in ascertaining the shrine of her husband's gods to be hertheretofore inherited from her father.

Such is the ancient principle; influenced equally the legislators of the Hindus and those of Greece and Rome. The three peoples had the same laws;

not that they had learned of one another but because they had derived

"After the death of the father," says the Code of Manu, "let the brothers divide the patrimony among them; and the legislator adds that he recommends the brothers to endow their sisters, which proves that the latter have not of

the same legal ability to gratify the necessities of their relations. After this occasion to show that daughters cannot inherit. He himself an example

1 *Institut.* II. 13; III. 9, 7; III. 192.

2 Demosthenes *De otio* § 60; 4. Lysias *Mantilla* 10.

of the application of his rule for he had seen and we know from his own writing that he was sole heir to the estate his father had reservedly the seventh part to endow his daughter.

As to Rome the provisions of primitive law which excluded daughters from the inheritance are not known to us from any form and precise text; but they have left profound traces in the laws of later ages. The Institutes of Justinian still excluded the daughter from the number of natural heirs if she was so long as under the power of the father and she was so long as under the power of the father after she had been married according to the religious rites. From this it follows that if the daughter before marriage could share in the inheritance of the brother she had no right after marriage had attached her to another religion and another family. And if this was till the case in the time of Justinian we may suppose that in primitive law this principle was applied in all its rigor and that the daughter not yet married but who would

be a priest had no right to her father's estate. This principle was not in the inheritance always descended to the male sex it was clearly a vestige of this old rule that according to the civil law a woman could never be constituted heiress. The farther we ascend from the Institutes of Justinian towards earlier

times the more favorable we find the law to the female sex. In the Twelve Tables only one third of his fortune if there was only a daughter she could still have but half. We must also note that to enable his daughter to receive a third or half of his patrimony was necessary that the father should make a will in

before the daughter had reached her full right. Finally, the law proposed by the Voconian law which forbade—Making woman an heiress even if she was a only child married or unmarried. The will left to a woman no more than a fourth part of the patrimony. The Voconian law merely renewed laws

of earlier times and was not in itself a very important innovation. The principles which they still respected the established custom had changed but as add that it contained nothing regarding *intestitum* in the absence of a will "probably because at this point the old law was still in force and

there was no danger of any further change. At Rome in the case of a natural

1 *Institut.* II. 9. 2.

2 *Ibid.* III. 1. 5 II. 2. 3.

3 *Cicero de Rep.* III. 7.

4 *Cicero in Verz.* 1. 42 *Livy* XLI. 4. *St. Augustine* in *City of God* III. 21.

and inevitable consequence of the principles which religion had established. It is true men soon found out a way of reconciling the religious prescription which forbade a daughter to inherit with the natural sentiment which would have her enjoy the fortune of her father if the law decided that the daughter should marry their.

Athenian legislation carried this principle to its ultimate consequences. If a man died and left a daughter and no son, she inherited and was endowed with the same rights as if she were a son. If he had a son and a daughter, the son had the choice of marrying or to endow her. If the deceased had only a daughter, his nearest of kind was his heir, but his relative who was of course also a near relative of the daughter was required ever to elect to marry her. More than this, if this daughter was already married, he was required to abandon her husband and to marry her father's heir. If he himself had already married, this case he obtained a divorce and to marry his relative. We see here how

the religious principle of the putative marriage combined with the desire of saving the interests of an only daughter gave rise to another subterfuge. On this point Hindu law and Athenian law correspond marvellously. We read in the Laws of Manu, "He who has no male child may require

his daughter to give him a son, who in the case of the father was required to admonish his husband to whom he gave his daughter by pronouncing his formula, 'I give you this daughter adorned with jewels, who has no brother; the son born of her shall be my son and shall celebrate my obsequies.' The

husband then, by giving the son to his father-in-law, was doing what he ought to do. If a son of such a union was reputed the son of the wife's father, he followed his worship, assisted at his religious ceremonies, and guarded his tomb. In Hindu law this child inherited from his grandfather, as if he had been his son;

it was the same in Athens. When the father had no sons, his daughter-in-law, was the daughter of his grandfather, as if she had attained

1 Demosthenes *Eubul.* 21 Plutarch *Themis* § 2 Isæus K. 4. Corn Nepos *Simoritis* must be noted that the law did not permit marrying after the father's emancipation, but that it could be only by the father's side, because the father alone could inherit from the father. 2 Isæus II. 64, X. 5 Demosthenes *Eubul.* 41. The only daughter was called *ἐκκλησία*, wrongly translated as insignificant, the daughter who goes with the inheritance, in fact the daughter was never an heiress.

3 *Laws of Manu* IX. 12, 13, 30, as in § VII. 16.

4 Isæus VII.

5 He was not called the grandson, he gave him the particular name of *ἐπιγαμνός*.

his majority he took possession of the patrimony of his maternal grandfather, though his father and mother were still living.

This singular toleration of religion and law confirms the rule which we have already pointed out. The daughter was not qualified to inherit but by a very natural softening of the rigour of this principle the only daughter was considered as an intermediary by whom the family might be continued. She did not inherit but the worship and her inheritance were transmitted through her.

3. Of the Collateral Succession.

A man died without children to know who he in his state was, we have only to learn how a qualified continuance of worship.

Now the domestic religion was transmitted by blood from male to male. The descent in the male line alone established between women the religious relation which permitted them to continue the worship of the deity. What is called relations has we have seen above, is nothing more than the expression of this relation of new as a relative because he had the same worship, the same origin, and the same ancestors. But one was not a relative because he had the same mother religion did not admit of kinship through women. The children of two sisters of a sister and a brother had no bond of kinship between them and belonged either to the same domestic religion or to the same family.

The principles regulating the order of succession if a man having no son and his daughter, if only grandchild, if he him his son's son inherited but no this daughter's son. In default of descendants he had a son his brother, no this sister the son of his brother, no the son of his sister in default of brothers and nephews was necessary to group in the series of ascendants of the deceased always the male line until a branch of the family was found that was detached through a male therefore descent in this branch from male to male until living man was found this was their.

These rules were in force equally among the Hindus the Greeks and the Romans. In India if the inheritance belongs to the nearest sapinda in default of a sapinda to the samanodatta. Now we have seen that the relationship which these two words expressed was the religious relationship, the rela-

tion which brought the family together. It responded to the Roman idea that the brother of the deceased provided he is a consanguine brother in default of him, the son of the brother for the succession always passed to the

1 Isæus VII. 31X. 12 Demosthenes II. 20.

2 Laws of Manu IX, 186 & 187.

male and the descendant of his male. They still bided their time in the time of Demosthenes, though had already been modified, and they had commenced at this epoch admittations through women.

In the same way the twelve tables ordained that families died without heirs, the successions belonged to the nearest agnate. Now we have seen that one was even a magistrate through female. The ancient Roman law also specified that the nephew inherited from the *patruus*, that is to say from his father's brother — and did not inherit from the *avunculus*, his mother's brother.

By returning to the table which we have traced of the family of the Scipios, it will be seen that Scipio Emilianus having died without child, his estate could not pass either to Cornelius his aunt's son, or to C. Gracchus, who according to our modern ideas was his cousin-german to Scipio Asiaticus, who was really his nearest kin.

In the time of Justinian the legislator no longer understood the old laws;

law of the Twelve Tables which was explained by the praefecting of the *culin* posterity and excluded from the inheritance those who were related to the deceased only through females. Unjust law if you will, for they made no account of natural affection but singularly logical laws for setting out from

from the principle that the son was not the child of the mother but the child of the father and the worship.

4. Effect of Emancipation and Adoption.

We have already seen that emancipation and adoption produced a change in a man's worship. The first separation was from the paternal worship, the second initiated him into the religion of another family. Here also the ancient law conformed to the rules of religion. The son who had been excluded from the paternal worship by emancipation was also excluded from the inheritance. On the other hand, he who had been associated in the worship of a family by adoption became on that day the continuator of the worship and inherited the estate. In both cases ancient law made no account of the religious ties of the father of birth.

As it was enough to religion that two families should be adopted, when he inherited the adopting family did not inherit from his natural family.

1 Demosthenes *Macar* in Leoc. *hæu* VII. 20.

2 *Institut.* II. 2. 4.

3 *Ibid.* III. 3.

Athenian law was very explicit in this point. The orators of Attica often show us men who have been adopted into a family and who wished to inherit in the end in which they were born, but the law was against them. The adopted son could not inherit from his own family unless he were entered in the family register; he could not be entered except by renouncing his adoptive family and he could leave this family only on two conditions: he was either abandoned or he had been adopted by a family which he had abandoned. The patrimony of his family, the worship of his ancestors, the domestic worship for the continuation of which he had been adopted, did not cease by his abandonment, and to make this certain it was necessary for him to leave his family as one who should be plucked from the vine. This son took charge of the worship and inherited the estate; the father could not return to the family of his birth and inherit its property, but his father and son could no longer inherit from each other; they were not of the same family, they were not of kin!

We can easily see what was the end of the legislation which he established.

It is plain that he did not suppose it possible that a man would step into the shoes of another person.

5. Will Was Not Known Originally.

The right of willing—that is to say of disposing of one's property after death in order to make it pass to the heirs—was opposed to the religion. We see that was the foundation of the law of property and the law of succession; the property being inherent in the worship and the worship being hereditary could not be the object of a will. Besides, property did not belong to the individual but to the family; a man had not acquired it by the right of labor, but through the domestic worship. Attached to the family, it was transmitted to the dead, and the living got it according to the will and choice of the dead, but by virtue of superior law which religion had established.

The will was not known in ancient India; law in Athenian legislation up to Solon forbade it absolutely, and Solon himself permitted only to those who had no children. Wills were for a long time forbidden in Sparta, and were authorized only after the Peloponnesian war. Aristotle speaks of a time when the case was the same at Corinth and at Thebes; it is

certain that the power of transmitting property arbitrarily will was

1 Isæus, Demosthenes, Cicero, Gaius II. 2. *Institutes* II. 1, 2. It is hardly necessary to state that the rules were modified in the pretorial laws.

2 Plutarch *Pol.* 21.

3 *Id.* *Ag.* 5.

4 Aristotle *Polit.* II. 3. 4.

not recognize as natural right the constant principle of the ancient ages was that all property should remain in the family to which religion had attached it.

Plato in his treatise on the Laws which is largely commentary on the Athenian law explains very clearly the thought of ancient legislators. He supposes that a man in his death-bed makes a power to make a will and that he cries, "O gods sit not very hard on me, I am not able to dispose of my property as I may choose and in favour of anyone to whom I please give it, leaving more to this one less to that one according to the attachment they have shown to me?" But the legislator replies to this man, "Thou who canst not promise thyself a single day, how canst thou only a pilgrim here below does it belong to thee to decide such affairs? Shout rather the master either of thy property or of thyself and thy estate. All these things belong to thy family that is to say to thy ancestors and to thy posterity."

Plato then tells how from that far the ancient law of the Twelve Tables, which certainly is not the primitive legislation of Rome and of the only fragment that remains of this code authorizes a will yet the fragment relating to the subject is too short and too evidently incomplete to enable us to flatter

ourselves by tracing the power of devising to the legislators and showing that reserved what conditions they placed upon it? We have a legal text earlier than the Twelve Tables that either forbids or permits a will but the language preserved at a time when wills were not known for it called the *testamentum*

Cicero suggests that this may have been a case of *testamentum* in which the legislation of the time came without doubt from a distant epoch when the son could not be disinherited or refuse the heritage. If the father had not the free disposition of his fortune and of the property of his sons and of the deceased

had only a limited power of disposing of his property, it is probable that he was not allowed to make a will during life. The man who disinherited his family and violated the law that religion had established had to do this publicly in broad daylight and take upon himself during his lifetime all the odium attached to

such an act. This was not all, it was also necessary that the will of the testator

1 Plat. *Laws*, XI.

2 *Utile gas est iure scire* "as he has bequeathed his property, so shall he be drawn." If we had of Solon's law only the words *ἀλλὰ ὅσοις ὁ νόμος ἀνέβη* ["to dispose as he should befit"], we should suppose that the will was permitted in all possible cases but the *ὅσοις* ["unless he be a male child"].

should deceive the approbation of the sovereign authority—this is to say of the people's assembly, the curies, and the president of the pontiff. We must not imagine that this was an empty formality, particularly in the early ages. These *comitia curiæ* were the most solemn assemblies of the Romanity, and would be puerile to say that they convoked the people and the president of the religion, in order to act simply as witnesses at the reading of a will. We may suppose that the people voted and would be on reflection that this was absolutely necessary. There was in fact a general law which regulated the order of succession in a rigorous manner, to modify this order in any particular case was necessary. This exception was the will. The right of a man to devise his will was not therefore fully accorded, and could not be, so long as this society remained under the empire of the old religion. In the belief of the ancients, the divine man was only the representative of a few years of a constant and immortal being—the family he held the worship

and the property only in trust, his right to them ceased with his life.

6. *The Right of Primogeniture.*

We must transport ourselves beyond the time of which history has preserved the recollection, to those distant ages during which the most ancient institutions were established, social institutions were prepared. Of this epoch there does not remain, nor can there remain, any written monument, but the law which they governed may have left some traces in the legislation of succeeding times.

In these distant days we distinguish an institution which must have survived a long time, which had considerable influence on the future constitution of society, and without which this constitution could not be explained. This is the right of primogeniture.

The old religion established a difference between the elder and the younger son. "The oldest said the ancient Aryas, was begotten for the accomplishment of the duty due to the ancestors, the others are the fruit of love. In virtue of this original superiority, the oldest had the privilege of the death of the father of presiding at all the ceremonies of the domestic worship, it was who offered the funeral repast, and pronounced the formula of prayer for the right of pronouncing the prayer belongs to that son who came into the

world first. The oldest was the head of the family, the guardian of the law, the eldest son inherited property, thus says an ancient passage which

1 Ulpian XX. 2. Gaius 4, 1021 19 Aulus Gellius XV. 27 The testament *latissimum* is before the *comitia curiæ* was doubtless the oldest in use it was no longer known in Cicero's time (*De Orat.* 1.53.)

the as editor of the Law of Manu still inserted the code? The old takes possession of the whole patrimony, and the other brothers have no authority, if they were and that of the father. The oldest son performs the duties towards his ancestors, he ought therefore to have all."

Greek law is derived from the same religious beliefs as Hindu law; it is not astonishing to find there also the right of primogeniture. Sparta preserved longer than the Greek cities, because the Spartan never longer faithful to old institutions, among them the patrimony was indivisible, and the young brothers had no part of it.² It was the same with many of the ancient codes that Aristotle had studied. He informs indeed that the Theban code prescribed absolutely that the number of lots of land should remain unchangeable, which certainly excluded the division among brothers. An ancient law of Corinthians provided that the number of families should remain invariable, which could only be the case when the right of the oldest

prevailed. The Athenian law was also repeated in the constitution fully vigour in the time of Demosthenes, but it still existed at this epoch what they called the privilege of the eldest. It consisted in retaining a proportion of the paternal dwelling—advantage which was material, and

which was still more considered in the family. Of the young sons in the time of Demosthenes, the oldest only lighted new fires, the oldest brothers remained in possession of the paternal hearth and of the tomb of his ancestors. He alone also preserved the family name. These were

the vestiges of the old law, but under the influence of the primary besides the fact that it did not strike the minds of the ancients, even when religion was all-powerful, was corrected by several of their customs. Sometimes the young son was adopted into a family and inherited property, there some-

times the marriage of a daughter sometimes the adoption of a son were sent but to join a colony.

As to Rome we find a law that relates to the right of primogeniture, but we are not to conclude from this that the right was unknown in ancient Italy.

1 *Law of Manu* IX. 105-107. This ancient law was modified as the old religion became enfeebled in the code of Manu we find articles that authorize the division of the inheritance.

2 *Fragments of the Greek Historians* Didot Coll. t. II. p. 211

3 Aristotle *Ethic* II. 9. II. 3.

4 *Προσφιλία* ["seniority"] Demosthenes *Phormion* 34.

5 Demosthenes *Isæodromine*

It might have disappeared, and even its traces have been effaced. What leads to believe that before the age known to us it was in force is that the existence of the Roman and Sabine gens cannot be explained without it. How could a family reach the number of several thousand persons like the Claudian family or several hundred combatants like the patrician like the Fabia family if the right of primogeniture had not maintained its unity during long series of generations which do not increase the number of sages so as to prevent its dismemberment? The ancient right of primogeniture proved by its consequences and so to speak by its works.

CHAPTER VIII.

AUTHORITY IN THE FAMILY.

1 The Principle and Nature of the Paternal Power Among the Ancients.

THE family did not receive its laws from the city. If the city had established private law, that law would probably have been different from what we have seen. It would have established the right of property and the right of succession on different principles. It was not for the interest of the city

that it should have sold its slaves to some one and thus have lost them. That Greece and in Rome — was to establish a city. The city would rather have said to the father, Your wife and your son's life does not belong to you any more than their liberty does. I will protect them ever against you, you

will be the judge of the right to liberty. These have been the conditions of the family. Private law existed before the city. When the city began to write its laws, it found this law already established, being rooted in the customs, and only

¹ The old Latin language preserved a vestige which feeble Latinists deserve to be pointed out. A lot of land and the domain of a family was called *dos* or *patrimonium* significant of some inheritance. *Festus* The word *consors* was applied to those who had among them only a single lot of land and lived on the same domain. Now the old language designated by this word brothers and even those quite distant relatives who bear witness at times to the patrimony and the family were indivisible (*Festus*, *Sors*, *Cicero* in *Verrem* II. 323. *Livy* XL. 1. 27. *Velleius*, 10. *Lucretius* II. 772. VI. 1280.)

universal servanthood, the city accepted it because it could do otherwise, and dared not modify it except by degree. Ancient law was not the work of a legislator, it was on the contrary imposed upon the legislator. It had its birth in the family, it sprang spontaneously from the ancient principles which gave it root and flow from the religious belief which was universally admitted in the primitive age of these peoples, which exercised its empire over their intelligence and their wills.

A family was composed of a father, a mother, children and slave. This group, small as it was, required discipline, for whom then belonged the chief authority? To the father. No. There is never in a house something that is above the father himself. The domestic religion is that god whom the Greeks called the earth-master *Γῆρας* *δῆμονιον*—whom the Romans called *familiaris*. This divinity of the interior, what amounts to the same thing, the belief that is in the human soul, is the least doubtful authority. This is what

fixed the altar of the family. In presence of the sacred fire, Helights it, and supports it; he sits, his priests in all religions, this function is the highest he slays the victim in his mouth, pronounces the formula of prayer which is to draw upon him and his the protection of the gods. The family and the worship are

perpetuated through him. He proceeds from the fire, and the consecration of him rests the domestic worship, he can almost say like the Hindu, "I am the god. When I die, shall I come, he will be a divine being, whom his descendants will invoke."

The religion of the household was not a religion of the gods, it was not derived from religion, it was born with the family. She was initiated at the marriage. She had learned of her husband, the prayer that she pronounced. She does not represent an ancestor, as she is not descended from them. She herself

will be the ancestor of her children. The temple of the household is the special Greek law, Roman law and Hindu law all derived from this old religion, agree in considering the wife as always a minor. She could never have the earth of her own, she was never the chief of a worship. At Rome, she received the

title of *materfamilias*, which was the title of a husband's mother. Not being in the house, she never commanded, she was never a mistress, she was never a mistress of her house. She was always the earth of another, repeating the prayer of an-

1 Festus, *Materfamilias*.

other for all the acts of religion, if she needs a superior and for all the acts of civil life a guardian.

The Law of Manu says, "Woman during her infancy depends upon her father, during her youth upon her husband, when her husband is dead upon her sons; if she has no son on the nearest relative of the husband; if a woman ought to be governed according to her own will." The Greek law and those of Rome are to the same effect. As a girl she is under her father's control; if her father dies she is governed by her brothers; married she is under the guardianship of her husband; if the husband dies she does not return to her own family for she has renounced it forever by the sacred marriage; the widow remains subject to the guardianship of her husband's agnates—that is to say of her own sons; if she has any in default of sons of the nearest kindred. So complete is her husband's authority over her that he can upon his death designate a guardian for her and even choose a second husband.

an to endow the power of the husband with the wife's hand is the very *manus*' hand "power." It is not easy to discover the primitive sense of this word. The commentators at the expression of material force, as if the wife was placed under the brutal hand of the husband. It is quite probable that

this sense of the word *manus* is derived from the fact that in the old times the man placed his hand above the woman's head. What proves this is that a woman who had not been married according to the sacred rites and who consequently had not been associated with the worship was not subject to the marital power. It was

of her own free will that she had placed her hand under the man's hand, and she was not subject to his authority.

Let us pass to the infant. Here nature speaks for itself. If you do not demand that the infant shall have a protector or guide, a master. This religion

is in accordance with the nature of the infant. The child is born in a state of helplessness and requires this subordination only during certain number of years. Religion

1 *Laws of Manu* IV. 147-148.

2 She returns in the case of divorce. Demosthenes *Epitaph* 11.

3 Demosthenes *Steph.* in *Apoph.* Plutarch *Chemus* 2. Dionysius of Halicarnassus, 25. Gaius I. 149. 5. Aulus Gellius II. 2. Macrobius 3.

4 Demosthenes *Phobus* in *Phormione*.

5 Cicero *Topic* 1. 4. Tacitus *Ann.* IV. 16. Aulus Gellius VIII. 6. It will be seen far from that at a certain epoch in the history of marriage was instituted and that they had the same legal effect as the sacred marriage.

requires no natural rights to his majority religion does not grant it to him according to ancient principles sacred and indivisible and the same is true of property. The brother is not separated at the death of their father for still stronger was the bond of separation from him during his life. In the rigour of primitive law the son remained attached to the father's heart and consequently subject to his authority while he lived they were minors.

We may suppose that this could last only so long as the old domestic religion remained fully vigorous. This unlimited subjection to the father disappeared nearly at Athens and subsisted longer at Sparta where a patrimony was always divisible. At Rome the old rule was scrupulously served, a son could never establish separate hearth during his father's life; married even the father's children were still under parental authority.

Besides it was the same with the paternal as with the marital authority.

Parents placed their children under the authority of the father. But when the father himself existed no community of religion there was nothing therefore, that conferred authority upon him and commanded obedience to the other. Paternity of itself gave the father no rights.

All that deity did was to strengthen the authority of the father in the eyes of the community and give an idea of this paternal authority in primitive antiquity. The father is not alone the strong man, the protector, and has power to command obedience; the priest is heir to the hearth, the continuator of the an-

cestor's worship, of the sacred in the house, of the gods, of the religious residence him.

The very name by which he is called *pater* contains in itself some curious information. The word is the same in Greek, Latin and Sanskrit;

few which human and divine law moved from a common basis. What was its signification and what did it do in the present to the minds of men? We can discover this for the word has preserved its primary signification in the formula of religious language and in those of judicial language. When

the ancients spoke of Jupiter as *pater* and of Juno as *mater* they were

1 When Gaius said of the paternal power *us proprius est iuri Romanorum* it is a right characteristic of Roman citizens. We must understand that in his time the Roman law recognized this power only in the Roman citizen. This does not mean that the power had not existed before in the places that had not been recognized by the law of other cities.

considered as such they believed on the contrary that the human race existed before him. The same title of *pater* was given to Neptune, to Apollo, to Bacchus, Vulcan, and to Pluto. These assuredly never considered as the fathers so, too, the title of *mater* was applied to Minerva, Diana, and Vestay, who were reputed three virgin goddesses. In judicial language, moreover, the title of *pater* or *paterfamilias* might be given to a man who had no children, who was not married, and who was not even obliged to contract marriage. Hence of paternity there was not attached this word. The old language had another word which properly designated the father, and which as ancient *pater* likewise found in the language of the Greeks, of the Romans, and of the Hindus *gânitar* गानितार, genitor. The word *pater* had another sense in religious language, they applied to the gods in legal language to every man who had a worship, and domain. The poet shows that they applied it to everyone whom they wished to honor. The slave and the

free were applied to him in the same sense of *pater* with the notion of power, authority, majesty, dignity.

That such a word should have been applied to the father of a family until it became the most common appellation assuredly very significant,

and that the simple word *pater* was used to designate the father of a family, which the father exercised along with him in the family and of the sentiment of veneration which was due him as pontiff and sovereign.

2 Enumeration of the Rights that Composed Paternal Power.
Greek and Roman law recognized that the father had unlimited power with which religion had at first clothed him. The numerous and diverse rights which these laws conferred upon him may be divided into three classes according as we consider the father of a family as religious chief, the master of the property, or as judge.

I. The father as the supreme chief of the domestic religion regulated the ceremonies of the worship, she understood the motto rather as he has seen his father perform them. No one contests his sacerdotal pre-eminence.

As religious chief he is responsible for the perpetuity of the worship and consequently for that of the family. Whatever affects this perpetuity which is his first and his first duty depends upon him alone. From this flow a

whole series of rights:—

The right to recognize the child at its birth or to reject it. This right is attributed to the father by the Greek law as well as by those of Rome. Barbarous as this is, it is not contrary to the principles which the family is founded upon. Even uncontested filiation is not sufficient to admit one into the sacred circle of the family; the consent of its chief and an initiation into its worship are necessary as long as the child is not associated in the domestic religion with his father.

The right to repudiate the wife in the case of sterility because the family must not become extinct in case of adultery because the family and the descendants ought to be freed from all debasement.

The right to give his daughter in marriage—this is to say to place her in the power which he has over her. The right of marrying sons on the marriage of the sons concerns the perpetuity of the family.

The right to emancipate—this is to say to exclude a son from the family

and to have the right to adopt—this is to say to introduce a stranger

The right to the death of a naming guardian in his wife and children.

It is necessary to remark that all these rights belonged to the father alone, to the exclusion of all the other members of the family. The wife had no the

right to force the adoption of his wife even though he had no sons. In case of divorce the children remained with the father—even the daughter. Her children were never in her power. Her consent was not asked for the marriage of her own daughter.

III. What is the nature of the property of the family? It is a good question. In all the ancient legislations implicitly belong to the ancestors and the descendants. This property by its very nature could not be divided. There could be in each family but one proprietor which was the family itself and only

acted in the name of the property—the father. This principle explains several

The property of being incapable of division and destined entirely on the head of the father, neither wife nor children had the share in it. The dowry system and even the community of goods were then unknown. The dowry of

the wife belonged to her father or to her husband. However, in some cases the wife might have acquired during her marriage a part into the hands of her hus-

1 Herodotus 59 Plutarch *Nicias* 23 Agesilaus

2 Demosthenes *Timarchus* 40 and 43 Gaius 4, 153 Ulpian *III. 8. Institut.* 9. *Digest.* tit. I, 11.

band she did not ever recover her dowry becoming a widow.

The son was in the same condition as the wife who owned nothing. No donation made by him was valid since he had nothing of his own. He could acquire nothing of the fruits of his labor or the profits of his trade over his father's. If a will was made in his favor by a stranger, his father or himself received the legacy. This explains the provision of the Roman law which forbade all contracts of sale between father and son. If the father sold the son, he sold to himself. If the son acquired, only for the father.

We see in the Roman laws and we find also in the laws of Athens that a father could sell his son. This was because the father might dispose of all the property of the family and the son might be looked upon as property since his labor was a source of income. The father might therefore, according to choice, keep his instrument of labor or resign it to another. Foresight was called selling the son. The text of the Roman law that we have done not inform

us, but both contained in this law protect him. If the son is sold, he cannot become the slave of the purchaser. His liberty was not sold only his labor. Even in this state the son remained subject to the paternal authority which proved that he was not considered to have left the family. We may suppose that

his sale did not have the effect of depriving him of his person and therefore of emancipating him.

III. Plutarch informs that at Rome women could not appear in court even as witnesses. We read in the jurisconsult Gaius, "It should be known that

nothing is so sacred as the law of justice, and that no person should be able to claim a right of justice, either as a plaintiff or as a defendant, unless he is a person who is subject to the law of justice. If a person has committed a crime, the action lies against the father, not against the father himself, in action against his son."

Female justice is less than male justice, and the son could then appear in court alone could appear before the tribunal of the city public justice existed only for him and he alone was responsible for the crimes committed by his family.

Justice for wife and son was not in the city because it was in the house. The

1 Gaius I. 98. All these rules of primitive law were modified by the pretorian law.

2 Cicero *De Legibus* I. 20. Gaius I. 87. *Digest* XVIII tit. I. 2.

3 Plutarch *Plotar* 13. Dionysius of Halicarnassus II. 26. Gaius I. 117. 13. *Digest* IV. 79. Ulpian X. 1. Livy, XL. 18. Festus *Deminutus*.

4 Plutarch *Publicola*.

5 Gaius I. 96. IV. 7778.

chief of the family was the judge placed upon judgment in virtue of his marital and parental authority, then name of the family and under the eyes of the domestic divinities.

Livy relates that the senate wished to extirpate the worship of Bacchus from Rome decreed the punishment of death against all who had taken part in it. The decree was easily executed upon the citizen but when it came to the women who were too the less guilty, a grave difficulty presented itself: the women were not answerable to the state the family alone had the right to judge them. The senate respected this old principle and left to the father and husband the duty of pronouncing the sentence of death against the women.

This judicial authority which the chief of the family exercised in his house was complete and without appeal he could condemn to death like the magistrate the city and no authority could modify his sentence. "The husband," says Cat the Elder, is the judge of his wife; his power is as limitless as to

what he wishes to do for his wife. Catilina's father-in-law, the consul, had the right to examine and punish his children. Valerius Maximus tells us that Catilina's father-in-law, the consul, had the right to examine and punish his children. Valerius Maximus tells us that Catilina's father-in-law, the consul, had the right to examine and punish his children.

For this state of affairs the Romans had a good reason. It was only by virtue of his rights as judge of the father of the family was alone subject to the judgment of the city, the wife and the son could have no other judge than him. Within his family

he was the only magistrate. The paternal authority was not an arbitrary power like that which would be derived from the right of the strongest. It had its foundation in a belief which all shared alike and found its limits in this same belief. For example, the father had the right to exclude his son from the

family but he could not do so if the family were to be preserved. He had the right to adopt a stranger but he could not do so if he had a son. He was sole proprietor of the goods but he had not, at least originally, the right to alienate them. He could repudiate his wife but to do this he had to

present his wife to the city. The city was the only one which could do this. The religion presented the only one which could do this. The religion presented the only one which could do this.

Such for a long time was the ancient family. The spiritual belief was sufficient for a long time was the ancient family. The spiritual belief was sufficient for a long time was the ancient family. The spiritual belief was sufficient for a long time was the ancient family.

1 There came a time when his jurisdiction was modified. The father consulted the whole family and formed into a tribunal over which he presided. Tacit. XIII. 32 Diges. XXIII. tit. 4, 5. Plato, laws IX.

cient without the need of the law or force of the authority of a social power to constitute regularly give a discipline to government and justice and to establish private law in its details.

CHAPTER X.

MORALS OF THE ANCIENT FAMILY.

HISTORY does not study material fact and institutions as one might suppose. Its object is to study the human mind; it should strive to know what this mind has believed, thought, and felt in the different ages of the life of the

human race. In the opening of this book the ancient opinion which men held concerning their destiny after death. We have shown how this reproduced domestic institutions and private law. It remains to discover what its action was upon morals in primitive societies without pretending that this

belief in a reward or a punishment should be taken as giving the state or authority a supreme and their right of direction over the conduct of men, sometimes also giving them a false bias.

The religion of the primitive age was exclusively domestic and over-

threw a veil upon the heart. It was a shadowy and uncertain light. The religious as to the heart, he cannot approach the temple of his family, he has other gods than his, and cannot unite with them in a common prayer; they gods reject his adoration, and regard him as their enemy, as they do also."

In the religion of the heart there are no secrets. The description of the remains of a soul and vestige of his ancient isolation of man in prayer. In Plutarch's time they still said to the gods: "You sacrifice to the earth." This signified you separate yourself from other citizens, you have no friends;

you follow your own law, you are your own law, you are your own law. The horizon of morals and affection did not yet pass beyond the narrow circle of the family.

1 *Enchiridion*, Pseudo-Plutarch, Dubbel, I, 167.

It is natural that moral ideas like religious ideas should have their commencement and progress, the gods of the primitive generations of his race was very small by degrees, and made him larger, so moral very narrow and incomplete at first, became sensibly larger, until from stage to stage they reached the point of proclaiming the duty of love towards mankind. The point of departure was the family, and it was under the influence of the domestic religion that duties first appeared to the eyes of man.

Let us picture to ourselves this religion of the fire and of the tomb in its flourishing period. Man sees divinity in him. It is present like conscience itself, in his minute action. This fragile being finds himself in the eye of a witness, he never leaves him. Hence he feels himself alone. At his side in the house, in the field, he has protectors, to sustain him in the toil of life, and judges to punish his guilt, in action. The Lares said the Romans are formidable divinities, whose duty it is to punish mankind and to watch over

all that passes in the interior of the house. The *Prætor* *Regulus* describes¹

Men loved to apply to the holy fire the path of chastity, and they believed that if ten joined chastity to mortal life, no act materially or morally impure could be committed in its presence.

From this it is seen how religious ideas long preceded good habits, how the heart of man repelled him. How had he blood was no longer allowed to sacrifice, not to offer libations, prayer, or to offer the sacred pas. The god was so severe that he admitted no excuses, he did not distinguish between

blood of the young and sacred blood of the dead. The hands stained with worship and ore gain possession of his god, he was required at least to purify himself by an expiatory ceremony. His religion, however, pity and had rites to efface the stains of the soul. Narrow and material as it was, it still knew how to

raise itself above the duties of charity, many a trait of a man with admirable decisions in family duties rendered marriage obligatory; celibacy was a crime in the eyes of a religion that made the perpetuity of the family the first and most holy of duties. But the union which it prescribed

could be contracted with man or with the human divinity, it was not bound by the rites and made of marriage simple contract by consent, it

¹ Plutarch *Rom. Ques.* 51 Macrobius *Sat.* III. 4.

² Hdts. I. 35 Virgil *En.* II. 719 Plutarch *These.* 2.

³ Apollonius *Rhodes* V. 704-707 Esch. *Choeph.* 96.

became the duty of Greek and Roman society. This ancient religion forbade, and fondly are to offend in this particular, punished in front. For the sons sprung from such union was considered a bastard, that is to say, a being who had neither place nor sacred fire, he had no right to perform any sacred act, he could not pray.

This same religion watched with care over the purity of the family. Its eyes the greatest crime was adultery. For the first rule of the worship was that the sacred fire should be transmitted from father to son, and adultery disturbed the order of birth. Another rule was that the tomb should contain only members of the family, but the son born of adultery was a stranger, if he was buried in the tomb, all the principles of the religion were violated, the worship defiled, the sacred fire became impure, every offering at the tomb became an act of impiety. Worse still by adultery the series of descendants was broken; the family, even though living, grew new, it not became extinct, and there was

born of a divine principle, the sacred fire of the household, the fire of the gods to the manes."

Here is the reason that the laws of Greece and Rome give the father the right to reject the child just born. Here too is the reason that they are so

right to murder a child born in this manner. At the same time, the child was to be put to death. This religion was so severe that a man had to leave the right to pardon completely, and that he was forced to repudiate his wife.

These then are the first moral and domestic laws discovered and sanc-

tioned. It has been said that the natural tendency of the human mind is to this union of law and rigour, the neglect of which brings with it the gravest consequences in this life and in the next. Hence came the serious and sacred character of the conjugal union in the ancient world, the purity which the

family preserved, and the duties prescribed to both the wife and the husband. The wife was to obey the husband, the husband to command, and instructed both to respect each other. The wife had rights, for she had her place in the

1 Isæus VII. Demosthenes Macart

2 Laws of Manu II. 175.

3 Demosthenes Year 89. Though this primitive morality condemned adultery, it did not reprove incest. Religion authorized the prohibitive relative marriage, the reverse of ours. One might marry his sister, Demosthenes Year 22. Corn Nepos proœmum id. Life of Cato. Minucius Felix Octavius, but it was forbidden as a principle to marry a woman of another city.

sacred it was her duty to see that it did not die out. She too then, as her priesthood where she is not found, the domestic worship is incomplete and insufficient. It was a great misfortune for the Greek to have "heard the private wife?" Among the Romans the presence of the wife was one necessary to the sacrifice, and the priest, by his office becoming a widower.

It was doubtless of this division of the domestic priest that the mother of the family was the veneration with which they never ceased surround her in Greek and Roman society, hence it came that the wife had the same title in the family as the husband. The Romans said *paterfamilias* and *materfamilias*. The Greeks *κύριος οἴκου* and *κυρία οἴκου*; the Hindus *grihapati* and *grihapati*. Hence came this formula, which the wife pronounced at the Roman marriage, *tu Caius es*, "where you Caius are, there will I, Caius (be)" — formula which tells us that in the house there was not equal authority, there was a quidnity.

As the home was the centre of the life, the household gods, the *lares* and *penates*, were worshipped in a place in the religious ceremony. His presence on certain days was necessary, and the Roman who had none was forced to adopt a fictitious one for those days in order that the rites might be performed. And

believed in the gods, the household gods were worshipped, and the *lares* and *penates* were regularly offered. Thus the father is convinced that his destiny after this life will depend on the care that his son will take of his home, and the son on his part is convinced that his father will become a god after death,

whereby the home becomes a reciprocal affection. This belief would establish the family. The ancients gave to the domestic virtues the name of *piety*, the obedience of the son to his father, the love which he bore to his mother. This was *pietas*, *pietas* parentis, *pietas* towardne' parents.

The ancients were proud of the fact that the household gods were the centre of the family. Everything the family was lived in the sense of duty, natural affection, the religious idea — all these were confounded and considered as one and were expressed by the same word.

Thus the home was the centre and the gods were the centre of the life.

1 Cato 1.43 Dionys. Halic. II. 22 *Laws of Man.* II. 62 V. 151.

2 Xenophon *Govt. of the Lacedæmonians*

3 Plutarch *Rom. Ques.* 50.

4 Dionys. Halic. II. 20. 22.

and powerfull, but for the minds Anchises, when these Troyin flames,
is still willing to leave his old home, Ulysses, when the mountains and
immortal self, offered him, wishes only again to see the flame of his
own hearth, fit to us, com down to Cicero, it is not longer a poet
but a statesman, he speak, Heres my religion, heres my academy, here
the traces of my forefathers, I cannot express, he can which I find here,
and which penetrate, they hear and mysense, We mus place ourselves,
though in the midst of these primitive generations, to understand lively
and powerfull, these sentiments, which are ready to be blent, Cicero's
day, For these houses are merely a domicile, shelter, to leave it and forget
it with little trouble, if we are attached to it, this merely the force of
habit and of recollection, because our religion, not there, our Gods, the
God of the universe, and we find him every where, he is entirely different
among the ancients, they found him principal, vint with in the house, this

Thus the religion of the primitives was not foreign to the moral level-

speaking to the people, he said, "I have found that the walls of the city at least have been fortified by it. These gods belonged common to all the members of the same family, thus the family was united by a powerful and all its members learned to love and respect each other. These gods lived in the

interhearthouse form and dishes, with no fixed and durable, children as a sanctuary.

Ancient morality governed this belief, knew no charity, but it taught at least the domestic virtues. Among this race the isolation of the family was

the new republic of the United States, and the modern republics of America, have been constructed on the same principles, and have been founded on the same principles, and on the same character, and several singular traits of ancient politics are explained by this fact.

1 Cicero *De Legib.* II.1 *Pro Dom.* 41.

2 Of the sanctity of the domicile, which the ancients spoke of as inviolable. Demosthenes in *Andro* 52 in *Everg* 60 *Digest* in *ius* voc II.4.

3 What said of ancient moral in this chapter intended to apply to those people that
afterward became Greek and Roman. This morality was modified at times especially among
the Greek. Already in the *Odyssey* find new sentiments and the manners.

CHAPTER K.

THE GENSA AT ROME AND IN GREECE.

We find in the writings of Roman jurists and Greek writers the traces of an antiquated institution which appears to have had its flourishing period in the first ages of Greek and Italian societies, but which becoming enfeebled by degrees, is now hardly perceptible in the date por-

tion of the history we speak of, while the Romans called *gens* and the Greeks

As the nature and constitution of the *gens* have been much discussed, may not be amiss here to point out what has constituted the difficulty of the problem.

The *gens* were established by the founders of the nation, and as the patricians of Rome and the Eupatrids of Athens were able to perpetuate their privileges so long a time, no sooner had the popular party gained the upper hand than they attacked this old institution with all the power if they

had been able to complete their work they would probably have been as deeply rooted in the manners as they could not entirely blot out. They therefore contented themselves with modifying. They took away its essential character, and left only its external features which were not in the way

of the new regime. Thus at Rome the plebeians undertook to form a new constitution, but the patricians attempted to overturn the new constitution, and to replace it by the *dem* which were re-established in imitation of them. We shall have to return to the subject when we speak of the revolution, but it is sufficient for us to remark that this profound

alteration which the democracy introduced into the regime of the *gens* of antiquity is still seen in the modern world, and in its primitive constitution. Indeed almost all the information concerning it has come from a few dates from the epoch when it had been thus transformed, and shows only that part which the revolution has allowed to subsist.

I thus suppose that we have a general knowledge of the middle ages, as far as the revolution of 1789, and that notwithstanding this, an historian of that time wishes to form an idea of institutions of an earlier date. The only documents he has would have a hand and would show him the nobility of the nineteenth century—that is to say something very different from that of

feudalism, he would suspect that a great revolution had taken place, and he would rightly conclude that this institution like all the others, must have been modified. This nobility, which his authorities would describe to him, would no longer be for him anything but the shadow of the feeble and altered image of another nobility incomparably more powerful. Finally, if he examined with attentive eyes the slight remains of ancient monuments, a few expressions reserved in the language, a few terms escaped from the dawg vague souvenirs, sterile regrets, he would perhaps be able to conjecture something concerning the feudal system, and would obtain an idea of the institutions of the middle ages that would be very far from the truth. The difficulty would assuredly be great, for it is less for him who today desires to understand the antiquities, for he has no information regarding it, except what dates from a time when it was so long anything but a shadow of itself.

We will comment by analyzing it that the ancient writers tell us of the

of the veritable system of the antiquities.

1. What Ancient Writers Tell Us of the Gens.

If we open a Roman history to the time of the Punic wars, we meet three personages whose names are Claudius, Lucius, and Claudius. All three belong to the same gens—the Claudians.

Demosthenes in one of his orations produces seven witnesses who certify that they belong to the same *φύλον*, that of the Brytidæ. What is remarkable in this example is that these seven persons cited as members of the same *φύλον* are inscribed in six different deme. This shows that the *φύλον* did not correspond exactly with the deme, and was not like it, as a simple administrative division.

Here is one fact established: there were gentes in Rome and at Athens. We might take examples from many other cities of Greece and Italy, and conclude from them that in all probability this institution was universal among the ancient nations.

Every gens had special worship in Greece; the members of the same gens were recognized by the fact that they had performed sacrifices common

from a very early period. Plutarch speaks of the place where the Lycomedæ

1 Demosthenes, *Neæ* 71. Plutarch, *Themist.* Eschine, *De Fals. Legat.* 147 Bœckh, *Corp. Inscr.* 383 Ross, *Dem. Attic.* 24. The gens among the Greeks is often called *φύλον*. Pindar, *passim*.

2 Hesychius, *φύλον* ["members of the gens"] Pollux, II. 52. Harpocration, *φύλον* ["members of the gens"].

sacrificed, and Eschine speaks of the altar of the Butade.

At Rome, too, each had religious ceremonies performed in the place, and the rites were fixed by its particular religion. When the capital was besieged by the Gauls, one of the Fabii, clothed in religious robes and carrying sacred objects in his hands, set the fugitives to flight, and crossed the enemy's lines, he goes to offer a sacrifice on the altar of his gens, which is situated on the Quirinal. In these contests, Juno was another Fabius, whom they called the Shield of Rome, is making head against Hannibal. Certainly, so of the first importance to the republic that he remains with his army, and yet he leaves in the hands of the imprudent Minucius, this because he anniversaries of the sacrifice of his gens has arrived, and he must beat Rome to perform the sacred rite.

It was a duty to perpetuate the worship from generation to generation, and every man was required to leave sons after him to continue it. Claudius, personal enemy of Cicero, abandoned his gens to enter the plebeian family, and

Cicero left the family of the Claudii, and the religion of the Claudii, to his gens.

The gods of the gens, *Dii gentiles*, protect the gens, and did not desire to be invoked by any other. No stranger could be admitted to the religious ceremonies. It was believed that a stranger had a part of the victim, or

and if he was a foreigner, the gods of the gens were offended.

Just as every gens had its worship and its religious festivals, also had its common tomb. Were a man oration of Demosthenes, his son having lost his child, he buried him in the tomb of his father, in that tomb that is

erected on the tomb of his gens. The inscription on the tomb speaks of the tomb where the gens of the Buselid buried its members, and where every year it performed a funeral sacrifice. This burial-place, a large field, surrounded by an enclosure, according to the ancient custom.

The names of the gens, the Roman families, the names of the gens, had been on the slope of the Capitoline hill.

The ancient law of Rome permitted the members of a gens to inherit from each other. The Twelve Tables declare that in default of sons and of agnates

the gentiles, the natural heirs. According to this code, therefore, the *gentiles*

1 Plutarch *Themistocles* 47. Esch. *De Falsis Legibus* 47.

2 Cicero *De Aruspiciis* 1.5. Dion. Halic. *Antiquities* 1.14. Festus *Prologus* 1.

3 Livy V. 46; XXII. 18. Valerius Maximus I. 1, 11. Polybius II. 94. Pliny XXXIV. 13. Macrobius, III. 5.

4 Demosthenes *Macartus* 79. in Eubul. 28.

are nearer kin than the cognates that is to say nearer than those related through females.

Nothing is more closely united than the members of a gens in the celebration of the same sacred ceremonies, they mutually decide on them all the needs of life. The entire gens is responsible for the debts of its members, its prisoners and pay the fine of one condemned, fine of its members become magistrates, it pays the expenses of its members to the magistracy.

The accused is accompanied to the tribunal by all the members of his gens, this marks the close relation which he has established between man and the body of which he formed part. For a man to plead or bear witness against one of his own gens was an act contrary to religion. A certain *Claudius* a man of some rank was a personal enemy of *Appius Claudius* the Decemvir, yet when he came to trial he was placed on trial and was menaced with death. This

Cladius was a very old man, he had no children, he was a man of great affection for his gens, he was accused of a capital crime.

If a member of a gens could not accuse another member before a tribunal of the city, this was because there was a tribunal of the gens itself. Each gens

had its chief, a very old man, who was called *patronus* or *paterfamilias*. He was established at Rome, the three thousand persons who composed it obeyed a single chief. Later when the Fabii took upon themselves the whole war against the Veientes, it was that the gens had its chief, who spoke its name

before the people and the senate. The gens was a body of persons, firm in this and they show us that this chief generally bore the title of *paterfamilias*. Finally in Rome in Greece the gens had its assembly, its laws, which its members were bound to obey and which the city itself respected.

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2 An Examination of Certain Opinions that Have

Been Put Forth to Explain the Roman Gens.

1 Livy V. 32 Dion Halic XIII. 5 Appian *Annih* 28.

2 Dion Halic II. 7.

3 Ibid. IX. 5.

4 Boeckh *Corp Inscr* 397399 Ross *Dem Attic* 24.

5 Livy VI. 20 Suetonius *Tiber* Ross *Dem Attic* 24.

of the religion was that no one should on any ancestor except those from whom he was really descended offer this worship to a stranger as a grave impiety. If then the members of a *gens* adored a common ancestor, was because they really believed they were descended from him. To counterfeign a tomb to establish a universal and annual worship would have been to carry falsehood to what they held most dear and to trifle with religion. Such a fiction was possible in the time of Cæsar when the old family religion was cherished by nobody. But if we go back to the time when this creed was in its vigour we cannot imagine that several families taking part in the same imposture would say to each other, "We will pretend to have a common ancestor; we will erect him a tomb; we will offer him funeral rites; and our descendants shall do him all future time. Such a thought could not have presented itself to the minds of men who would have been counted as impiety.

In the difficult problems often found in history it is well to see from the

terms of language supplied by the words which designate the kind of kinship the means exactly the same as the word *gens* "birth" "kind" "class." So completely alike are they that we can take them for the other and say indifferently *gen Fabii* "the Fabian clan" and *gens Fabia* ("the Fabian class");

both *γενεα* and *γενος* signify the begetting of the child by the father or the mother and *γονος* ["begette of father"] all these words convey the same idea of filiation. The Greeks also designate the members of a *γενος* by the word *μοιρῶν* *αἵματις* which signifies *urish by the same milk*. Let these words

be compared with those which in the case of the Latin *familia* signify the generation of kinship. The true signification of *familia* is property; designate the field, the house, money and slaves and it is for this reason that the twelve tables say in speaking of their *familia* *mancipia* let him take *ὄγκος*

the idea as in that of property. It is clear that this word *γενος* has the same sense as that which we habitually translate by family. Now is it admissible that a term whose intrinsic meaning is that of domestic property ever of itself come to designate a family and that the word whose primary sense is filiation birth paterni-

ty should come to signify the domestic sphere? In the present language it is unquestionable that the Greeks and the Romans attached to the words *γενος* and *γένεος* the idea of a common origin. This idea might have become obscured if the *γενος* was modified but the word has remained

be a witness fit.

The theory that presents the gens as a factitious association against, therefore, the old legislation which gives the gentilis right of inheritance second to the old religion, which allows common worship only where there was common parentage, third, the terms of language which attest the gens a common origin. The theory is also this: the defect that its supposition as a society is have commended by convention and artifice—a position which historical science cannot admit as true.

3. The Gens and the Family Still Holding Its Primitive

Organizational Unity.

All the evidence presents the gens as united by the tie of birth. Let us again consult language. The names of the gentes in Greece as well as in Rome all have the form which was used in the old language of patronymic. Claudius signifies the sons of Clausus and Butades the sons of Butes.

Those who think they see in the gens an artificial association put from a false assumption suppose that a gens always consisted of several families having different names and they cite the Cornelii gens which did indeed include Scipio, Lentulus, Cossus and Sylla. But this is very far from having been a general rule. The Marcii gens appears to have had more than a single line. Weals find but one in the Lucretii gens and but one in the Quintilii gens for a long time it would certainly be very difficult to tell what families composed the Fabii gens for all the Fabii known in history belong manifestly to the same stock. At first they all bear the same surname, Vibulanus. They

changed to the surnames of Ambustus which they replaced still later by

We know that it was customary in Rome for all patrician gens to have three names. One was called, for example, Publius Cornelius Scipio. It may be worth the while to inquire which of these three names was considered the

true name. Publius was the true name, as we see from the fact that Scipio was at the same time that of the whole gens. Had we only this single indication regarding the ancient gens, it would justify us in affirming that there were Cornelii before there were Scipios and that is so. It is said that the family

of the Scipios was split into two from the gens. One long time undivided and that all the members bore the surname of Maluginensis, and that of Cossus it was not till the time of the dictator Camillus that one of its branches adopted the surname of Scipio. A little later another branch

took the surname of Rufus which it replaced afterwards by that of Sylla. The

Lentulus did not appear till the time of the Samnite war, the Cethegii not till the second Punic war; it is the same with the Claudii. The Claudii remained long time united as a single family, and all bore the surname of Sabinus, of Regillus, a sign of their origin. We follow them for seven generations without seeing any branch separate from this family, although it had become very numerous; was only in the eighth that it is to say in the time of the first Punic war that it veined three branches separate, and adopted three surnames which became hereditary with them. These were the Pulchri, who continued during two centuries, the Centuri, who soon became extinct, and the Nerones, who continued till the time of the empire.

From all this it is clear that the gens was not an association of families, but that it was the family itself, might either multiply, or only by giving rise or producing ever a branch, it was always but one family.

Besides, it is easy to account for the formation of the antiqui gens, and for

its evolution. It is not to be seen in the history of the gens, but in the history of the family. It is not to be seen in the history of the gens, but in the history of the family. It is not to be seen in the history of the gens, but in the history of the family.

When the gens was formed, it was not a family, but a gens. It was not a family, but a gens. It was not a family, but a gens.

This fire always kept burning, his tomb always honored with worship, were the centre around which all late generations came to live, and by which all the branches of the family, however numerous they might be, remained

gathered in the same hearth. When the gens was formed, it was not a family, but a gens. It was not a family, but a gens. It was not a family, but a gens.

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1 We need not repeat what we have already said (agnation, II., ch. v). We can see that *agnation* and *gentilitas* are relations of the gentiles flowing from the same principles, were relations of the same nature. The passage of the twelve tables which assigns the inheritance to the gentiles is a default of *agnation*, and is a consequence of the

4. *The Family Gods Was At First the Only Form of Society.*

What we have seen of the family is domestic religion; the gods which it had created for itself, the law which it had established, the right of primogeniture on which it had been founded, its unity and its development in marriage until the formation of the gens, justice, the priest-hood, the internal government—carried forcibly in thought towards primitive epochs when the family was independent of all superior power and when the city did not yet exist.

When we examine the domestic religion, the gods which belonged only to one family and exercised their providence only within the walls of one house, this worship which was secret, this religion which would not be propagated, this antiquated morality which prescribed the isolation of families—it is clear that the beliefs of this nature could not have taken root in the minds of men except in an age when the large societies were not yet formed. If the religious sentiment was satisfied with so narrow a conception of the divine, it was because human associations were then so narrow. In proportion to the time when men believed only in the domestic gods was the time when there existed only families. It is quite true that this belief might have subsisted afterwards and even for a long time when cities and nations existed. Man does not easily free himself from opinions that have once exercised a strong influence over him. This belief might endure therefore even when it was in disaccord with the social state. What is there indeed more contradictory than to live in civil society and to have particular gods in each family? But it is clear that this contradiction did not always exist and that at the epoch when this belief was established in the mind and became powerful enough to form a religion, it corresponded exactly with the social state of man. Now the only social state that is in accord with such beliefs is that in which the family lives independent and isolated.

ende in ius This was none other than the *trunam* in daily life; a man might be called by his individual name in the official language of politics; religion is complete and above all the name of the *évos*, was required. Late the democracy substituted the name of the dem for that of the *évos*. The history of names follows a different course in ancient times from what it has followed in modern times. In the middle ages until the twelfth century the true name was the individual baptismal name. Patronymic names, which are names of fathers, were used as surnames, but they were not the ancient and his difference is due to the difference of the two religions. In the old domestic religion the family was the body in which the individual was inseparable from the family; the patronymic was therefore the first name and date and in importance. In the new religion the contrary was recognized; the individual complete liberty and entire personal independence was in the east opposed to separating him from the family. Baptismal names were therefore the first and for a long time the only names.

In such a state the whole Aryan race appears to have lived for a long time. The hymns of the Vedas confirm this for the branch from which the Hindus are descended; the old beliefs and the old private laws attest for those who finally became Greeks and Romans.

If we compare the political institutions of the Aryas of the East with those of the Aryas of the West, we find hardly any analogy between them. If, on the contrary, we compare the domestic institutions of these various nations, we perceive that the family was constituted on the same principles in Greece and in India besides the principles, which we have already shown to be singularly mature, that we cannot suppose to be so remarkable to have been the work of chance. Finally, not only do these institutions bear evident analogy, but even the words that designate them are often the same in the different languages which trace back their origin to the Ganges to the Tiber: from this fact we may draw a double conclusion, to wit, that the origin of domestic

disfellowship and separation of the two races that the two groups of people have taken on, on the contrary, that this separation of the first was fixed from the time when the race still lived in its ancient cradle of Central Asia. The second was formerly degree in the different countries which its migrations

non-dynastic, hereditary, despotic, and feudal. The period during which religion, which could not have taken root in a society otherwise constituted, and which must now have been an obstacle to social development. There also was established a private law, which was founded to be in discord

perfectly in line with the state's socializing mission, which was

Let us place ourselves in the thought therefore, in the midst of those ancient generations whose traces have not been entirely effaced and whose delegated beliefs and their laws to subsequent ages. Each family has its religion,

used in the past to protect religious lands and with it its economic privilege. One continues to live apart in the tomb from which the stranger is excluded. Every family has also its property that is to say its lot of land, which is inseparably tied to it by its religion's gods. *Termini* guard

theology, and the Mosaic ritual being a regulation for some time left between them which must be neutral ground, and must remain inviolable. Finally, every family has its chief, as a nation would have its king. It has laws which doubtless are unwritten, but which religiously are engraven the

heart of every man. It has its court of justice, above which there is no other

that he can appeal to. Whatever he really needs for his material or moral life the family possesses, and he himself needs nothing from without, if an organization of the society has sufficed for itself.

But this family of the ancient age is not reduced to the proportions of the modern family in large societies. The family separates and decreases. But in the absence of every other social organization it extends and develops and ramifies without becoming divided. Every branch and branch remains grouped around a holden or beneath the sacred fire and the common tomb.

Still another element entered into the composition of this antique family. There reciprocity which the poor has of the rich and the rich has of the poor makes a servant. But in this sort of patriarchal regime servant and slave were one. We can see indeed that the principle of a free and voluntary service ceasing with the will of the servant would accord with the social state in which a family lives isolated. Besides the domestic religion did not permit strangers

to be admitted into the family. The slave effected this sort of initiation of the new comers into the domestic worship.

A curious usage that subsisted for a long time in Athenian houses shows us how the slave entered the family. They made him approach the fire, placed

his hand upon the hearth, and he became a member of the family. This ceremony bore a certain analogy to those of marriage and adoption. It doubtless signified that the new comers, strange as they may be, should henceforth be members of the family and share its religion. And thus the slave joined

the family. He took part in the festival of the hearth, the domestic religion, and he was buried in the burial-place of the family.²

But by the very act of acquiring this worship and the right to pray before the hearth, the slave was chained to his master. He was bound to the family for

his whole life. He could not be sold or freed. He was a slave, and he was a free man. But the servant did not on this account quit the family. As he was bound to it by his worship, he could not, without impiety, separate from it. Under

1 Demosthenes (*Stephanus*) 74. Aristophanes (*Plutus*) 768. These two writers clearly indicate a ceremony not described by the scholiast. Aristophanes makes a few details.

2 *Familia* habent de theslavens in the festivals. Ciceron *De Legibus* I. 8, II. 12.

3 *Quum domini sunt famuli, eligi barum* "not only for the master but for the slave religious scruple has placed the slave in the presence of our villa and farms." Ciceron *De Legibus* I. 11. Comp. Eschylus *Agamemnon* 1035-1073. The slave could never perform a religious act in the name of his master. Cato *De Re Rustica* 83.

the name of *freedom*, on that belief he continued to recognize the authority of the chief patron to be under obligations to him. He did not marry without the consent of the master, and his children continued to obey his master.

There was thus formed in the midst of the great family a certain number of small families of clients and subordinates. The Roman attributed the establishment of clientship to Romulus, as if an institution of his nature could have been the work of a man. Clientship is older than Romulus. Besides, it has existed in other countries, Greece as well as in Italy. It was in other cities that it established and regulated. If on the contrary, we shall presently see, weakened and destroyed by degrees. Clientship an institution of the domestic law and existing in families before the *vereries*.

We are not to judge of the clientship in its earliest form from the client that we see in Horace's time. The client is clearly a *for* as long time as a servant.

As the *patronus* and *cliens* were bound by religious ties, the *cliens* had the same sacrifices, the same festivals, the same *acræ* as his patron. At Rome, in sign of this religious community, he took the name of the family. He was considered a member of it by adoption. Hence the close bond and reciprocal

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some of the most important and most important of the family religion. The *veries*, are a relationship which consisted, according to the expression of Platon, in adorning the domestic gods.

Clientship was a sacred bond which religion formed and which noth-

ing on the *veries* the *patronus* and *cliens* were bound by religious ties, the *cliens* had the same sacrifices, the same festivals, the same *acræ* as his patron. At Rome, in sign of this religious community, he took the name of the family. He was considered a member of it by adoption. Hence the close bond and reciprocal

From all this we see that the family in the earliest times, with its oldest branch and its younger branches, its servants and its clients, might comprise

1 Caton in Aulus Gellius, 3, XXI, 1.

very numerous. A family has its religion, maintains its unity, by its private law renders itself indivisible, and through the law of clientship retains its servants, and so forms in the course of time a very extensive organization, having its hereditary chief. The Aryan race appears to have been composed of an indefinite number of societies of this nature during long successive ages. These thousand little groups, so isolated, having little to do with each other, having no need of one another, united by no bond religious or political, having each its domain, each its internal government, each its gods.

BOOK THIRD.

THE CITY.

CHAPTER.

THE PHRATRY AND THE CURYTHETRIBE.

As yet we have given no dates, nor can we now. In the history of these antique societies, epochs are more easily marked by the succession of ideas and institutions than by the years.

The study of the ancient rules of private law has enabled us to obtain a glimpse beyond the times that are called history of a succession of centuries during which the family was the sole form of society. This family might then contain within its wide compass several thousand male beings. But in these limits human association was yet too narrow, too narrow for material needs, since this family hardly sufficed for all the chances of life; too narrow for the moral needs of a matured man; we have seen how incomplete was the knowledge of the divine and how insufficient was the morality of this little world.

The smallness of this primitive society corresponded with the narrowness of the ideas entertained of divinity. Every family had its gods, and none either conceived of nor adored any save the domestic divinities. But he could not have contented himself with these gods so much below what his intelligence might attain if many centuries were required for him to arrive at the idea of God as a being unique and comparable to himself; he must at any rate have sensibly approached this idea by enlarging his conception from age to age, and by extending little by little the horizon whose lines separated

for in the divin¹ being from the things of this world.

The religious idea and human society went on, therefore, expanding at the same time.

The domestic religion for bands of families mingled and united, but it was possible for several families without sacrificing anything of their special religion to join at least for the celebration of another worship which might have been common to all of them. And this was what happened to certain members of families of the group called in the Greek language *phratry* in the Latin *curia*. Did there exist the tie of birth between the families of the same group? This cannot be affirmed. It is clear, however, that this new association was so formed without certain enlargement of religious ideas. Even at the moment when they united these families conceived the idea of a divinity superior to that of the household, but who was common to all and who watched over the entire group. They raised an altar to him, lighted sacred

fires, ~~the founders of~~ ^{the founders of} ~~phratry~~ ^{phratry} that had hotitsalt and its protecting god. The religious use of the same materials in the family, it consisted essentially of a repast ~~and~~ ⁱⁿ common, the nourishment ~~and~~ ^{and} being prepared for the altar itself and was consequently ~~the~~ ^{the} ~~creak~~ ^{creak} while eating, the

was ~~the~~ ^{the} ~~phratry~~ ^{phratry} that prayers the divinity was present and received a part of

The religious use of the cury lasted long in Rome. Cicero mentions them and Ovid describes them. In the time of Augustus they had still preserved all the antique forms. I have seen in those sacred dwellings says

observed the food of the cury was displayed on the table of the fathers. The food was loaves of fine flour and fruits. saw the libation poured out, they did not fall from gold or silver cups, but from vessels of clay and admired them for four days, where remains of faith in the rite and customs

of the fathers. At Athens the repasts took place during the festival called

There were a sage remaining in the latest period of Greek history which

1 Homer *Iliad* II. 362 Demosthenes *Macartus* c. 11. 37 VI. 10 IX. 33 Phratry is thebes *Pindar* *Sthira* VII. 18 and Scholia *Phratry* and *curia* are two terms that were translated by the word *phratry* in the *Iliad* II. 35 Dion Cassius I. 14.

2 Cicero *De Orat.* I. 7 Ovid *Fast.* VI. 305 Dionysius I. 65.

3 Dionysius I. 23 And yet some changes had been introduced. The feasts of the cury had become a vain formality, the members of the cury willing to neglect them and the custom was introduced of replacing the common meal by a distribution of victuals and money. Plautus, *Aulularia* IV. 69 and 37.

4 Aristophanes *Charis* 146 *Athena* I. p. 17 Suida *ἀφροίρια*.

throw some light upon the nature of the ancient phratry. Thus we see that in the time of Demosthenes, a member of a phratry must have been born of a legitimate marriage, one of the families that composed it, for the religion of the phratry, like that of the family, was transmitted by blood. The young thenia was presented to the phratry by his father, who swore that this was his son. The admission took place with religious ceremony. The phratry sacrificed a victim and cooked the flesh upon the altar. All the members were present; if they refused to admit the new comer, as they had a right to do if they doubted the legitimacy of his birth, they took away the flesh from the altar; if they did not do this, after cooking they shared with the young man the flesh of the victim; then he was admitted and became a member of the association. The explanation of these practices is that the ancients believed in nourishment prepared upon an altar and shared between several persons, established upon them an indissoluble bond and a sacred

union. The reason why the chief curion or phratrarch, whose principal function was to preside at the sacrifice, perhaps a tribute to a deity at first more extensive, the phratry had its assembly, its tribunals, and could pass decrees, as well as in the family, there were gods, a worship, a priesthood,

also a phratrarch, whose government was a small society that was modelled

The association naturally continued to increase, and, after the same fashion; several phratries, curions were grouped together and formed a tribe.

This new circle had its religion; in each tribe there were an altar and

protege, and it was generally of the same nature as that of the phratry, or that of the family; it was a madeified *heros*. From him the tribe took its name. The Greeks called him the *ponymos*, *heros*. He had his annual festival day. The principal part of the religious ceremony was a repast, of which the

entire tribe took part. The phratry held assemblies and passed decrees, which all the members were obliged to submit to, had a chief, *tribunus*, *ο βασιλεύς*.⁴

1 Demosthenes *Eubulii* in *Macartis* *æu* VIII. 18.

2 Dionysius II. 64. Varr. 83. Demosthenes *Eubulii* 23.

3 Demosthenes *Theocrinus* *Æschine* II. 27. *Isæu* VII. 36. Pausanias 38. Schol. in *Demosth.* 02. In the history of the ancients, a distinction was made between the religious tribes and the local tribes. We speak here only of the first; the second came afterwards. There were tribes everywhere in Greece. *Iliad* II. 36, 268. *Odyssey* IX. 177. Herodotus I. 161.

4 *Æschine* II. 30, 31. Aristotle *Ærag* cited by Photius; *Nauapapia*, Pollux VIII. 111.

Boeckh *Corp. Inscr.* 8285. 108. *Evtraces* remain in the political and religious organization.

From what remains of the tribes we see that originally was constituted to be an independent society, and as if there had been no other social power above it.

CHAPTER I.

NEW RELIGIOUS BELIEFS.

1 The Gods of Physical Nature.

BEFORE passing on to the formation of tribes to the establishment of cities, we must mention an important element in the intellectual life of those ancient peoples.

When we sought the most ancient beliefs of the men we found a religion which had its roots in its subject and its principal symbol, the sacred fire. It was this religion that founded the family and established its first laws. But this race also had all its branches as other religions—the one whose principal figure was Zeus, here Athena, Juno, that of the Hellenic Olympus, and of the Roman Capitol.

Of these were religion the first found its gods in the human soul; the second took them from physical nature. As the sentiment of living power and of conscience which he felt in himself inspired him with the first idea of the divine, so the view of this immensity which surrounded and overwhelmed him traced out for his religious sentiment another course.

Man in the early ages was continually the presence of nature. He habit of civilization did not yet draw a line between him and his. His sight was charmed by its beauties, dazzled by its grandeur. He enjoyed the height, the water, the night, and when he saw the holy light of heaven return, he experienced a feeling of thankfulness. His life was in the hands of nature; he looked for the beneficent boon which his harvest depended on, he feared the storm which might destroy the labor and hope of all the year. At every

round of the seasons he felt that he was in the presence of a power greater than himself, a power which he loved and feared.

the three primitive tribes of Rome the tribes were too considerable for the city not to attempt to weaken them and take away their independence. The plebeians were preoccupied to abolish them.

This sentiment did not conduct him to conceive of a God ruling the universe as he did of the universe he knew that the earth, sun and stars were parts of some body that did not occur to him that they might all be ruled by the same being. On first looking upon the external world, man pictured to himself as sort of confused republic where a rival for each made up a race, rather as he judged external objects from himself and felt in himself free persons as valson every part of creation, so in the oil there are the cloud, the water of the river, the sun, man, persons, all like him. He understood them by thought, volition and choice of facts as he thought them powerful and was subject to their empire, he vowed dependence, he invoked them and adored them; he made gods of them.

Thus in this race the religious idea presents itself in two different forms. On the one hand man attaches the divine attribute to the invisible

principle that intelligent beings depend upon him less than the
vine on the external object which he saw which he loved or feared, of physical
agents that were the masters of his happiness or of his life.

These two words served as the foundation of two religions that lasted

big center point in illustrating the emphasis upon public life they became. The old dogmas were always entirely distinct, often contradictory, and their ceremonies and practices were absolutely different. The worship of the gods of Olympus and of heroes and demes never had anything

nomadic hunter-gatherer culture, however, remained the same for a fixed, very early period, always maintained change in its practices while its dogma faded away little by little. The other—the physical nature—was more progressive and developed freely from age to age modifying its legends

and doctrines by degrees, continually augmenting authority over men.

2. Relation of this Religion to the Development of Human Society.

We can easily believe that the first rudiments of this religion of nature are

it came to deal with its golden rule and higher worship of its deity. But as time to become fixed into precise doctrine it is quite certain that was not

1. Need to recall the Greek and Italian traditions as how the religion of Jupiter to be a young and relatively new religion. Greece and Italy had preserved the recollection of a time when social organizations already existed and when this religion was not yet known. Ovid,

brought into the world in a day and that it did not spring from full perfection from the brain of man. We find that the origin of this religion is either a prophet or a body of priests. It grew up in different minds by an effort of the natural power. Each man created for himself his own fashion. Among all these gods sprung from different minds there were resemblances, as ideas were formed in the minds of men after nearly uniform manner. But there was also a great variety because each mind was the author of its own gods. Hence it was that for a long time this religion was confused and that its gods were innumerable.

Still the elements which could be deified were not very numerous. The sun which gives fecundity to the earth which nourishes the clouds by turns beneficent and destructive—these were the different powers which they could make gods. But from each one of these elements thousands of gods were created because the same physical object viewed under different aspects, received

different appellations. Thus in the case of the sphinx, which is a hybrid of a lion and an eagle, one called it a sphinx, another a griffin, another a chimera, and so on. In the case of the sun, one called it Helios, another Phoebus, another Apollo, and so on. In the case of the sea, one called it Neptune, another Poseidon, another Nereus, and so on. In the case of the earth, one called it Gaia, another Tellus, another Terra, and so on. In the case of the sky, one called it Uranus, another Caelum, another Firmamentum, and so on. In the case of the winds, one called it Zephyrus, another Eurus, another Notus, and so on. In the case of the stars, one called it Sirius, another Canis Major, another Dog Star, and so on. In the case of the planets, one called it Venus, another Cytherea, another Lucina, and so on. In the case of the moon, one called it Luna, another Diana, another Selene, and so on. In the case of the sun, one called it Helios, another Phoebus, another Apollo, and so on. In the case of the sea, one called it Neptune, another Poseidon, another Nereus, and so on. In the case of the earth, one called it Gaia, another Tellus, another Terra, and so on. In the case of the sky, one called it Uranus, another Caelum, another Firmamentum, and so on. In the case of the winds, one called it Zephyrus, another Eurus, another Notus, and so on. In the case of the stars, one called it Sirius, another Canis Major, another Dog Star, and so on. In the case of the planets, one called it Venus, another Cytherea, another Lucina, and so on. In the case of the moon, one called it Luna, another Diana, another Selene, and so on.

When the gods had been created, a very small number of divinities, but the gods of one were not those of another. The names, it is true, might resemble each other, but many men might separately give their god the name of Apollo or of Hercules. These words belonged to the common language and

were not proper to any one. In the case of the sun, one called it Helios, another Phoebus, another Apollo, and so on. In the case of the sea, one called it Neptune, another Poseidon, another Nereus, and so on. In the case of the earth, one called it Gaia, another Tellus, another Terra, and so on. In the case of the sky, one called it Uranus, another Caelum, another Firmamentum, and so on. In the case of the winds, one called it Zephyrus, another Eurus, another Notus, and so on. In the case of the stars, one called it Sirius, another Canis Major, another Dog Star, and so on. In the case of the planets, one called it Venus, another Cytherea, another Lucina, and so on. In the case of the moon, one called it Luna, another Diana, another Selene, and so on.

As the first appearance of these beliefs was at a time when men still lived in a family government, the new gods had at first like the demon, the hero, and the Lares, the character of domestic divinities. Each family made

Fasti II. 289 *Virg. Georg.* I. 126 *Esch. Eumen.* *Pausanias* VII. 1. 8. It appears that among the Hindus the *Pitris* were anterior to the *Devas*.

1 The same name often conceals very different divinities. Poseidon, Hippius, Poseidon, Phytalmus, Erechtheus, Poseidon, the Eggea, Poseidon, the Heliconia, Poseidon, were different gods which had either the same attributes or the same worshippers.

god for itself and accepted them for itself as protectors of its good offices it did not wish to share with strange folk, though it appeared frequently in the hymns of the Vedas, and there is no doubt that it was the same in the minds of the Aryas of the West for there are visible traces of it in their religion. As soon as a family personified in physical form had created a god it associated him with its sacred fire, counted him among its Penates, and added a few words to his formula of prayer. This explains why we often meet among the ancients the expression *Idem deus*. The gods whose image was in the heart of the Jupiter of my heart, the Apollo of my father's! I conjure you, said Tecmessa to Ajax, "in the name of the Jupiter who sits near your hearth." Medea, the enchantress in Euripides, swore by Hecate, my protecting goddess, whom I venerate, and who inhabits this sanctuary of my hearth. When Virgil describes the gods in the religion of Rome, he shows Hercules associated with the sacred fire of Evander and adored by him as a domestic divinity.

It must have been a barbarous effort to conceive of the gods, in which polytheism is full and which represents struggling families, nations, villages. Hence too that innumerable multitude of gods and goddesses, of whom assuredly few know but the smallest part, for many have perished without

having left the traces of their worship behind them.

It must have been a long time before the gods left the bosom of the families with whom they had originated and where regarded them as their patrimony. We know even that many of them never became disengaged in this sort

of development. The Penates of the Romans, the *Penates* of the Gauls, the family of the Butades of the Potitii of Rome, and Hercules and the Nautii of Minerva all appear highly probable that the worship of Venus was for a long time limited to the family of the Julii and that this goddess had a public

worship in Rome. The course of time, the divinity of a family having acquired a great prestige, the imagination of men and appearing powerful proportion to the prosperity of this family, that a whole city wished to adopt him, and of him in public worship to obtain his favor. This was the case with the

Deities of the Etruscans, the *Deities* of the Sabines, the *Deities* of the Latins, at least the priesthood of them may remark that the dignity of priest for each god,

1 Έσπεύοντες ἐφ' ἑσπέρῃσι ["at the hearth"] ἡμεῖς οὖν ["of my fathers"] ἡμῶν Ζεὺς ["my Zeus"], Euripides *Hecuba* 345, *Medea* 393, Sophocles *Ajax* 492, Virgil *Aeneid* III.543, Herodotus 1.44.

2 Livy IX.29, Dionysius VI.69.

was during long time hereditary and could not go out of a certain family. This was a vestige of a time when the god himself was the property of this family, when he protected the lion and would be served only by it.

We are corrected here for saying that this second religion was first in unison with the social condition of men; it was cradled in each family and remained in a pound of this narrow horizon. But it lent itself more easily than the worship of the dead to the future progress of human association. Indeed the ancestors, heroes and manes were gods, who by their very nature could be adored only by a very small number of men and who thus established perpetual and impassable lines of demarcation between families. The religion of the gods of nature was more comprehensive. Vigorous we propose the propagation of the worship of many of these gods. There was nothing in their nature that required them to be adored by one family only and to repel the stranger. Finally men must have come sensibly to perceive that

the Jupiter of a family was really the same being as the Jupiter of an ancestor's two sacred fires.

Let us add that the morality of this new religion was different. It was not confined to teaching of family duties; Jupiter was the god of hospitality;

he created us to the great purpose of being a path for our progress. He appeared among mortals sometimes indeed to assist in their struggles and to take part in their combats. He also does join in concord and to teach them to help each other.

As this second religion was in its development it was a new stage of large proportions. At the beginning it was so to speak sheltered under the protection of its deities in the domestic hearth. There the god had obtained small place, narrow well-meant and opposite to the venerable altar,

under the little altar by the hearth, and the sacred fire might be soul renounced. A sort of guardianship left the domestic hearth. He had dwelt in his own and his own sacrifice. His dwelling, *oikos*, from *vuō*, to inhabit, was more over built after the fashion of the ancient sanctuaries, as a place for a collection of property, like the temple, and he was

1 Herodotus, 64, 65 IX. 27 Pindar, *sthyn* VII. 18 Xenophon, *Hell.* VI. 8. Plato, *Laws*, p. 759 *Panquet*. 40. Cicero, *De Divin.* I. 41 Tacitus, *Ann.* II. 54 Plutarch, *Theseus* 28 Strabo, IX. 42 IX. 634 Callimachus, *hymn to Apollo* 84 Pausanias, VII. 1. 17 X. 1 Apollodorus, III. 13 Harpocration, *synonyma*, Boeckh, *Corp. Inscript.* 1340.

the god's house but appeared very small by the side of this house. What had at first been the principal altar now became only an accessory to a great altar. The god and his descendants were no longer the only persons who could offer the sacrifice. The office was open to the flesh of the victim and to carry the offering with men's prayers to the majestic divinity whose statue resided in the temple.

When we see the temples and open their doors to the multitude of worshippers, we may be assured that human associations will become enlarged.

CHAPTER II.

THE CITY FORMED.

THE tribe, the family, and the phratry were established as independent bodies, since each had special worship in which the stranger was excluded. Once formed, a new family could not be admitted. No more could

several tribes unite to form a new religion, or several phratries unite on condition that the religion of each should be respected. The day on which this alliance took place the city existed.

It is of little account to seek the cause which determined several neigh-

ing tribes to unite. The main fact was, however, that the final result was seen in that the bond of the new association was still religion. The tribes that united to form a city never failed to ligth a sacred fire, and to adopt a common religion.

The human societies in this world are not homogeneous. There are high and low groups, which have been long established, and are finally joined together in large ones. Several families form the phratry, several phratries the tribe, several tribes the city. Family, phratry, tribe, city were not mere societies

and religions, each of them which were formed nearly at the same time.

We must remark, that when the different groups became associated, none of them lost its individuality, its independence. Although several families were united in a phratry, each of them remained constituted as

it had been when separate. Nothing was changed in it, neither worship nor

emony which takes place six days after his birth. Some years later he enters the phratry by a new ceremony which we have already described finally at the age of sixteen or eighteen is presented for admission to the city. On that day in the presence of a *phylax* and before the smoking of a sacrificial victim, he pronounces an oath by which he binds himself among other things always to respect the religion of the city. From that day he is initiated into the public worship and becomes a citizen. If we observe this young Athenian rising step by step from worship to worship, we have a symbol of the degrees through which human association has passed. The course which this young man is constrained to follow is that which society itself followed.

An example will make this truth clearer. There have remained in the antiquities of Athens traditions and traces enough to enable us to see quite clearly how the Athenian city was formed. At first say Plutarch¹ Attica was divided by families. Some of these families of the primitive period like the

Eumolpidae the *Adramidae* the *Gephyre* the *Phylakidae* and the *Leontidae*, but every family surrounded by its young branches and its clients, occupied a canton and lived there in absolute independence. Each had its own religion. The *Eumolpidae* fixed at Eleusis adored Demeter the *Cecropidae*,

with the *Adramidae* the *Phylakidae* and the *Leontidae* adored Poseidon as the protecting god. At Marathon was Hercules, at Prasiae Apollo, at the *Phylakidae* at *Phlius* the *Dioscuri*, *Cephalus* and thus fall the other *antônai*.

For so long as the gods of the hills had no other belief than that had been perpetuated, the worship and the traditions formed in that little borough had its king before the time when Cecrops reigned at Athens. Was not this a memory of a distant age when the great patriarchal

families of the *Ge* had no other relations than those which were settled in the country recognizing political and religious bonds among them having each its territory often at war and living so completely separate that marriage between them was not always permitted.

But the needs of their sentiments brought them together insensibly.

1 Demosthenes *Eubulæ* VII. IX. Lycurgus 76 Scholl. in Demosth. 438 Pollux, VIII. 10 Stobæus *De Repub*.

2 Κατά γέννη, Plutarch *These* 24, 13.

3 Pausanias 4.53 13 711 18.

4 Plutarch *These* 18.

joined a little group of four or five or six. Thus we find in the tradition that the four villages of Marathon, Miteia, Hadria, and the same Delphians, Apollo, the men of the Piræus, Halerum, and two neighboring boroughs united and built a temple to Hercules in the course of time. These many little states were reduced to twelve confederations, in which the people passed from the patriarchal family to a society somewhat more extensive, as attributed by tradition to the efforts of Cecrops, were merely under a shadowy chief, which was not accomplished until the time at which he placed his personage—that is to say, towards the sixteenth century before our era. We see more over that this Cecrops reigned over only one of the twelve associations, at which afterwards he came, then the other eleven were completely independent; each had its tutelary deity, its altars, its sacred fire, and its chief.

Several centuries passed during which the Cecropidæ sensibly required greater importance of this period. There remains the tradition of a bloody

struggle, which had them pitted against the Epidaurians, who claimed the right to preserve the hereditary priesthood of their divinity. There were doubtless struggles and conquests, which no memory has been preserved of, the work of the Cecropidæ, which was developed in degrees,

the unity of Attica, and which finally had to be done. The opportunity presented itself in the Cecropidæ. All the traditions agree in declaring that he united the twelve groups into one city. He succeeded indeed in bringing all Attica to adopt the worship of Athena Polias, so that henceforth the

whole people had its chief and its deity, and its common law. The Prytanæ of Athens, the religious centre of all Attica. From that time Athenian unity was established, the religion, the laws, the preservation of the ancestral worship, but adopted that was common to all. Political unity, the preservation of the chiefs,

it was great enough to form a single body above all the local governments there

1 Id. *ibid.* 14 Pollux I. 105 Stephanus Byzantium *top. 160a*.

2 Philochorus cited by Strabo X. Thucydides I. 6 Pollux VIII. 111.

3 Pausanias § 8.

4 Thucydides I. 15 Plutarch *Theseus* 24 Pausanias 26 VIII. 2.

5 According to Plutarch and Thucydides these destroyed the Prytanæ and abolished the magistracy of the boroughs. He attempted this he certainly did not succeed in along while after him vest still in the local worship, the assemblies, and the kings of the tribes. See *Boeckh, Corp. Inscr.* 285 Demosthenes *Theocrinus* Pollux VIII. 111. We put aside the legend of Ion, to which several modern historians seem to have given too much importance by presenting an indication of a foreign invasion of Attica. This invasion is indicated by no

that there are common divinites for them, they unite in large groups. The same rules invented and established for the family are applied successively to the phratry, the tribe, and the city.

Let us take as a glance the road over which man has passed in the beginning of the family, lived isolated and marked only the domestic gods—*θεοὶ πατρώιοι* ["ancestral gods," *diigentili* "family gods," gods of the gens"]. Above the family was formed the phratry with its god—*θεὸς φράτριος*, *Juno curialis* [Juno of the curia]. Then came the tribe and the god of the tribe—*θεὸς φύλιος*. Finally came the city and the conceived god whose providence embraced its entirety—*θεὸς πολιεύς* ["tutelary god of the city," *penates publici* "public penates," a hierarchy of freed men, a hierarchy of association. The religious life was among the ancients inspiring great and organizer of society.

The traditions of the Hindus, of the Greeks, and of the Etruscans relate

that the gods have descended from the sky. But the gods of popular belief and beneficence are nothing else than the beliefs of men.

Such was the origin of cities among the ancients. His study was necessary to give us a correct idea of the nature and institutions of the city. But there

was still a stock of servitude and slavery to be done away and a social decision known to us was formed in the same manner. The municipal organization once discovered it was not necessary for each new city to pass over the same long and difficult route. It might often happen that they followed the inverse

order. We can think of nothing only less than organized into tribes. He associated with them a multitude of other men who came from different parts and might even belong to different races. But this chief ever failed to organize a new state after the model of the one he had just quitted. Conse-

quently, the individualism of primitive society gave rise to a habit of the hero whom it honored with its worship and from whom with the lapse of time it believed itself to have been descended.

It often happened, too, that the men of some country lived without laws

and with no tradition. It has occurred that the savages have been dissolved by too rapid revolutions, as at Cyrene and Thuri. If a legislator undertook to establish order among the men, he never failed to do so by dividing them into tribes and phratries, if this were the only type of society.

In each of these organizations named theponymoi, he reestablished nat-

rites and inaugural addition. This was always the manner of commencing if he wished to found a regular society. Thus Plato did when he imagined a model city.

CHAPTER IV.

THE CITY.

CIVITAS, and Urbes, of which we translate by the word city were not synonymous words among the ancients. Civitas was the religious and political association of families and tribes; Urbis was the place of assembly,

the meeting place, the hall, the school, the assembly, that is, what we see on our day. We build a few houses; it is a village; as the number of houses increases, it becomes a city and finally, if there is occasion for it, we surround it with a wall.

With the same necessity we find the method of gradually increasing the number of the city. It is the first step and the most difficult and ordinarily the largest work. As soon as the families, the phratry, and the tribes had agreed to unite and have the same worship, they immediately found it necessary to strengthen this

As a first example we will take Rome itself. Notwithstanding the doubt that is attached to its early history, it has often been said that Romulus was chief of a band of adventurers, and that he formed people by calling round him vagabonds, robbers, and soldiers, who were collected with him to

present the fact in quite another shape and it seems to us that if we desire to understand antiquity, our first rule should be to support ourselves upon the evidence that comes from the ancients. These writers do, indeed, men-

tion present in his time, and the city of Rome, which was the first city founded, had afforded him. But this asylum was not the city; it was not even opened till after the city had been founded and completely built.

1 Herodotus, I, 16 Cf. Plato, Laws, I, 738y, 1, 771.

wasnappendedtoRomebutwasnotRomeitdidnotevenform
 apartofthecityofRomeitwas situatedatthefootoftheCapitol
 hillwhilethecityoccupiedthePalatineItsofthermostimportant
 distinguishingdoublementoftheRomapopulationtheasylums
 wereashouldandreligionofthePalatineemerfromAlba
 thastosomealreadyorganizedasocietydistributedgentesand
 curiaehavingdomesticworshipandlawstheasylumserehamlets
 suburbwheretheutarsbuiltathazardandwithoutruleonthePalatine
 riseaburysuburbreligious.

Asto themanner in which this city was founded antiquity bounds information find in Dionysius of Halicarnassus collected from authors of that time we find in Plutarch in the *Fasti* of Ovid in Tacitus in Cathe Elderhyad consulted the ancient aland and two other writers who thought bovalloinspires with great confidence earned

As a result, the people of Rome, who had been raised to be credulous and well acquainted with the rules of historical criticism, all these writers have transmitted the tradition of the religious ceremony which marked the foundation of Rome and were not prepared to reject great

number of witnesses for the ancient to relate facts that surprise us, but is this a reason why we should pronounce them fabulous? Above all if these facts, though not in accord with modern ideas, agree perfectly with those of the ancients. We have seen in their private life a religion which regulated all their

debaters were both in this strategic position. If they were not, it might be that Romulus himself was obliged to perform rites which were observed everywhere. The first act of the founder was to choose the site for the new city. But this choice—weighty question on which they believed the destiny of

had been permitted, what a fullness of life! In his pocket Samulus, he would have followed the sacred animal—the owl for the green woodpecker Being Latin and a neighbor of the Etruscans initiated into the augural science, he asks the gods to reveal their will to him by the flight of birds. The

gods in truth. Palatine, the high priest, having arrived, first offers a sacrifice. His companions are arranged around him, the high priest of brushwood, and each

1 Cicero *De Divin.* I.17 Plutarch *Camillus* 32 Pliny XIV.2; XVIII.12.

one deep through the flame. The explanation of this rite is that for the act about to take place it is necessary that the people be pure and the ancients believe they could purify themselves from all stain physical or moral by leaping through a sacred flame.

When this preliminary ceremony had prepared the people for the grand act of the foundation, Romulus dug a small trench for a circular form and threw into it a clod of earth which he had brought from the city of Alba. There each of his companions, approaching in turn, following his example, threw a little earth which he had brought from the country from which he had come. This rite is remarkable and reveals a notion of the ancients which we must all attend to before coming to the Palatine. They had lived in Alba for some of the neighboring city. There was his sacred fire, there their fathers had lived and been buried. Now their religion forbade them to quit the land where the hearth had been established, and where their divin-

deities had fixed their abode. In the fire, it is to be believed, would lie with him under the symbol of a clod of earth, the sacred soil where his ancestors were buried, and to which he himself was ever attached. A man could not quit his dwelling-place without taking with him his soil and his ancestors. This

with which he had come from his father's house, my family, my people, my place, my country, for here are the manes of my family."

The trench into which each one had thrown a little earth was called *mundus*. Now this word designated in the ancient language the region of the

dead. Every day is now going on, and the souls of the dead are seen in this tradition. Here, although of these ancient men. When placing in the trench a clod of earth from their former country, they believed they had enclosed in it the souls of their ancestors. These souls reunited there,

separated from the body and departed to their homes. That is this holy fire of the city.

Around this hearth rose the city as the house rises around the domestic hearth. Romulus traced a furrow which marked the enclosure. Here, too,

1 Dionysius, 88.

2 Plutarch, *Romulus*, 14. Dion Cassius, *Fragn.* 2. Ovid, *Fast.* IV. 82. Festus, *Quadrata*.

3 Festus, *Mundus*, Servius, *En.* III. 1. 34. Plutarch, *Romulus*, 14.

4 Ovid, *ibid.* Late the hearth was removed to the three cities, the Palatine, the Capitoline, and the Quirinal, and united in one the common hearth, the temple of Vesta was placed on neutral ground between the hills.

the smallest detail was fixed by ritual. The founder made use of a copper ploughshare. The plough was drawn by a white bull and a white cow. Romulus, with his head veiled and the priest holding himself the handle of the plough and directing it while chanting prayers, his companions followed him observing religious silence. As the plough turned, clouds of fear fell on them carefully, when within the enclosure that no particle of this sacred earth should be on the side of the stranger. This enclosure, sacred by religion, was inviolable. Neither stranger nor citizen had the right to cross it. To leap over this little furrow was an impious act; it is a Roman tradition that the founder himself committed this act of sacrilege, and paid for it with his life.

But in order that men might enter and leave the city, the furrow was interrupted in certain places to accomplish this. Romulus raised the plough and carried over these intervals, which were called *porta*, these were the gates of the city.

On this sacred field, now a little aside from the whole path and the out-
 mission from the pontiff. On both sides of this walk space, a few paces wide, was given up to religion and was called the *pomerium*; on this space no plough should be used, no building constructed.

The custom of Romulus is also found in his information preserved down to the writers, who have transmitted it. Thus, the answer that the ceremony was called the memory of the people every year by an anniversary festival, which they called the birthday of Rome. This festival was celebrated

throughout the time of the monarchy, and the Roman people still celebrate old usage through incessant changes.

We cannot reasonably suppose that such rites were observed from the first time by Romulus. It is certain, on the contrary, that many cities before Rome

had been founded in the same manner. The elder Varro, the writer of the *Origines*, has consulted the annals of all the Italian nations, and informs that analogous rites were practised by all founders of cities. The Etruscans possessed a *lurgichabok*, in which were recorded the complete ritual of these

1 Plutarch *Romulus*, 1. Ovid *Ides*, *Varro De Lingua Latina*, V. 14. 3. Festus, *Primigenius Urva*, *Virgil*, IV. 755.

2 See Plutarch *Romulus*, 27.

3 Caton in *Servius*, IV. 755.

4 Cicero *De Nat. Deor.* II. 40. *Digest*, 8. Gaius, I. 8.

5 Varro, V. 14. 3. Livy, 44. Aulus Gellius, XIII. 14.

ceremonies.

The Greeks and the Italians believed that the site of a city should be chosen and revealed by the divinity. So when they wished to found one, they consulted the oracle at Delphi. Herodotus records an act of impiety and madness, that the Spartans were to build a city "without consulting the oracle, and without observing any of the customary usages," and the pious historian is not surprised that a city thus constructed, in spite of the rule, lasted only three years. Thucydides calls it the day when Sparta was founded, and mentions the pious chants and the sacrifices that lay. The same historian tells us that the Athenians had particular ritual, and that they never founded a colony without conforming to it.¹ We may see a comedy of Aristophanes sufficiently a picture of the ceremony practiced in such cases. When the poet represents the muses in founding a city, of the birds, he certainly had in mind the customs which were observed at the foundation of the cities.

Of the Nymphs, who preside over the sacred rights of the soil, he invokes

Pausanias travelled Greece about Adrian's time. In Messenia he had the priest describe to him the foundation of the city of Messene, and he has transmitted this account to us. This event was not very ancient; it took place

in the fourth century, and he says that the inhabitants of Messene had come from the Greeks without country, but preserving their customs and their national religion, with pious ardor. The hebanis he restores to them, Peloponnesus, in order to place an enemy on the flank of the Spartans, at the

post of Messene, was a city in the Messenian plain, and he is not acting for this people's return to their former country. Miraculous apparitions proved to them that their gods, who had betrayed them at the time of the conquest, had again become favorable. This timid people then decided to re-

turn to the Delphic oracle, and to inquire of it. The oracle, in response, told them that the old cities of the country they had been soiled by the conquest, to choose the place where they should establish themselves, they could have recourse to the Delphic oracle. For at this time the Pythia was favorable to the Spartans.

Fortunately, the god had the method of revealing his will. A Messenian

1 Caton in Servius, 755 Varro, L., V. 14. Festus, *Rituales*.

2 Diodorus, XII. 12. Pausanias, VI. 2. Athenæus, VI. 62.

3 Herodotus, I. 42.

4 Thucydides, I. 6. III. 24.

5 Pausanias, IV. 27.

priest had dream in which one of the gods of his nation appeared and directed him to take his station on Mount Ithome and invite the people to follow him there. The site of the new city was thus indicated, but it was still necessary to know the rites to be performed at the foundation of the Messenian land, and for that they could do but adopt those of the Thebans or any other people, and so they did not know how to build the city. A dream, however, came very opportunely, and another Messenian, the gods so commanded, to ascend Mount Ithome and find a yew tree that stood near a myrtle and to dig into the earth in that place, he obeyed and discovered a urn and in this urn were leaves of tin on which was found engraved the complete ritual of the sacred ceremony. The priests immediately copied it, and inscribed it in their books. They did not doubt that their urn had been deposited there by an ancient king of the Messenians before the conquest of the country.

As soon as they were in possession of the ritual the foundation com-

mon to the Messenians, as before the capture of the Ithome, the ancient gods, ancestors now and venerated all these protectors of the country had apparently quitted it, according to the belief of the ancients, on the day when the enemy became masters of it. They were entreated to return. Formulas

were pronounced which were supposed to stir them up to quit their residence of the gods with themselves, as what the messenians had the most at heart and may be sure that the religious ceremony had choo the aim just as the companion of Romulus dug a trench and thought to bury the manes of

several of the best of the Messenian kings in the ground. They thought that by rites and formulas they could attach these sacred beings to the soil which they themselves were going to occupy, and could shut them up within the enclosure which themselves were about to trace, and they said

in their words, "Come ye gods, O deities long and live with us in this city. The boundaries were traced while the people sang religious hymns.

We are surprised first when we see in the ancient authors that there was no city, however ancient it might be, which did not pretend to know the

names of the founders of the city, and to be sure that the Messenians could for every year celebrate the anniversary of his birthday with a sacrifice. Athens as well as Rome celebrated the birthday.

It often happened that colonists conquerors established themselves in a city already built. They had not to build houses, for nothing opposed their

occupying those of the vanquished, but they had to perform the ceremony of foundation—that is, to establish the sacred fire and to fix the nation-al gods in the new home. This explains the statement of Thucydides and Herodotus that the Dorians founded Lacedæmon and the Ionians Miletus, though these tribes found Lacedæmon and Miletus built already very ancient.

These usages show clearly what a city was in the opinion of the ancients. Surrounded by a sacred enclosure and extending a ground altar, it was the religious abode of god and citizen. Livy said of Rome, "There is not a place in this city which is not impregnated with religion and which is not occupied by some divinity. The gods inhabit it." What Livy said of Rome any man might say of his own city for if it had been founded according to the rites, it had received with its walls protecting gods, whoever as we may say implanted in its soil and could never quit it. Every city was a sanctuary, very

city, but before the city the city for ever, so the people could never gain an abandoned place where the gods were established. But this respect was reciprocal, a game as to the contract between god and men. At one time the tribunes of the people proposed that Rome devastated by the Gauls was

not to be rebuilt, but when the senate and the people decided otherwise, the Romans had conquered—that the people should abandon the ruins of Rome and move to Veii. But the pious Camillus replied, "Our city was religiously founded, the gods themselves planted it in the place and took up their

abode here. And the Romans did not leave it, but maintained dwelling four

Something sacred and divine was naturally associated with these cities which the gods had founded and which they continued to fill with their presence. We know that Roman tradition promised that Rome should be

eternal. Every city had similar tradition. The ancients built all their cities to

CHAPTER.

1 "Ἅγιος ἕρῃ" ["sacredium"] ἱερὰ Ἀθήναι ["sacred Athens"] (Aristoph. *Knights* 1319) δεο-δαίμονι δῖῃ ["divine Lacedæmon"] (Theognis 837) ἱερὰν πόλιν ["holiness"] (Theognis, speaking of Megara).

2 *Neptunia* (Hesiod. *Works and Days* 100) ἱερὰ Ἀθήναι ["god-built Athens"] (Theognis 853) (Welcker.)

HE founder was a man who accomplished his religious act without which a city could not exist. He established the hearth, where the sacred fire was eternal. He built a tomb, where his prayers and his rites called the gods and fixed them forever in the new city.

We can understand how much respect could be felt for this holy man. During his life men saw in him the author of a religion and the father of a city; after death he became a common ancestor for all the generations that succeeded him. He was for the city what the first ancestor was for the family—a *paterfamilias* whose household "spirit" of the family. His memory was perpetual at the hearth, in which he had lighted a fire and established worship in him and believed in to be a god and the city adored him as its provider. Sacrifices and festivals were renewed every year on his tomb.

It is well known that Rome was worshipped and that she had temples and priests. These nations might indeed take his life but they could not deprive him of the worship which he had rightly as the founder of a city. In the same manner every city worshipped the new founder. Cecrops and Theseus were regarded as having been successful founders of Athens, had temples there. Abderas offered sacrifices at his foundation. Iphicrates, Therapenes, Delos, Anius, Cyrenus, Battus, Miletus, Naleus, Amphipolis, Hagnon in the time of Pisistratus, Miltiades, and others founded colonies in the Thracian Chersonesus; this colony instituted worship for him after his death, according to the ordinary sage. Hieron of Syracuse, having founded the town of Etna, enjoyed there in the course of time "the worship due to founders of cities."

A city had nothing more dear than the memory of its foundation. When Pausanias visited Greece in the second century, wherever a city could tell him the name of its founder with his genealogy and the principal facts of his life. This name and these facts could not escape the memory for they were apart of the religion and were recalled every year in the sacred ceremonies.

The memory of a great number of Greek poems has been preserved, whose subjects are the foundation of a city. Philochorus says that of Salamis, that of Chios, Criton of Syracuse, Epiphrastus of Miletus, and Apollonius, Hermogenes of Hellanicus, and Diocles composed other historical poems on the same subject. There was not perhaps a single city that had not its poem on

1 Pindar *Pyth.* V. 129 *Olymp.* VII. 145 Cicero *De Nat. Deor.* III. 19. Catullus VII. 6.

2 Herodotus I. 68 *VI.* 38 Pindar *Pyth.* IV. Thucydides I. 1 Strabo XIV. I. Plutarch *Gr.*

Quest. 20 Pausanias I. 34 *III.* 1 Diodorus XI. 78.

least hymn on the sacred that had given it birth.

Among all the ancient poems which had the sacred foundation of a city for their theme, there is one that has not been allowed to perish because its subject rendered it dear to a city and its beauties have rendered it precious to all nations and all ages. We know that Eneas founded Lavinium, whence sprang the Alban and the Roman and that onsequently he was regarded as the first founder of Rome. There had been a cluster about him a multitude of traditions which had already been recorded in the verse of old Nævius and in the histories of Cat the Elder, when Virgil seized upon this subject and wrote the national poem of the Romanity.

The arrival of Eneas, rather than the removal of the gods of Troy into Italy is the subject of the *Eneid*. It opens in a man who drives his sea-born city and transports his gods to Latium:—

“Dum conderat ibem
Inferretq Deos Latio.”
[“Until he should build a city
And bring his Gods into Latium.”]

Wenust to judge the *Eneid* after our modern ideas. Men often complain not finding in Eneas a brave dash of passion. They are of the apithetic pious which is continually repeated. They are astonished to see his warrior-sultan in his Penates with a care so scrupulous, invoking the divinity at every new turn of affairs, raising his arms to heaven when he ought to be fighting, allowing himself to be tossed even to sea by the oracles, and shedding his first sight of danger. Nor do they fail to reproach him with coldness towards Dido and they attempt to say with the unhappy queen—

“Nulli ille movetur
Fletibus, ut vocella tractabit.”
[“By no tearful plea is he moved,
Nor yielding goes he to pay heed to any voices.”]

But this is because there is no place for a warrior or a hero of romance. The poet wishes to represent Eneas the chief of a worshipful holy man, the divine founder, whose mission is to save the Penates of the city.

“Surpius Eneas apto quiescit hoste Penates
Classes hunc ecum.”
[“In pious Eneas, who carries his Penates, matchless on the enemy,
with me in my fleet.”]

His dominion equal to be piety and the epithet which the poet bestows upon him is that which becomes him best if his virtue ought to be a cold and lofty impersonality, making him not a man but an instrument of the gods. Why should we look for passion in him? He has no right to the passions; at any rate he should confine them in the depths of his heart.

"Multæ gemens ulto quæ nimulæ befata iussore
Jussæ tamen Divinæ sequitur."

["Groaning much and with his heart weakened he grieved above,
He yet fulfilled the commands of the Gods."]

Already Homer Æneās was a holy personage, a high priest, whom the people venerated as a god and whom Jupiter preferred. Hector in Virgil is the guardian and savior of the Trojan gods. During the night that completed the ruin of the city Hector appeared to him in a dream and said to him "Troy confided its gods to thee as a refuge, but a new city for them. At the same time he committed to him the sacred things, the protectress statue and the sacred fire that was never to be extinguished. His dream is not simply an ornament placed there by the fancy of the poet; it is on the contrary the foundation on which the entire poem rests for it is through this that Æneās becomes the depositary of the city gods and that his holy mission is revealed to him.

The ruins of the Trojan city, the material part of Troy has perished, but the Trojan spirit survives. Æneās the sacred fire is not extinguished, the gods have still a worship. The city and the gods are with Æneās; they cross the sea and seek a country where it is permitted them to stop.

"Conside Teucros
Errantes quæ sagittata quæmina Trojæ."

["(that the Teucrians,
The wandering gods and the restless powers of Troy
may settle in Latium)."]

Æneās seeks a fixed home; small thought before his paternal gods—

"Dis sedem exigua patriis."

["A humble home for our paternal gods."]

But the choice of this home, to which the destiny of the city shall be forever bound, does not depend upon men; it belongs to the gods. Æneās consults the priest and interrogates an oracle; he does not himself determine his

route; his object is directed by the divinity:—

"Italiam sponte sequor."

["Not willing to seek Italy:"]

He would have stayed in Thracian Crete or Sicily at Carthage with Dido:

For he has found his way (Benevento) to the place of fate
word *fata*

We must not deceive ourselves in this: the hero of the poem is not
Æneas the gods of Troy take the place of a hero the same god that one

Roman god has in Rome the only god of the Etruscans in Etruria
the way.

"Tanta molis ira Romana condergentem!"

["So much labour did it cost to found the Romanace!"]

The tempest came gulphing in the love of a woman almost slaves
them but they triumph over everything and arrive at the object sought.

"Fatui iam veniunt."

["The fools are coming:"]

Things like these would interest the Romans as a wonderful legend in this
poem they saw themselves as founders of their city their institutions their
religion their empire For without those gods the Romanity would not have
existed.

CHAPTER VI. THE GODS OF THE CITY.

¹ We need not inquire if the legend of Æneas represents a fact that was believed
enough for us. It shows how the ancients looked upon the foundation of a city what they
had for *penatide* bears of the *penatide* and on this is the important point. We may add
that several cities in Thracian Crete in Epirus in Cythera in Zacynthus in Sicily and in Italy
looked upon Æneas as their founder and worshipped him as such.

W e must not lose sight of the fact that among the ancients the bond of every society was worship, just as domestic animals held the members of a family group around it, so the city was the collective group of those who had the same protecting deities and who performed the religious ceremonies on the same altar.

This city altar was enclosed within a building which the Greeks called *prytaneum* and which the Romans called temple of *Vesta*.

There was nothing more sacred within the city than this altar, in which the sacred fire was always maintained.

This great generation of the tribe became weakened in Greece at a very early date, because the Greek imagination allowed itself to be turned aside by more splendid temples, the legends and more beautiful statues. But it never became feeble in Rome. The Romans never abandoned the conviction that the destiny of the city was connected with this fire which represented their

god. The sacred fire had been kindled by the first king, and it was not to be extinguished for ever. On the other hand, if one of the altars allowed the fire to go out, or sullied the worship by failing in her duty of chastity, the city which then believed itself threatened with the loss of its god, took vengeance upon her.

One day the temple of *Vesta* came to be burned in a conflagration, in the surrounding city. Rome was in consternation, for it felt all its future to be in peril. When the danger had passed, the senate instructed the consul to search out the authors of the fire, and the consul had accusations against

several of the patricians. Can you suppose that the patricians would have been so much concerned? A conflagration threatened the heart of the city, this conflagration, which might have destroyed the grandest and stopped its progress, would have been started only by the hands of our most true enemies. Now we have

now a new enemy, and this is the patrician. Can you suppose that the patricians would have been so much concerned? These are the men who have attempted to destroy the temple

1 The *prytaneum* contained the common hearth of the city. Diodorus Siculus, *Halicarnassus* II. 3. Pol-
lux, I. 7. Scholia ad Pindarum XI. Scholia ad Thucydides I. 5. There was a *prytaneum* in
every Greek city. Herodotus II. 5. 7. VI. 1. 19. Polybius XXIX. 5. Appian *Mithridatic War*
23. *Punic War* 84. Diodorus XX. 10. Cicero *De Signis* 3. Dionysius I. 65. Pausanias I. 42;
V. 25. VIII. 9. Athenæus 58X. 24. Boeckh *Corpus Inscriptionum* 119A. In Rome the temple of *Vesta*
was nothing more than a hearth. Cicero *De Legibus* I. 8. II. 12. Ovid *Fastus* VI. 297. Florus, 2.
Livy XXVIII. 31.

of Vesta to return fire to his age and guarantee of his future grandeur." Thus a consul under the influence of his religious ideas believed that the enemies of Rome could find no sure means of conquering her by destroying its sacred heart. Here we see the belief of the ancients that the public fire was the sanctuary of the city, the cause of its being and its constant preserver.

Just as the worship of the domestic hearth was sacred and the family alone had the right to take part in it, so the worship of the public fire was concealed from strangers. No one unless he were a citizen could take part as a sacrifice. Even the look of a stranger sullied the religious act.

Every thing had gods who belonged to it alone. These gods were generally of the same nature as those of the primitive religion of families. They were called *Lares*, *Fenae*, *Genii*, *Demon*, *Heroes*, and all these names were of human souls deified. For we have seen that in the Indo-European *manah* had first worshipped the invisible and immortal power which he felt in himself. These

gods were everywhere in the earth, in the sky, in the air, in the water, in the earth, according to the belief which we have already described. The soul did not quit the body; it followed that the divine deities were attached to the soil where the bodies were buried. From their graves they watched over the city; they

preserved the city from corruption. The dead souls of the ancestors were addressed by the Pythia or Solon? Honor with worship the chiefs of the country, the dead who live under the earth. These notions came from the very great power which the ancient generation attributed to the human soul.

After the law of the gods had been established, the law of the city had the power of its laws became god for that city. It was not even necessary for one to have been a great man or a benefactor; it was enough to have struck the imagination of his contemporaries, to have rendered himself the subject

of a popular tradition, to have been a hero or a savior of the people. The hero continued to be worshipped in the city of his birth. The hero of the Persians, Polynices, the hero of the Athenians, Acanthus, the hero of the Persians, who had died among them during the expedition of Xerxes, Hippolytus was venerated as a god. Troezen, Pyrrhus, son of Achilles, was a god at Delphi, not because he

1 Livy XXVI. 27.

2 Virgil III. 408 Pausanias I. 5 Appian *Civil Wars* I. 54.

3 Ovid *Fast.* II. 616.

4 Plutarch *Aristides* 41.

5 Plutarch *Solon* 9.

died and was buried there. Croton worshipped her for the sole reason that during his life he had been the handsomest man in the city. Athens adored as one of its protectors Eurystheus, though he was an Argive; but Euripides explains the origin of this worship by the bringing Eurystheus upon the stage, about to die and make his say to the Athenians. Eurystheus in Attica will be propitiated by you and the bosom of the ground will be for your country a protecting nest. The entire tragedy of *Œdipus Solonius* rests upon this belief in Athens and the bones of Eurystheus were buried in the city about to die, and who will become a god.

It was a great piece of good fortune for a city to possess the bodies of men of some mark. Mantinea spoke with pride of the bones of Arcaeus, the bones of those of Geryon, Messenia those of Aristomenes. To procure these precious relics was sometimes resorted to. Herodotus relates what in fact means the Spartans carried off the bones of Orestes. These bones, it is true, to which

he alludes, had been taken by the Spartans from the bones of Theseus, which had been buried in the island of Scyros and to build a temple for them in the city in order to increase the number of their protecting deities.

But in these gods, who were thought to be the protectors of the city, there was, though it is but what we have seen in these creations of human intelligence, that for a long time the character of domestic or local divinities. At first men did not conceive of the gods as watching over the whole human race. They believed

that each nation belonged to a particular family, and they were to have Jupiter, Minerva, or some other divinity which had associated with its first Penates and its sacred fire. Thus there were in Greece and in Italy a multitude of city-guarding divinities. Each city had its gods, who dwelt within its walls.

The names of many of these divinities are forgotten, but they have been identified with the names of the gods of Elis, of the goddesses of Soteira, of Egium of Brit-

1 Pausanias, X. 18. Herodotus, II. 11. Diodorus, V. 62. Pausanias, 23. Pindar, Nem. 65. Herodotus, 4. 7.

2 Euripides, *Hecuba*, 1032.

3 Pausanias, 4. 3. Polybius, VIII. 30. Plautus, *Trin.* II. 2, 14.

4 Pausanias, IV. 32. VIII. 9.

5 Herodotus, 68.

6 Herodotus, 82. Sophocles, *Phil.* 134. Thucydides, I. 71. Euripides, *Electra*, 674. Pausanias, 24; IV. 8; VIII. 47. Aristophanes, *Birds*, 228. *Nights*, 577. Virgil, IX. 246. Pollux, X. 40. Apollodorus, III. 14.

believed such a god for a man understood divine being only as a force which protected him personally, and every man or every group of men, desired to have a god. Even today among the descendants of those Greeks we see rude peasants pray to the saints with fervor, while it is doubtful if they have the idea of a god. Each one of them wishes to have among the saints a particular protector as special providence. At Naples each quarter of the city has its Madonna, the *azzarone* kneels before that of their own street, while the insult that of the neighbors is greeted is not rare to see a *wofacchini* wrangle and even fight with knives in defence of the merits of their respective Madonna. These cases are exceptions today and are found only among certain people and in certain classes. They were the rule among the ancients.

Each city had its corps of priests who depended on no foreign authority. Between the priests of two cities there was no bond and no communication, exchange of instruction of rites or of passage from one city to another.

For the gods of the city were not the concern of the citizens of the city. Every city had its collection of prayers and practices which were kept very secret; would have thought itself in danger of compromising its religion and its destiny by opening this collection to strangers. Thus religion was entirely local,

each city taking this word in the ancient sense—that is to say, special.

Generally, mark, we only the gods of his own city and honored and respected them alone. Each one could say what in a tragedy of Eschylus, strange as it is, the Argives—*“Hail to the gods of your country, for we them*

nothing if they looked to its gods for safety. Men invoked them in danger and thanked them in victory. Often defeat was attributed to them and they were reproached for having badly fulfilled their duty as defenders of the city. Men even went so far sometimes as to overturn their altars and stone the temples.”

Ordinarily, the gods took good care of the city whose worship they received, and this was quite natural. The gods were eager for offerings, and they received them only from their own city. If they wished the continuation of the sacrifices and the catom, it was very necessary that they should

watch over the city's safety. See in Virgil how Juno's stov and abored that

1 There existed worship of many gods in several cities only in the case of confederations. We shall speak of them elsewhere.

2 Eschylus *Supp.* B 58.

3 Suetonius *Julig.* 5; Seneca *De Vita Beata*, 26.

4 This idea is often found among the ancients. See e.g. 159.

her Carthage might one day obtain the empire of the world. Each of these gods like the Juno of Virgil had the grandeur of his city at heart. These gods had the same interest in the citizen themselves, and times of war marched to battle in the midst of them. In Euripides we see a personage who says in the eve of battle, The gods who fight with us are more powerful than those who are on the side of the enemy. The Egine-tans never commenced a campaign without carrying with them the statue of the nation's hero, the Eacidaë. The Spartans all the expeditions carried with them the Lyndaridaë. In the combat the god and the citizen mutually sustained each other, and if they conquered it was because they had done their duty.

If a city was conquered the gods were supposed to have been vanquished with it. If a city was taken its gods themselves were captives.

On this last point it is true opinions were uncertain and divers. Many were persuaded that a city never could be taken so long as its gods remained

in it. While the Greeks were imploring the aid of Apollo, Esculap, the gods of the sea, Theba expressed the same belief when at the approach of the enemy, implored the gods to abandon the city.

According to this opinion in order to take a city it was necessary to make

way for the gods. The Romans took the same notion. They were so fond of a greave which had this city under its protection, they prayed, adored it, they asked of it as a favor to abandon this city and its people to quit these temples, these sacred places, and having separated themselves from them, to come

before them, greave and helmet, and surround them with its protection. Thou does this, I will found a temple in thine honor. Now the ancients were convinced that there were formulas so efficacious and powerful that if one pronounced them exactly, and without hanging single word, the god could

not resist them, and the god was obliged to pass over, therefore,

In Greece we find the same opinion and similar custom. Even in the time of Thucydides when the Greeks besieged a city they never failed to address an invocation to its gods, that they might permit to be taken. Often instead

1 Euripides *Hecuba* 47.

2 Herodotus 65V.80.

3 Virgil *En.* I. 68.

4 *Æschylus Suppliants* 202.

5 Macrobius 1.9.

6 Thucydides 74.

of employing a formula to attract the god the Greeks referred to as carrying its statue by stealth. Every body knows the legend of Ulysses carrying off the Pallas of the Trojan At another time the Eginetans wishing to make a van upon Epidaurus, commenced carrying off two protectistatues of that city and transported them to their own city.

Herodotus relates that the Athenians wished to make a van upon the Eginetans but the enterprise was a hazard for Egineta had a protecting god of great power and of singular fidelity this was Eacus. The Athenians after having studied the matter over put off the execution of their design for thirty years at the same time they built in their own country a chapel to this same Eacus and devoted worship to him. They were persuaded that if this worship was continued without interruption in thirty years the god would belong longer to the Eginetans but to themselves indeed it seemed that the god would not accept of victims so long a time without placing

himself in the way of their success and that if he did so the Eginetans would give the victory to the Athenians.

Here is another case from Plutarch. Solon desired that Athens might become mistress of the little isle of Salamis which she belonged to the Megar-

ians. He consulted the gods and the oracle answered that if provided no other inhabitant. "Solon obeyed the name of Athena he offered sacrifices to the two principal heroes of Salamis. These heroes did not resist the gift that were offered them but went over to the Athenian side and he is deprived of

3
 protection as soon as he sought to gain possession of the divinity of the city. The besieged on their part did their best to retain them. Sometimes they bound the god with chains to prevent him from deserting. At other times they concealed him from all eyes that the enemy might not find him. Or still

as in the case of the formula which he gave to the Megarians, they had imagined a mean which seemed to them to be sure they kept secret the name of the principal and most powerful of their protecting gods. They thought that as the enemy could never call his god by his name he would

never call him and thus the deity would be preserved. It was

1 Herodotus, 6, 83.

2 Herodotus, 6, 89.

3 Plutarch, Solon.

4 Macrobius.

long time before they conceived the Divinity as a supreme power. Every family had its domestic religion; every city had its national religion. A city was like a little church, all complete, which had its gods, its dogmas, and its worship. These beliefs appear very rude, but they were those of the most intellectual people of ancient times, and have exercised a powerful influence upon the Romans, so important an influence that they regard a part of the laws of the institutions as of the history of the city from this source.

CHAPTER VII.

THE RELIGION OF THE CITY.

1. The Public Repasts.

WE have already seen that the principal ceremony of the domestic worship was a repast which they called a sacrifice. Of a food prepared upon an altar was a small appearance of the first fruits which men gave to the religious act. The effect of putting themselves in communion with the divinity was satisfied by this repast, to which they invited him and of which they gave him his part.

The principal ceremony of the city worship was also a repast of this nature; it was partaken in common by all the citizens in honor of the protecting divinity. The celebration of these public repasts was universal in Greece; and men believed that the safety of the city depended upon their accomplishment.

The *Odyssey* gives a description of one of these sacred feasts. In doing tables are spread for the people of Pylos, a table of the five hundred citizens is created, and each group has immolated a bull in honor of the gods. This repast which was called the feast of the gods begins and ends with libations and prayer. The ancient custom of repasts common to all mentioned in the old Athenian tradition is related that Orestes the

assassin of his mother was banished from the city, and the public meals of Sparta are well known, but the details which men ordi-

1 Σοτήρια τῶν πολλῶν συνδινεῖν ["banquets in singing, deliverance to the city"] *Athenææ* 13.2.

2 Homer *Odyssey* 11.

3 *Athenææ* 13.49.

narly entertained is very far from the truth. They imagine the Spartans living and eating in ways as common as if private life had not been known among them. We know on the contrary from ancient authors that the Spartans often took their meals in their own houses, in the midst of their families. The public meals took place twice a month without reckoning holidays. These were religious acts of the same nature as those which were practiced at Athens in Argos and throughout Greece.

Besides the *simmen* or banquet where all the citizens were assembled, which could take place only on solemn festivals, religion prescribed that every day there should be a sacred meal. For this purpose each house in the city were required to eat together in its name within the enclosure of the *prytaneum* in the presence of the sacred fire and the protecting gods. The Greeks were so convinced that if this repast was interrupted for a single day the state was menaced with the loss of the favour of its gods.

At Athens the sacred meal was so much valued that it was refused for the city. The citizens who at the sacred table were loth to the time with a sacred duty, they were called *parasiti*. This word which at a late period became a term of contempt, was in the beginning a sacred title. In the time

of Demosthenes the priests of the *prytaneum* had the duty of seeing that the sacred meal was properly observed.

If we observe how matters passed at this meal, we shall easily recognize the religious remembrance of the gods. A crown upon his head it was a custom

sober and tight. The crown of a sacred meal was a garland of flowers, a sure means of pleasing the gods, but if you sacrificed without wearing a crown, they will turn from you.² "A crown," they also said, "is a herald of good omen, which pray send before it towards the gods." For the same reason the ban-

quet was a white garland, and white was the sacred colour of the

1 Athenæi IV. 17 IV. 21 Herodotus I. 57 Plutarch *De moribus* 13.

2 This custom is attested for Athens by Xenophon *Gov. Ath.* 2; Schol. on Aristophanes, *Clouds* 93;—for Eretria and Thessaly, Athenæi IV. 22;—for Argos Boeckh II. 122;—for other cities *Epitaphium* XI.; Theognis 69 Pausanias I. 5 Athenæi IV. 32 IV. 61 X. 24 and 25; X. 49 XI. 66.

3 Plutarch *Solon* 24 Athenæi IV. 26.

4 Demosthenes *De Corona* 33 Aristot. *Politica* VII. I. 19 Pollux VIII. 155.

5 A Fragment of Sappho in Athenæi IV. 16.

6 Athenæi IV. 19.

7 Plato *Laws* XII. 956 Cicero *De Legibus* II. 18 Virgil IV. 70, 774 VII. 133 VIII. 274 So,

Thereal invariably commenced the prayer and libations and hymns were sung. The nature of the dishes and the kind of wine that was to be served were regulated by the rules of each city.

To deviate in the case of the usage followed in primitive times to present a new dish or alter the rhythm of the sacred hymns was a grave impiety for which the whole city was responsible. The gods Religion even went so far as to fix the nature of the vessels that ought to be employed both for the cooking of the food and for the service of the table; none of the bread must be served in copper baskets, and another earthen dish was to be employed. Even the form of the loaf was immutable. These rules of the old religion continued to be observed, and the sacred meals always preserved their primitive simplicity. The manners and social conditions changed, but these meals remained unchanged. In the Greek world the Greeks were very scrupulous servers of the nation and religion.

off his plate and to give to the gods the same rights as to the gods. The gods commended the meal more expensive and better suited to the taste. This was quite a common practice at Sparta.

The custom of religious meals was common in Italy as well as in Greece.

his. The sacred meal was also known to the poets. In the *Æneid*, Old Latin receives envoys of Æneas in his home but in a temple, "consecrated by the religion of his ancestors he took place at the sacred meals after the immolation of the victim. There all the family chiefs sat together at

hundred feet long when Æneas and his family were to dine. The crowned with flowers, all seated at the same table singing hymns in praise of the gods of the city.

This custom was perpetuated at Rome. There was always a hall where the

representatives of the priestly order sat. These were also the seats of the streets and the whole people sat at them. Originally the pontiff presided at these epauls, but this was relegated to special priests, who were called *epulones*.

too among the Hindus religious ceremonies were required to wear a crown and to be clothed in white.

1 Athenæus 58 IV. 32 XI. 66.

2 Ibid. IV. 19 IV. 20.

3 Aristotle *Politics* IV. 9, 3.

4 Dionysius II. 23 Aulus Gellius II. 8 Livy XI. 59.

These old customs give an idea of the close tie which united the members of a city. Human association was a religious symbol, a meal of which they partook together. We must picture to ourselves one of these little primitive societies assembled, the heads of families at least at the same table, each clothed in white with a crown upon his head. In making libation together, each the same, praying the same hymns and eating the same food prepared for the same altar in the midst of their ancestors, representing and protecting gods, sharing the meal, neither interested in a greedy habit of creating social bond, it is this holy communion, religiously accomplished, that presents the gods of the city.

2. The Festival and the Calendar.

In all ages and in all societies man has desired to honor his gods by festivals, he has established that there should be days during which his religious sentiment should reign in his soul without being distracted by terrestrial tributes and labor. In the number of days that he has to live he has devoted a part to the gods.

Every city had been founded with rites which in the thoughts of the ancients had had the effect of establishing human gods within its walls. It was necessary that the virtue of these rites should be rejuvenated yearly by a new religious ceremony. If this festival they called the birthday of the city, the citizens were required to celebrate it.

Whatever was a sacred occasion for a festival there was the festival of the city, its closure, *amburbalia*, and that of the territory, *limitis amburbalia*. On those days the citizens formed grand processions clad in white and crowned with leaves. They made the circuit of the city or territory, chanting prayers, at the head of which priests leading victims which they sacrificed at the close of the ceremony.

Afterwards in the festival of the founders, the *evocatio* of the heroes of the city, each of those souls that men invoked as protectors claimed worship. Romulus, Numa, Servius Tullius and many others, even the nurse of Romulus, Evander, to the in the same way. Athens had the festival of Cecrops, that of Erech, the *theoria* of Theseus, and celebrated each of the

most important gods. Theseus, Eurystheus, and Androgeus, there were also the rural festivals, those for ploughing, sowing, time for flowering, and that for the vintage. In Greece, in Italy, every part of the

1 Tibullus, l. i, q. Festus, *Amburbiales*.

Italy every city counted its years from the day of its foundation.

3. The Census.

Among the most important ceremonies of the city religion there was one known as the purification, which took place at Athens every year at Rome it occurred once in five years. The rites which were then observed had the very name which bore indication that the object of this ceremony was to efface the faults committed by the citizens against the worship of the gods. Indeed this religion, with its complicated forms, was a source of terror to the ancients, and the purity of intention was for very little and the religion consisted entirely in the minutiae of practice. Innumerable were the ways in which they were always liable to have been guilty of some negligence, some omission, some error, and were never sure of being free from the charge of malice against some god. An expiatory sacrifice was necessary therefore to reassure the heart of man. The magistrate whose duty it was to offer it (at Rome it was the censor before the census it was the consul and before the consul the king) commenced by assuring himself that all the auspices which the gods accepted in the ceremony. He then convoked the people by means of a herald, who for this purpose made use of a certain sacramental formula. All the citizens on the appointed day collected outside the walls, there all being present the magistrate talked three times around the assembly, giving before him three victims, a sheep, a hog, a bull (*suovetaurilia*); the three animals together constituted the *holocaust* of the Greeks, as among the Romans an expiatory sacrifice. The victims followed the procession. When the third circuit was completed the magistrate pronounced a form of prayer and immolated the victim. From this moment every stain was effaced, all negligence in the worship repaired, and the city was at peace with its gods. If nothing were necessary for a nation of this nature and of so great importance, it was a strange thing that should be found among the citizens, as this would have destroyed the effect of the ceremony. The other was that all the citizens should be present, without which the city would have retained some stain. It was necessary therefore that this religious ceremony should be preceded by a numbering of the citizens. At Rome and at Athens they were counted with scrupulous care, and it is probable that the number was pronounced

1 Diogenes Laërtius *Life of Socrates* 28. Harpocration *Onomasticon*. The gods purified the domestic hearth every year. Eschylus *Choephoroi* 66.

2 Varro *L. L.* VI. 86. Valerius Maximus *VI. 1. 10*. Livy *IV. 44. III. 22*. VI. 27. Propertius *IV. 1. 20*. Servius *ad Eclog. K. 55 ad En. VIII. 23*. Livy attributes this institution to King Servius, but probably is old, for the Romans existed all the cities as well as at Rome it is attributed to Servius because he modified it, as we shall see.

by the magistrate the formula of prayer as it was afterwards inserted the account of the ceremony which the censor drew up.

The dose of citizens who was the punishment of the man who failed to have his name enrolled. This is easily explained. The man who had not taken part in the religious act which had been purified for whom the prayer had been pronounced the victim's sacrifice could no longer be a member of the city in the sight of the gods who had been present at the ceremony, he was no longer a citizen.

We are enabled to judge of the importance of this ceremony by the exorbitant power of the magistrate who presided at it. The censor before commencing the sacrifice arranged the people in a certain order: the senators, the knights, and the tribes each in its appropriate place. Absolute was the power that day he fixed the place of each man in the different categories. He had all having been arranged according to his direction performed the sacrifice.

Not present at this was the man who had been so long a citizen. The ceremony was a senator's on that day he had been counted among the senators, a knight's if he had figured among the knights, if a simple citizen he formed part of the tribe in the ranks of which he had been on that day and of

the tribe to which he belonged. It is not probable that the gods were so old as the god who had seen him was when he held in the city for five years. Such was the origin of the immense power of the censor.

In this ceremony only citizens took part but their wives, their chil-

dr and their property were present. The sons of a senator were fortified with the sacrifice each citizen was required to give to the censor an account of the person and property belonging to him.

Theustration was accomplished Augustus time with the same exacti-

tude and scrupulousness as the same ceremony. The monuments dedicated to it are still to be seen in the city.

4. Religion in the Assembly, in the Senate, in the

Tribunal, in the Army, in the Triumph.

There was no single act of public life in which the gods were not seen to take

1 Citizens born in Rome were required to return home for theustration, nothing could exempt them from this Velleius ii. 15.

apart as he was and then influence of the deity that they were by turns excellent protectors or cruel enemies, same were to act without being sure that they were favorable. The people assembled on such days as religion permitted. They remembered that the city had suffered a disaster on a certain day; this was doubtless because that day the gods had been either absent or irritated; they would probably be in the same mood at the same season every year for reasons unknown to mortals. This day therefore was forever unlucky; there were no assemblies, courts, public life was suspended.

At Rome before an assembly proceeded business the augurs were required to declare that the gods were propitious. The assembly commenced with a prayer which the augur pronounced and which the consul repeated after him.

There was the same custom among the Athenians. The assembly always commenced by a religious act. Priests offered a sacrifice. A large circle was then

the city pronounced. The temple of the gods, which was sacred, was pronounced for the silence of the people. The auspices were also consulted, and if any unfavorable sign appeared in the heavens, the assembly was postponed.

The tribunes spoke first, and was a sacred place, and the orator never

as the deity was worshipped. The temple was always a temple of session had been held elsewhere in a sacred place, acts would have been null and void for the gods would not have been present. Before every deliberation the president offered a sacrifice and pronounced a prayer in the hall

sanctuary and then every senator entering offered a libation at the

The Athenian senate was a little different. The hall also contained an altar and a sacred fire. A religious ceremony was observed at the opening of each session. Every senator entering approached the altar and pronounced

prayer. While the session lasted every senator wore a crown upon his head.

At Rome as well as at Athens, courts of justice were open in the city only

1 Aristophanes *Acharn.* 44, *Eschines*, *Timarch.* I. 21 in *Ctesiph.* 176 and Scholia *Di-*

parch in *Aristot.* 4.

2 Aristophanes *Acharn.* 171.

3 Aristophanes *Eschines* 38 and Scholiast.

4 Varro cited by Aulus Gellius *IV. 7*, *Cicero* *ad Famil.* X. 12 Suetonius *Aug.* 35 Dion Cassius *IV. p. 62* Servius *II. 153*.

5 Andocides *De Myst.* 44, *De Red.* 15 Antiphon *Pro Chor.* 45 Lycurgus *Leoc.* 12 Demosthenes *Meidian.* 114 Diodorus *IV. 4*.

on such days as religion pronounced favorable. At Athens the session of the court was held in the annual altar and commenced with a sacrifice. In Homer's time the judges assembled in a holy circle."

Festivals in the ritual of the Etruscans were directed to the founding of the city, the consecration of the temple, the arrangement of the future and the tribe in a public assembly, and the arming of an army in order of battle. All these things were marked in the ritual because all these things were connected with religion.

In war religion was influential, at least in peace. In the Italian cities there were colleges of priests called *fetiales* who presided like the heralds among the Greeks at all the sacred ceremonies which international relations gave rise to. A *fetialis* seized with a crown upon his head declared war by pronouncing a sacramental formula. At the same time the consul, priestly by office, offered a sacrifice and solemnly entered the temple of the most

deified ancestor, the *Penates*, to offer a sacrifice. The custom was the same at Athens and at Sparta.

During campaigns the army presented the image of the city's religion followed. The Greeks took with them the statues of their divinities. Every

Greek army carried a *kykeon* in the basket on which *Agaveis* or *Paraspariai* (feeders of the sacred chicken) every Greek army had a diviner.

Let us examine a Roman army at the moment when it is preparing for battle. The consul orders a victim to be brought and strikes it with the axe it

falls that god will do no ill to his soldiers. A sign is given that the best skillful disposition is most favorable. Circumstances of no account if the gods do not permit the battle. The fundamental principle of the military art among the Romans was to be able to put off a battle when the gods were opposed.

It was for this reason that they made a sort of citadel of their camp

Let us now examine a Greek army and we will take for example the battle of Plataeae. The Spartans draw up in line each one has his pos for battle. They all have crowns upon their heads and the flute-players and the

religious hymns. The king a little in rear of the ranks slaughtering the victims.

1 Aristophanes *Wasps* 860-863 *Home#liad* XVIII 504.

2 Dionysius *Ant.* 73 Servius *X*, 14.

3 Dionysius *Ant.* 57 Virgil *II* 60 Xenophon *Hellen* VI 5.

4 Herodotus *II* 116. Plutarch *Agessilaos* 65 Publicola *II* Xenophon *Grov Laced* 14 Dionysius *X*, 6. Stobaeus *Eclog.* 121 16.

religion never had such an origin and every religion that has come to sustain itself only from motives of public utility has not stood long. Montesquieu has also said that the Romans subjected religion to the state. The contrary is true it is impossible to read any pages of Livy without being convinced of this. Neither the Romans nor the Greeks knew anything of those conflicts between church and state which have been so common to the society. But this is due solely to the fact that at Rome as well as at Sparta and Athens the state was enslaved to its religion, rather the state and religion were so completely founded that it was impossible to distinguish one from the other. To say nothing of forming an idea of a conflict between the two.

CHAPTER VIII.

THE RITUAL AND THE ANNALS.

THE character and the virtue of the religion of the ancients was not to

teach men to be intelligent of the existence of God, but to give them a sense of God. This religion was badly connected, assemblages of small deeds, minute practices, petty observances, was so necessary to seek the meaning of them, there was no need of reflecting or giving reasons for them. The word

being of God signifies that which is gained by his virtue and character, and what is in and around. This same word among the ancients signified rites, ceremonies, of exterior worship. The doctrine was of small account, the practices were the important part, these were obligatory and boundant lig-

ments of Religion. A man was obliged to be obedient to his God as a slave. He dared not to reason, point, or discuss, or examine. Gods heroes and men claimed material worship from him and he paid them the debt to keep them friendly and still more, not to make enemies of them.

Men were terrified by the simplicity of the gods, they were more terrible to him. Neither did the gods love mankind nor did man love his gods. He believed in their existence, but would have wished that they did not exist. He feared even his domestic and nation gods and was continually afraid of being betrayed

by them. His great inquietudes, and his might cut their displeasure

in imitation of them. It mattered little that a belief changed, might be freely modified from age to age and take a thousand diverse forms in accordance with the reflection of images, with the popular imagination. But it was of the greatest importance that the formula should not fall into oblivion, and that the rites should not be modified. Every city therefore had a book in which these were preserved.

This sort of sacred book was universal among the Greeks, the Romans and the Etruscans. Sometimes the ritual was written on tablets of wood, sometimes on cloth. Athens engraved its rites on tablets of copper, that they might be imperishable. Rome had its book of the pontiffs, its book of the augurs, its book of ceremonies, and its collection of *Indigitamenta* of deities. There was not a city which had not its collection of ancient hymns in honour of its gods. In vain did language change with manners, and beliefs, the word and the rhythm remained unchanged, as had on the festi-

val the sacred hymn, being preserved by the priests, or by the people, or by the great men of the city. They were never revealed to strangers. To reveal a rite or a formula would have been to betray the religion of the city and to deliver its gods to the enemy. For greater precaution they were concealed in the

city, and the model of the public law was well known to all. When a Roman wished to say that anything was lost to him he said, "This is an ancient form." The Greeks had the same expression. The cities clung strongly to their past because they found in the past all the motives as well as all the

ideas of their religion. The idea of a deity, of a god, was a primary one. The ancient gods were more important than the gods of the future. It existed long time before Herodotus and Thucydides—written or unwritten, as simple oral traditions or in books, it was contemporary with the birth of cities. There was no city,

however small, which did not believe that it had a right to a deity, to a deity in its religion. A city did not believe that it had a right to allow anything to be forgotten for everything in its history was connected with its worship.

History commenced with the act of foundation and recorded the

every worship and explained its obscure rites. The prodigies which the gods

1 Pausanias, II, 27; Plutarch, *Comp. Cor.* 17; Pollux, III, 128; Pliny, *N.H.*, XIII, 2; Val. Max., I, 13; Varro, *L.L.*, VI, 16; Censorinus, *Festus, Rituales*.

2 Plutarch, *Theseus*, 16; Tac. *Ann.*, IV, 43; Elian, *H.V.*, II, 39.

of the country, a performance by which they had manifested their power, their goodness, their ingenuity were recorded, their deeds were described, the ceremonies which their priests had skillfully rendered as presages had appeared, the anger of the gods there were recorded, the epidemics which had afflicted the city on what day temples had been consecrated and for what reasons a sacrifice had been established, there were recorded all the events which related to religion, the victories that proved the assistance of the gods and in which the gods had often been seen fighting, the defeats which indicated the ingenuity and for which they had been necessary to institute expiatory sacrifice. All this was written for the instruction and hope of the descendants. All this history was material proof of the existence of the nation and of the events to which it contained order, the visible form under which the gods had revealed themselves to mankind. Every month the facts there were many that gave rise to festivals, annual sacrifices, the history of the city

to the present has been derived from the history of the Ionian cities. In this the Samnites and the Etruscans are similar. Among the Greeks there has been preserved the recollection of the book or seerannals of Athens, Sparta, Delphi, Naxos, and Eretria. When Pausani-

to have been a common thing of finding important events written in the annals. This sort of history was entirely call commenced the foundation because had happened before this date was of no interest to the city and this explains why the ancients have so completely ignored their

engaged by the need to relate to the world very much in the special history with its religion and its calendar.

We can easily believe that these city annals were exceedingly and very whimsical both in substance and in form. They were not a work of art but

and religious and cultural history written in the manner of the Greek and the Roman. It came something different. Unfortunately these beautiful and brilliant writings still leave store regret the early annals of the cities and all that they would have taught of the beliefs and the life of the ancient. But these

books which approach books as secrets which have been hidden in the sanctuaries,

1 Dionysius II.49 Livy X.33 Cicero *De Divin.* II.41 I.33 II.23 Censorinus I.17 Suetonius *Claudius* II.2 Macrobius I.2 V.19 Solin II.9 Servius VI.678 VIII.398 Letters of Marc Aurel IV.4.

2 Plutarch *FontColot* 17 *Solon* 11 *Moral* 869 *Athenae* VI 49 *Tac Ann* IV 43

and only a faded collection of them has remained.

This trace is true, as a great advantage. Without it, we should perhaps have a right to reject all that Greece and Rome relate of the antiquities, all those accounts that appear so improbable, because they differ so much from our habits and manner of thinking and acting, might pass for the product of men's imagination. But this trace of the old annals that has remained shows the pious respect which the ancients had for their history. Every city had archives, in which the facts were religiously preserved, as the only place in the sacred books every page was contemporary with the event which it recorded, it was materially impossible to alter these documents, for the priests had the care of them, and it was greatly to the interest of religion that they should remain unaltered. He was not even a pope for the pontiff, as he wrote the lines, skillfully inserted statements contrary to the truth, for he believed that all events came from the gods, that they revealed their will, and

for the sake of the future generation, in the city, was concerned to leave for a part of the religion of the future. With such beliefs, we can easily understand that there would be much involuntary error—result of credulity, a love for the marvellous, a belief in the nation's gods, but voluntary false-

hoods, and that they could find fault with the religion. He might have, therefore, in the books, if all was not true, there was nothing least that the priests did not believe. Now for the historian, whose task is to pierce the obscurity of those early times, is a great source of confidence, to know that,

if he had a goodly store of books, he could find in his possession the sacred texts, that he is studying may reveal him, if not the details of events, at least the sincere convictions of men.

The annals, it is true, were kept secret, neither Herodotus nor Livy read

them. But even in the most ancient times, the knowledge of the annals was not the same.

There were, moreover, besides the annals—these written and authentic documents—traditions which were perpetuated among the people of a city, not vague and different traditions, like ours, but traditions, like the

rites of the gods, which were handed down from generation to generation, of narrations and songs that were repeated from year to year in the religious festivals, these sacred and unchangeable, which fixed the memory of events, and perpetuated the tradition. So subtle was the way in which they were

living, that these traditions had the exactitude of the annals. The desire to

praised the gods, might be stronger than the love of truth. Still they must have been at least reflections of the annals and must generally have been in accord with them. For the priests, who drew up and who read the annals, were the same who presided at the festivals at these old days' versung.

There came a time too, when the annals were divulged. Rome finally published hers; those of the Italian cities were known; the priests of Greek cities so long made any scruple of relating what their contaiⁿed. Men studied and compiled from these authentic monuments. There was formed as a school of learned men from Varro and Verrius Flaccus to Aulu^s Gellius and Macrobius; light was thrown upon all ancient history. Some errors were corrected, which had found their way into the traditions, and which the historians of the preceding period had repeated. We learned for example that Por^{sen}na had taken Rome and that gold had been paid to the Gauls. The age of historical criticism had begun. But it is worthy of remark that this criticism,

which was based on the annals, was the work of the same men who had constructed them.

CHAPTER X.

GOVERNMENT OF THE CITY. THE KING.

1 Religion Authority of the King.

WE should not picture to ourselves a city at its foundation deliberating on the form of government that it will adopt, devising and discussing its laws and preparing its institutions. It was not thus that laws were made and that governments were established. The political institutions of the city were born with the city itself and on the same day with it. Every member of the city carried them within himself, for the germ of them was in each man's belief and religion.

It is religion that has been the basis of all laws. The king, the priest, the high priest, who was the father of the family, the head of the curia, had its curia, its patriare^{ky}, every tribe in the same manner, its religious chief, whom the Athenians called the king of the tribe, it was also necessary that the

city religion should have its supreme priest.

This priest of the public hearth bore the name of king. Sometimes they gave him the title *As*, as he was special priest of the prytaneuthe Greeks preferred to call him the prytane, sometimes as they called him the archon. Under these different names king, prytane, and archon were to some persons gods, above all the chief of the worship, he keeps the fire, offers the sacrifice, pronounces the prayer, and presides at the religious feasts.

It may be worth while to offer proof that the ancient kings of Greece and Italy were priests. Aristotle¹ we read, "The care of the public sacrifice the city belongs according to religious custom to the special priests, but to those men who derive their dignity from the hearth and who in no place are called kings in another prytane, and in a third archons." Thus writes Aristotle the man who best understood the constitution of the Greek cities. This passage, so precisely shown in the first place that the three words *king*, *prytane*, and *archon* were a long time synonymous. So true is this that an ancient historian,

Clodius Pionius says, "The king, the prytane, the archon, the priest, the personage whom was applied different one of the three names—perhaps all of them at the same time—was the priest of the city and the worship of the public hearth was the source of his dignity and power."

This sentence is clearly a truism. The king, the prytane, the archon, the priest, in the terms of the archon, the prytane, and the watch of the hearth of this country. In Euripides³ the murder of his mother says to Menelaus, "It is just that, the son of Agamemnon should die at Argos."

And Nic Damascus⁵ says, "The king, the prytane, the archon, the priest, the personage whom was applied different one of the three names—perhaps all of them at the same time—was the priest of the city and the worship of the public hearth was the source of his dignity and power."

for priests who were long kings, as continually occupied with sacred ceremonies we know from Demosthenes⁴ that the ancient kings of Attica performed themselves the sacrifices that were prescribed by the religion of the city, and from Xenophon⁵ that the kings of Sparta were the chiefs of the

1 Aristotle *Polit.* VII.5, 1 (VI.8). Comp. Dionysius II.65.

2 Suidas, *κῆρυξ*.

3 *Æsch. Supp.* 86 (357).

4 Euripides *Ærest.* 605.

5 Nic Damascus *Frag.* Hist. Gr. I. III. p. 394.

Lacedæmonian religion. The Etruscan customs were at the same time, magistrates, military chiefs and pontiffs.

The case was not at all different with the Romans. Traditional ways represented the priests. The first was Romulus, who was acquainted with the science of augury, and who founded the city in accordance with religious rites. The second was Numa, he fulfilled Livy tells us, the greater part of the priestly function, but he foresaw that his successors, by having wars to maintain, would not always be able to take care of the sacrifices, and instituted the flamens to replace him, when he was absent from Rome. Thus the Roman priesthood was only an emanation from the primitive royalty.

The king-priest inaugurated with religious ceremony the new king being conducted to the summit of the Capitoline hill, was seated upon a stone seat, his face turned towards the south. On his left was seated the augur, his head covered with sacred fillets, and holding in his hand the augur's staff.

He made offerings to the gods, and the priests, who were standing by him, that this chief was agreeable to them. Then, as soon as a flash of lightning, or a flight of birds, had manifested the will of the gods, the new king took possession of his charge. Livy describes this ceremony for the installation of Numa;

Dionysius states that it was the first of the king's duties, and that for such a custom, the king was to be supreme chief of the religion, and the safety of the city was to depend on his prayers and sacrifices, was important to make sure in the first place that this king was accepted by the gods.

The sacred duty of augury occurred in the new law which the Spartan king, Cleomenes, had to observe, and the law which the Spartans had instituted in the election of their kings, was a reversal of old customs which survived to the end of the history of Sparta, that the ceremony by which the gods were consulted, as a renewal every nine years, so fearful were they that the king

might be before of the high duty. "From time immemorial, Plutarch tells us, they fixed upon the heavens, if they saw a star cross from one quarter of the heavens to the other, this indicated that the kings were guilty of some neglect of the gods. The kings were then suspended from their duties, and

oracle came from Delphi to relieve them from their forfeiture."

1 Demosthenes, *Year*, Xenophon, *Gov. Laced.* 13.

2 Virgil, *K.* 173, *Livy* V. 1, *Censorinus*, 1.

3 *Livy* I. 18, *Dionysius* II. 6; IV. 80.

4 Plutarch, *Agis* 1.

2. Political Authority by the King.

Just as in the family the authority was inherent in the priesthood, and the father as head of the domestic worship was at the same time judge and master, so the high priest of the city was at the same time its political chief. The altar—the borrowed expression of Aristotle—conferred might and power upon him. There is nothing to surprise in this confusion of the priesthood and the civil power. We find it at the beginning of almost all societies, either because during the infancy of a people nothing but religion will command their obedience, or because a natural feeling shews itself in not submitting to any other power than that of a familiar deity.

We have seen how the religion of the city was mixed up with everything. Man felt himself everywhere dependent upon his gods, and consequently upon his priest, who was placed between them and himself. This priest watched over the sacred fire, it was his duty to say his daily worship, he saved the city every day. He it was who knew the formula and prayers which the gods would not resist, at the moment of combat he it was who slew the victim and drew up the army, the protection of the gods! It was very natural that a man armed with such a power should be accepted and recognized as a leader. From the fact that religion had so great a part in the government, the courts and law were necessarily allowed that the priest was at the same time magistrate and military chief. The kings of Sparta, says Aristotle, "have three attributes, they perform the sacrifices, they command war, and they administer justice." Dionysius of Halicarnassus expresses in himself the same manner regarding the kings of Rome.

The constitutional rules of this monarchy were very simple; it was not necessary to seek long for them, they flowed from the rules of the worship themselves. The founder who had established the sacred fire was naturally the first priest. Hereditary succession was the constant rule in the beginning for the transmission of his worship. Whether the sacred fire was that of a family or that of a city, religion prescribed that the care of supporting it should always pass from father to son. The priesthood was therefore hereditary, and the power went with it.³

A well-known fact in the history of Greece proves in a striking manner, that in the beginning the king's office belonged to the man whose up the

1 Pinda *Nem.* XI. 5.

2 Aristotle *Politica* I. 9.

3 We speak only of the earliest cities. We shall see farther than that time came when hereditary succession ceased to be the rule, and we shall explain what Rome's royalty was not hereditary.

heart of the city. We know that the population of the Ionian colonies was not composed of Athenians, but that it was a mixture of Pelasgians, Eolians, Abantes and Cadmeans. Yet all the hearts of the cities were placed by the members of the religious family of Codrus.

It followed that these colonists, instead of having for leaders men of their own race—the Pelasgians, the Abantes, the Albantians, the Eolians, the Æolian—gave the royalty in their twelve cities to the Codridæ. Assuredly these persons had not acquired their authority by force, for they were almost the only Athenians in this numerous agglomeration. But as they had established the sacred fire, it was their office to maintain it. The royalty was, therefore, bestowed on them without contest and remained hereditary in their families. Battus had founded Cyrene in Africa and the Battiadæ were long time in possession of her royalty. Iginus the Protos founde¹ Naxos; and the Protiadæ, on father to son, performed the priestly office there, and

enjoyed the privilege that created chiefs in those ancient times. It would be correct to say that the first man who was king there was a lucky soldier. Authority flowed from the worship of the sacred fire. Religion created the king in the city as it had made the family chief in the house. A belief in

the deities and the position of the king were all that were necessary. How could one hesitate to be such a man? A king was sacred being, *ἁγίος*—*laïç le roi* ["divine king"] says Pindar. Men saw in him not a complete God, but at least the most powerful man to call down the anger of the gods. The

marvellous power which he possessed was established from the foundation without effort on the part of the kings, without resistance on the part of the subjects. We do not see at the origin of the ancient nations those fluctuations and struggles which mark the painful establishment of

modern states. We know how long a time was necessary for the fall of the empires, exposing principles to the government of the people, and the people at times rejecting its social organization. No such spectacle as seen in ancient Greece or in ancient Italy. The history does not commence

with a general revolution based on the sword, and by degrees, while passing from the family to the tribe and from the tribe to the city, but with-

1 Herodotus I 142-143; Bausani 133; Strabo.

2 Sophocles *Oedipus Rex* 34.

out shock and without struggle. Royalty was established quite naturally, the family first in the city; late it was so devised in the imagination of a few; it grew out of necessity, that was manifest to the eyes of all. During long ages it was peaceable, he obeyed the king, he had no need of material force, he had neither army nor treasury to sustain his faith, he had power in influence over them in the authority of a sacred and inviolable.

A revolution of which we shall speak here, overturned the kingly power in every city, but when it fell it left no rank in the hearts of men. That contemptible and that treacherous ordinary attend on fallen grandeur; it never experiences fall, it was the affection and respect of men remained attached to its memory. In Greece we see something which is not very common in history, in the cities where the royal family did not become extinct, not only was it not expelled, but the same men who had despoiled it of power continued to honor it. At Ephesus, Marseilles, Cyrene, the

people still kept the name of king, and in some of them the respect of the

The people established republican institutions, but the name of king far from becoming reproach, remained venerable. It is customary to say that this word was odious and despised, this is a singular error, the Romans

applied it to the gods and to the gods, but it was the same word, this Greek monarch was many times restored in the cities, but the new monarches never claimed the right to be called kings, and were satisfied to be called tyrants. What made the difference in the name was not the more or fewer

monarchs, but the name of king was so sacred that it was not to be used by the other. The primitive king had performed the duties of priest and had derived his authority from the sacred, the tyrants of a later epoch were merely political chiefs, and were elevated to power by election only.

CHAPTER.

THE MAGISTRACY.

1 Strabo IV. 17 § XIV. 632 XIII. 608 Athenæus II. 576.

2 *Sanctitas* guif the sacredness of kings "Suetonius Julius Cæsar" Livy III. 39 Cicero, *Republ.* 33.

THE union of the political authority and the priesthood was the same. It did not cease with royalty. The revolution which established the republic *did not* divide the separate functions which connected a ruler and a priest, the fundamental functions of human society. The magistrate who replaced the king was like him, priest and the same temporal and spiritual chief.

Sometimes this annual magistrate bore the sacred title of king. In other places the title of *prytarch*, which retained indicated the principal function. In other cities the title of *archon* prevailed. The best example is the first magistrate called by this name but what Plutarch says of this office shows that it differed little from the priesthood. This archon during his term of office was required to wear a crown, he became priest, he legislated, he forbade him to let his hair grow, to carry a yoke, to touch his person – regulations which made him resemble the Roman flamen. The city of Plataea had an archon and the religion of this city required that during his whole term of

off. There should be no hero who wears a tragic mask but has a red and white Acropolis on his head, crowned with myrtle and offers a sacrifice to the divinity of the city. It was also a custom for them in the exercise of their duty to wear a crown of leaves upon their heads. Now it is certain that the crown,

was the only one who found the exterior sign which he compelled every man to sacrifice. Among the nine archbishops, the one called king was specially religious. He taught his colleagues that some sacerdot functioned as a sacrifice to offer to the gods.

The Greek *hagnos* (ἁγνός) signifies a sacrifice, and expresses that the death was entertained by the magistrate in early times and as a personification of the offerings which he made to the sacredness of the safety of the city.

At Rome the first act of the consul was to offer sacrifice for the return of

1 AtMegaraSamothraceXLV5BoeckhCorpInscr1052.

2 PindaNemXI.

3 Plutarch *RomQuest* 40.

4 PlutarchAristides21

5 Thucydides II.70 Apollodorus *Fragmenta* (coll Didot).

6 Demosthenes, Meidias, 13; Eschines, Timarchos, 19.

7 Plutarch *Nicias* 3; *Phocion* 37; Cicero *Ver.* IV.50.

8 Pollux VIII.ch IX. Lycurgus (coll. Didot) t. II. p. 362.

9 Thucydides I.10 III.36 IV.65 Comp. Herodotus I.33 II.18/Eschylus Pers. 204;

them worthy being offered the consummate then with his own hand, while heralds joined religiously on the multitude and flute players sound the sacred air. A few days later the consul paired Lavinium when the Roman penates came and offered another sacrifice.

When we examine the character of the magistracies on the ancient with a little attention we see how slightly they resemble the chief of state of modern societies. The religious and command confounded in his person he represents the city which is a religious association much less as a political body. He has in his hand the auspices, he prays for the protection of the gods. A consul is something more than a man; he is a mediator between man and the divinity. To his fortune is attached the public fortune; his assistants were the tutelary genius of the city. The death of a consul calamitous to the republic. When the consul Claudius Nero defeated his army of 100,000 men, the success of his colleague Livy shows us into how great a ruin Rome was thrown for the

same thing. The priestly and the political functions which the consul was to perform have gone—that is to say religion and the gods.

The Roman magistracies which were in a certain sense members successively attached to the consulship, like that office, united a sacerdotal

and political function. We are then to see the certain and striking power of a victim with his own hand. The pretor and the curule dilepresides a religious festival. There was a magistracy which had no sacred character to perform for in the minds of the ancients, authority ought to have some con-

nection with the gods. The consul was the person who gave substance to the law. We shall see farther on that the authority was of an entirely exceptional nature.

The sacerdotal character belonging to the magistracies shows a bovall in

the manner of his election. The first of the colleges the optimates were the last to appear, and it is natural that his rules should be designated by birth by virtue of the religious laws which prescribed that the sons should succeed the fathers in every priestly office. Birth seemed sufficiently to reveal the will of the

gods. We see again that the Roman magistracies were not like the Greek ones, nor have to disavow. The Athenians, like many Greek peoples, saw no better

1 Cicero *De Leg Agr*, II. 34 Livy XXI. 63 Macrobius II. 3.

2 Livy XXVII. 40.

3 Varron, *L. L.*, VI. 54 Athenæus IV. 79.

way that to draw lots but we must not form a wrong idea of this procedure which has been made subject of reproach against the Athenian democracy; and for this reason it is necessary that we attempt to penetrate the view of the ancients on this point. For then the dot was not chance; it was the revelation of the divine will. Just as they had recourse to the temple to discover the secret of the gods, so the city had recourse to it for the choice of its magistrate. It was believed that the gods designated the most worthy by making his name appear out of the urn. This was the opinion of Plato himself, who says, "He on whom the dot falls is the ruler and saviour of the gods, and this we affirm to be quite just. The officer of the temple shall be appointed by lot; in this way the election will be committed to God, who will know what is agreeable to him. The city believes that in this manner it receives its magistrates from the gods."

Affairs are substantially the same at Rome. The designation of a consul is done by lot. The lot is drawn from a group of people which the gods have chosen. A magistrate's charge—this is to say a man already in possession of the sacred character of the auspices—indicates that the first "permissible" day is the one on which the consul is to be named. During the

time he is not permitted to leave his house. This is the reason why some candidates for the magistracy were mentally lame. The name of some candidates for the magistracy was favourable because the gods accepted the candidate. The next day the people assembled in the *Campus Martius* the same ones who had consulted

the gods decided the same problem. The potential candidates were those who sought the consulship, and for whom the auspices had not been

1 Plato *Laws* II. 690A, 759C; Demetrius *Chalereus* *Sagm.* It is surprising that modern historians present the drawing of lots as an invention of the Athenian democracy. It was on the contrary in full vigour under the rule of the aristocracy (Plutarch *Pericles* 69) and appears to have been as old as the archonship itself. Not that the democratic procedure knew, indeed, that even in the time of Lysias and of Demosthenes the names of all the citizens were not put in the urn (Lysias *Orat. de invalido* 1.3; *Andocides* 4); for a still stronger reason was it true that the Eupatrids, or the Pentakosiomedimni, or the archon, or the *Passages* of Plato show clearly that the ancients had the drawing of lots, the thought which caused it to be employed for a magistrate, prior to the archon, or for a senator charged with holy duties, or for a priest, or a religious and not a political official. It is worth the remark that when the democracy first appeared and reserved the election by lot for the choice of archons, to whom it left more power and gave it up in the choice of strategoi, it then had the true authority, so that there was no drawing of lots for magistrates, or for senators, or for the aristocracy, and election by those that dated from the age of the democracy.

2 Valerius Maximus I, 3. Plutarch *Marcellus*

favorable his name was omitted. The people voted for those names only which had been pronounced by the president. If the president named but two candidates the people necessarily voted for them if he named three they chose two of them. The assembly never had the right to vote for those men than those whom the president had designated, for the auspices had been for those only and for those only had the consent of the gods been assured.

This mode of election which was scrupulously followed in the first ages of the republic explains some peculiarities of Roman history which at first surprise. We see for example that quite frequently the people are unanimous for war or for the consulship and still they are not elected. This is because the president has not taken the auspices concerning the war or the consulship. The auspices have not been favorable to the war and have seen the people elect to the consulship men whom they detested. This was because the president pronounced only the two names it was absolutely necessary to vote for

the candidates and the president was obliged to choose those that were designated. The people by their candidates were presented with two enemies to whom they could indeed show their displeasure by retiring without vote but there always remained the enclosures enough to make a *paquorum*.

How long the people was in possession of the consulship we cannot say. The consulship which referred to the people but to the president in the committee was as if him indeed rather than of the people. That it might be said, 'He creates the consulship he was the one who discovered the will of the gods if he did

the people the people was not as though in the gods created the most to select among three or four names. The auspices had been equally favorable to three or four candidates.

Doubtless this method of procedure was very advantageous to the Roman

people. They should decide on every thing in a calm and serene belief in their religion. Politically it was useless the first ages since at that time the patricians had a majority voting it might have turned against them by investing a single man with exorbitant power. The only explanation

is that the people was not as though in the gods created the most to select among three or four names. The auspices had been equally favorable to three or four candidates.

1 Livy XXXIX.39 Velleius II.92 Valerius Maximus II.8.

2 Dionysius IV.84 V.19 V.72 V.77 VI.49.

3 Livy II.42 II.43.

fortune of the city were to be placed ought to be revealed by the divine voice. The first rule for the election of a magistrate he gave negatively by Cicero: "Tha he benamed according to the rites. If, seven months afterwar the senate was told that some eit had been neglected badly performed or dered the consuls abdicated, and they obeyed the example very numerous and, in case of two or three of them, we may believe that the senate was very glad to be rid of a ill-qualified ill-intentioned man. In the great part of the time on the contrary we cannot impute the motives to them than religious scruples.

When the lot or the auspices had designated a archon or a consul there was a trust reasorb of proof by which the merits of the newly-elected officer were examined. But even this will show what the city wished to find in its magistrates. It was a sheld that it sought the most courageous warrior, not the ablest and most pighan in peace, but the one destroyed by the

god and died by the poison was a question of the consistency of his faith. A faithful his worship if he himself had always filled his duties toward the dead. Why the question? Because a bodily defect—sign of the anger of the gods—rendered a man unfit to fill any priestly office and consequently

to be even more a disapprobation was that of some of his ancestors. The name of the city because his family had not always been faithful his worship—that is to say, if one of his ancestors had committed one of those acts which affected religion—the heart was forever contaminated and the descen-

dant on the state of the gods possible. The magistrate himself neglected sued by invisible enemies the city would have been very daring to have on-fided its fortune to such a man. These are the principal questions that were addressed to a new how about to become a magistrate appeared that men

dispect any able man whose qualities he had not known. If he failed that the religion of the city would be compromised in his hands.

This sort of examination was also in use at Rome. We have not it true, any information as to the question which the consul was required to answer.²

But it is enough to know that this examination was made by the pontiffs.

1 Plato *Laws* VI. Xenophon *Mem.* II. Pollux *XIII*. 858695.

2 Dionysius II, 73.

CHAPTER I.

THE LAW.

AMONG the Greeks and Romans as among the Hindus a law was first a part of religion. The ancient codes of the cities were collections of rites, liturgical directions, and prayers joined with legislative regulations. The laws concerning property and those concerning succession were scattered about

in the midst of rules for sacrifices and burial, and for the worship of the dead. What remains of the old laws of Rome were arranged in the same way. all Laws relate so far to the worship, to the relations of civil life. One forbade a guilty woman to approach an altar, another forbade a certain class to be served in the sacred past, a third prescribed a late religious ceremony

twice a year, and a fourth forbade an entertainment. The code of the concerning the religious uses of sepulture. The work of Solon was at the same time a code of constitution and a ritual, regulating the order of sacrifices, and the price of victims, as well as the marriage and the worship of the

dead. Herophilus Laws trace a plan of legislation which is not entirely imaginary. In the substance, in the form, this code imitates the ancient legislator. Now these are the first laws that he writes. Let me approach the gods with purity, let the temples of the ancestors and the dwelling of the Lares be

kept pure, let the priest stand in the sacred past only the prescribed of blood, let every offender of the manes be worshipped as a demon. As sured the Roman philosopher troubled himself little about the old religion of the Lares and Manes, but he was tracing a code in imitation of the ancient codes, and he believed himself found in some rules of worship.

At Rome it was recognized that the pontiffs could do good, but that they did not know what a law was, and conversely that no one could know what a law he did not understand. In questions relating to religion the pontiff was for a long time the only jurisconsult. As there was hardly a fact of life which had not some relation to religion, it followed that almost everything was submitted

to the decision of the pontiffs, and that they were the only competent judges in civil and religious rights. Infants were carried to their tribunals. They were judges in cases of incest, as well as of celibacy, as adoption affected religion, it could not take place without the consent of the pontiff. To make a will was to

break the order that religion had established, and the transmission of property

and of the worship. They will therefore, in the beginning, required be authorized by the pontiff. As the limits of every man's land were established by religion, whenever two neighbors had a dispute about boundaries, they had to plead before the priests, *alle fratres vale*.¹ As Valerius the brother of the fields. This explains why the same men were pontiffs and jurists—law and religion were but one.

At Athens the archon and the king had very nearly the same judicial functions as the Roman pontiff.

The origin of ancient laws appears clearly. No man invented them. Solon, Lycurgus, Minos, Numa, might have reduced the laws of their cities to writing, but they could not have made them. If we understand a legislator as a man who creates a code by the power of his genius and who imposes it upon others, then this legislator never existed among the ancients. No did ancient law originate with the votes of the people. The idea that a certain number of

twelve might be called in to settle the law had only been a dream. As the law had been sacred to men as something ancient, immutable, and venerable, as old as the city itself, the founder had established it at the same time that he established the earth, *mores quæ sunt in æoni*.² He set a plow and city walls for

himself. He said to himself that he was separating himself from the religion, the true author of them. When we speak above of the organization of the family and of the Greek and Roman laws which regulated property, succession, wills, and adoption, we observe that exactly the same laws corresponded

to the belief in the gods, to the personification of natural laws, to the notion of absolute right and the sentiment of justice that they were sought for. But place the laws by the side of the worship of the dead and of the sacred fire, compare them with the rules of this primitive religion, and

the same impression is produced. "This is just this unjust. Ancient law was not produced in this way. But man believed that the sacred earth, in virtue of the religion, was passed on from father to son from this it followed that the house was hereditary property. The man who had buried

1 Hence this old definition which the jurists conserved to Justinian's time—*juris prudentia rerum divinarum quæ humanarum utitur*—"jurisprudence is knowledge of things divine and human." Cf. Cicero *De Legibus* I. 9; II. 19 *De Aruspiciis Resp.* Dionysius, II. 73 Tacitus *Ann.* I. 10 *Hist.* I. 15 Dion Cassius *KLVIII* 44. Pliny *N.H.*, *XVIII* 2. Aulus Gellius *X*, 19 *XV* 27.

2 Pollux *XIII* 90.

the ancient was always, and in the time of royalty it was the queen of the kings; in the time of the republic it was the queen of the people. To disobey it was sacrilege.

In principle the laws were immutable, since they were divine; it is worthy of remark that they were never abrogated, nor could indeed make new ones, but old ones still remained, though they might conflict with the new ones. The code of Draco was not abolished, but that of Solon gave power to the Royal Law by those of the Twelve Tables. The stones on which the laws were engraved were as inviolable as the most delicate scrupulously, though themselves permitted to turn round. This principle was the great cause of the confusion which is observable among ancient laws.

Contradictory and those of different epochs were found together, and all claimed respect, in a nation of slaves, we find women contesting inheritance, each quoting a law in his favor, the two laws are absolute contraries,

and they will persist still, as in the case of the gods, for they are the gods, which join in an equal division among the brothers.

The ancient law never gave any reason. Why should it? It was not bound to give them, it existed because the god had made it. It was not discussed—it

was imposed, it was a work of authority, they obeyed because they had faith.

During long generations the laws were not written, they were transmitted from father to son, with the creed and the formula of prayer. They were a sacred tradition which was perpetuated in the family, in the hearth, in the earth.

Finally, on which men began to commit them to writing, they consigned them to the sacred books, to the rituals, among prayers and ceremonies. Varro cites an ancient law of the city of Tusculum, and adds that he read it in the sacred books of that city. Dionysius of Halicarnassus had consulted the

rituals, and he was so struck by the beauty of the prescriptions, that he removed them from the rituals and wrote them by themselves, but the custom of depositing them in a temple continued, and priests had the care of them.

Written or unwritten, the laws were always formulated in very brief

statements, which were in consequence of the brevity of the laws, and of the

1 Andocides § 283 Demosthenes *Evangelia* 71.

2 Varro, *L. L.*, VI. 16.

3 Dionysius, 1.

mical. According to Aristotle before the laws were written they were sung. Traces of this custom have remained in language. The Romans called the laws *carmina*—verses. The Greeks said *νόμοι*—songs.

These ancient laws were invariable texts. To change a letter of them, to displace a word, to alter the rhythm was to destroy the law itself by destroying the sacred formula under which it was revealed to man. The law was like prayer, which was greeted by the divinity only on condition that it was recited correctly, and which became impious as a single word in it was changed. In primitive law the exterior of the letter is everything; there is no need of seeking its sense or spirit in it. The value of the law is not in the moral principle it contains, but in the words that make up the formula of force in the sacred word that composes it.

Among the ancients, and especially the Romans, the idea of law was inseparably connected with certain sacramental words. If, for example, a law was ques-

tioned in the presence of a god, it was said, *Deo presentibus*. So, under the promise, "If these words were not pronounced, there was no contract," vain the creditor came to demand payment of the debt—the debtor owed nothing for what placed a man under obligation. In this ancient law was not

form alone, but also content. It was not the sacred formula that made the law a legal obligation. Where there was no formula, the obligation did not exist.

The strange form of ancient Roman legal procedure would surprise us if we but recollect that ancient law was a religious sacrament, and justice

was a religious act. The solemnity of the law was not that of the priest, but of his guard. To have the law on his side, he must know its terms and pronounce them exactly. If he speaks a new word for another, the law exists no longer for him, and cannot defend him. Gaius gives an account of a man whose vines

had been cut by his neighbor. The first was to call the god, and pronounce the law. But

Repeating the law was not sufficient; there was also needed an accompaniment of exterior signs, which were, to say the rites of this religious ceremony called a contract, *tracatus* in law. For this reason, every little piece

of copper and the balance were employed to buy an article, it was necessary

1. *Ælian* *V.H.*, II, 39.

2. Aristotle *Prob.* XIX, 28.

3. *Nóμος*, to divide *νόμος*, division of measure, rhythm, song. See Plutarch *De Musica*, p. 1133; Pindar *Pyth.* XII, 41 *fragment* 90. Edit. Heyne. Scholia. Aristophanes *Knights* 9. Νόμοι καλοῦνται οἱ εἰς θεοῦς ὕμνοι [hymns to the gods & alleluia's].

to touch it with the hand—*mancipatio* for transfer *agnus capiti*." taking with the hand" and if there was a dispute about a piece of property there was a feigned combat *manuum conserit* joining of the hands" Hence were derived the forms of liberation those of emancipation those of a legal action, and all the pantomimic legal procedure.

As law was a part of religion it participated in the mysterious character of all this religion of the cities. The legal formulae of those religions were kept secret. They were concealed from the stranger and even from the plebeian. This was not because the patricians had calculated that they should possess great power in the exclusive knowledge of the law but because the law by its origin and duration appeared to be a mystery to which one could be initiated only after having first been initiated into the national worship and the domestic worship.

The religious origin of ancient laws explains one of the principal

characteristics of the old law. The religious origin of the law explains why it was so difficult to distinguish between the law and the religion. When the Greeks said that the law was civil—*jus civile*—civil law—*ἡμοῖσι πολιτικοὶ* ["political laws"]—they did not understand simply that every city had its codes in

and every state had its own laws. They had in mind that the law was not only one subject to its laws and placed under their protection and had a citizen. The law did not exist for the slave nor did it exist for the stranger.

We shall see further on that the stranger domiciled in a city could be

only a foreigner. The law was not only a law but it was a law of the city. Athens, for example, happened to be the city of the citizen. He could not sue him in the court for the payment of the debt as the law recognized contracts valid for him.

The religious origin of the law was a fact of which every one was aware. In order that there should be a legal relation between two men it was necessary that there should already exist a religious relation. That is to say that they should worship at the same hearth and have the same sacrifices. When

the religious origin of the law was a fact of which every one was aware, the religion of the city. A foreigner and a citizen might live side by side during long years without one thinking of the possibility of a legal relation being established between them. Law was nothing more than a phase of religion.

Where there was no common religion there was no common law.

CHAPTER II.

THE CITIZEN AND THE STRANGER.

THE citizen was recognizable by the fact that he had part in the religion of the city and was from this participation derived all his civil and political rights. If he renounced the worship, he renounced his rights. We have already spoken of the public meals which were the principal ceremony

of the national worship. Now at Sparta new blood poured into the city. Athenians who did not take part in the festival of the national god lost their rights as citizens. At Rome it was necessary to have been present at the sacred ceremony of the *lustration* in order to enjoy political rights. The man

who had done this—*lustratus*—that is, who had been purified by the

If we wish to give an exact definition of a citizen, we should say that it was a man who had the religion of the city. The stranger, on the contrary, one who had no access to the worship new to the gods of the city, did not

protection which was not the right to invoke them. For the national gods, who were received by the city, were not to be invoked by the stranger. He was repulsed at the entrance to the temples, forbidden to him, and his presence during the sacrifices was a sacrilege. Evidence of this ancient sentiment of repulsion has remained one of the principal rites of Roman worship.

The pontiff, when he sacrificed, the *opemir* must have his head veiled. Before the sacrifice, the religious *vincula* were put on the national gods. The face of a stranger must not appear to the pontiff; the auspices would be disturbed. A sacred object which fell for a moment into the hands of a stranger, or even became profane, could not recover its religious character.

1 Aristotle *Politica* II, 6, 2 (II, 7).

2 Boeckh *Corp. Inscr.* 364 h.

3 Velleius II, 15. Soldiers on a campaign were excepted, but the census was required to have their names taken so that having been registered in the ceremony they were considered present.

4 Demosthenes *Vergera* II, 3, 14. Being a citizen was *allos* in Greek, *αλλος*, that is to say making the sacrifice together: *μεταίναυ ἄλλων καὶ ὁμιῶν* ["to have a share in things sacred and profane"].

5 Virgil *En.* III, 406. Festus, *Exest. dictum quibusdam acris amittit hostis exesto* ["the action of a corymbus during certain rites is to stray away with you!"] *Hostis* we know, means stranger (Macrob. II, 7) *hostis facies* in Virgil means the face of a stranger.

except by an expiatory ceremony if the enemy seized upon a city and the citizens succeeded in recovering it, above all things it was important that the temple should be purified and all the fire extinguished and rekindled in the presence of the stranger and defile them.¹

Thus religion established between the citizen and the stranger a profound and effaceable distinction. This same religion long shielded its wayward mind of men for bad rights of citizens ship be granted to a stranger. In the time of Herodotus Sparta accorded to no one except a prophet; and even for this the formal command of the oracle was necessary. Athens granted to some times but with what precaution! First it was necessary that the united people should do by secret ballot the admission of the stranger. Even this was nothing yet, nine days after wards a second assembly had to confirm the previous vote and in this second case six thousand votes were required in favor of the admission - a number which will appear enormous

when we recall that it was one of these assemblies that decided by a simple decision of this double assembly finally any citizen could oppose or of veto and attach the decree contrary to the ancient laws. Certainly there was no other public act where the legislator was surrounded by so many

difficulties and formalities than in the case of the stranger. It was a long and difficult war in passing new law. Why should the men oppose so many obstacles to a stranger who wished to become a citizen? Assuredly they did not fear that in the political assembly his vote would turn the balance. Demosthenes

gives us the motives which he brought forward to this effect. He says "watch ye the sacred ceremonies and admit a stranger among the citizens was to give him a part in the religion and in the sacrifices. Now for such an act the people did not consider themselves entirely free and were seized

with religious scruples for the fear that the nation might be rendered less by the presence of the new comers. The gift of the rights of citizen to a stranger was a violation of the fundamental principles of the national religion and it is for this reason that in the beginning the city was so sparing of it. We must

be sensible that the more difficult the process of admission the more difficult would its worship be as to presiding at it, that would have been too much.

1 Diges KL tit. 6, 36.

2 Plutarch Aristid. 20 Livy V. 50.

3 Demosthenes Year 899 1921 13, 14.

No one could become a citizen at Athens if he was a citizen in another city; for it was a religious impossibility to be at the same time a member of two cities, as it also was to be a member of two families. One could do both, two religions at the same time.

The participation in the worship carried with it the possession of rights. As the citizen might assist in the sacrifice which preceded the assembly, he could also vote at the assembly. As he could perform the sacrifice in the name of the city, he might be a *prytan* and an archon. Having the religion of the city, he might claim rights under its laws and perform all the ceremonies in the legal procedure.

The stranger, on the contrary, having no part in the religion, had no part in the law. If he entered the sacred enclosure, which the priests had traced for the assembly, he was punished with death. The laws of the city did not exist for him. If he had committed a crime, he was treated as a slave and punished

with death. ¹ The stranger, therefore, being illegal, not so the stranger, was necessary to establish an exceptional tribunal. At Rome, in order to judge the alien, the pretor had to become an alien himself, *prætor peregrinus*, the foreign praetor. At Athens the judge of foreigners was the polemarch—*that*

he is to be distinguished from the polemarch who was charged with the care of war and of all trans-

Neither at Rome nor at Athens could a foreigner be a proprietor. He could not marry, if he married his marriage was not recognized, and his children were reputed illegitimate. He could not make a contract with a citizen, any

more than the alien could sue a citizen, or a citizen could sue an alien. He could not be a citizen, and even for a bad citizen to inherit from him. They pushed this principle so far that a foreigner obtained the rights of a citizen without his son born before this event obtaining the same favor. He so became a foreigner re-

garded him as a foreigner, and he continued to be a foreigner. The distinction between

At first blush it would seem as if the aim had been to establish a system

1 Plutarch *Solo* 24. Cicero *Pro Cæciliâ* 24.

2 Aristotle *Politics* II.1.3. Plato *Laws* 81.

3 Demosthenes *Against Lysias* 1. Pausanias *Pantheon* 1.

4 Gaius 1. 234.

5 Gaius 4. 67. Ulpian 1. 4-9. Paulus 1. 9. Aristophanes *Birds* 1652.

6 Ulpian XIX. 4. Demosthenes *Pro Phormion* in *Eubul*.

7 Cicero *Pro Archia* 5. Gaius 1. 110.

8 Pausanias III. 143.

that should be vexation towards foreigners, but there was nothing of this. Athens and Rome on the contrary gave him good reception, not for commercial and political reasons, but neither the good will nor the interest could abolish the ancient laws which religion had established. This religion did not permit the stranger to become a proprietor, because he could not have any part in the religious life of the city. It permitted neither the foreigner to inherit from the citizen nor the citizen to inherit from the foreigner, because every transmission of property carried with it the transmission of a worship, and it was impossible for the citizen to perform the foreigner's worship, as for the foreigner to perform the citizen's.

Citizens could welcome the foreigner, and yet esteem him inferior, if he was rich and honorable, but they could give him no part in their religion or their laws. The slave in certain respects was better treated than he was, because the slave being a member of the family whose worship he shared, was con-

sidered in the city as though he were a citizen, and the slave was not a foreigner.

A foreigner, on the other hand, in the eyes of the law, to be enabled to engage in trade, to make contracts, to enjoy his property, to have the

benefit of the law of the city, to be admitted to the rights of citizenship by choosing a citizen as a patron, the foreigner became connected with the city. Thenceforward he participated in some of the benefits of the civil law and its protection was secured.

CHAPTER III.

PATRIOTISM EXILE.

THE word *country* among the ancients signified the land of the fathers, *terra patriæ*, fatherland. The fatherland of every man was that part of the soil which his domestic religion had sanctified, and where the remains of his ancestors were deposited, and which his soul occupied. His little fatherland was the family enclosure with its tomb and its hearth.

1 *Dige* XL. tit. 7, 2; XLVII. tit. 1, 24.

2 Harpocratio, πατρίς.

both fire and water. By this fire we are to understand the sacred fire of the hearth by this water the austere water which serves for the sacrifice. Exile, therefore, places man beyond the reach of religion. Let him flee, were the words of the sentence, nor ever approach the temple set no citizen speak to or receive him, let no one admit him to the prayers, the sacrifices, no one offer the dust of water. Every rite was defiled by his presence. A man who received him became impure by his touch. "Any one who shall have eaten or drunk with him or who shall have touched him," said the law, "should purify himself. Under the ban of this excommunication the exile could take part in no religious ceremony, he no longer had worship, sacred past, prayers; he was disinherited of his portion of religion.

We can easily understand that for the ancient God was not everywhere. If they had some vague idea of a God of the universe, this was not the one whom they considered as their providence, and whom they invoked. Every

man and his gods were bound in his life. His gods were his gods, his city, his religion that could console and protect him, when longed for, the providence was watching over him, the happiness of praying was taken away. All that could satisfy the needs of his soul was away.

Not only was the exile without his gods, but he was without his city. In the city worship was at the same time his domestic worship. Taken from him and was forced to extinguish his hearth-fire. He could no longer hold property, his goods, as if he was dead, passed to his children, unless they were

sons, for at the moment of his death, because he had his hands and feet bound, his sons were no longer in his power, his wife was no longer his wife and might immediately take another husband. Regulus, when a prisoner of the enemy, the Roman law looked upon him as an exile, if the senate asked his opinion, he

refused to give it, he was no longer a Roman, he was no longer a citizen, he was no longer a wife and children—

1 Herodotus I. 123. Cratinus, *Athenææ* 3. Cicero, *Pro Dom.* 20. Livy XXV. 4. Ulpian X. 3.

2 Sophocles, *Edipus Rex* 239. Plato, *Laws* I. 881.

3 Ovid, *Trist.* I. 3. 43.

4 Pindar, *Pyth.* IV. 51. Plato, *Laws* X. 877. Diodorus XIII. 49. Dionysius I. 46. Livy II. 58.

5 *Institutiones Justinianæ* 12. Gaius I. 128.

6 Dionysius XIII. 41.

"Fertū pudicæ conjugis cūlum
Parvosquætosq; capiti tris inq;
A seremo visse."

["It is said that he brushed aside
His chaste wife's kiss,
And his small children as being less important of life"]

"The xiles say Xenophobos loses some idleness of his wife and children."
When he dies he has no other right to be buried in the tomb of his family for he is an alien.

It is not surprising that the ancient republics most permitted a convict to escape death by flight. Exile did not seem to be a milder punishment than death. The Roman jurists called capital punishment.

CHAPTER IV.

THE MUNICIPAL SPIRIT.

WHAT we have already seen of ancient institutions and the old of ancient beliefs has enabled us to obtain an idea of the profound gulf which always separated the cities. However near they might be to each other, they always formed two completely separate societies. Between them there was much more than the distance which separates societies today; much more than the frontier which separates states; their gods were not the same, nor their ceremonies, their prayers, their worship. For one city was forbidden to offend another city. The belief was that the gods of one city rejected the homage and prayers of anyone who was not their own citizen.

These ancient beliefs, it is true, were modified and softened the course of time, but they had been in their full vigour at the time when these societies were formed, and these societies always preserved the impression of them.

Two facts we can easily understand: first, that this religious peculiarity of each city must have established the city in a very strong and almost unchangeable manner; it is indeed marvellous how long this social organization lasted in spite of all its faults and all its chances of ruin; second, that the effect of this religious unity on the genius must have been to render it impossible to establish

1 Horace *de sat.* III.

2 Thucydides I. 38.

any other social form than the city.

Every city, even by the requirements of its religion, was independent. It was necessary that each should have its particular gods, and since each had its own religion, it had a law of its own, and each was required to have its own sovereign tribunal, and there could be no judicial tribunal superior to that of the city. Each had its religious festivals, and its calendar, the month and the year could not be the same in two cities, as the series of religious acts was different. Each had its own money, which at first was marked with its religious emblem. Each had its weights and measures, it was not admitted that there could be anything common between two cities. The line of demarcation was so profound that it hardly imagined marriage possible between inhabitants of two different cities. Such a union always appeared strange and was long considered illegal. The legislation of Rome and that of Athens were visibly very different. Nearly everywhere the children of such a marriage were considered illegitimate.

Each city was surrounded by a wall, and the right of citizenship was not there shared between those cities, a particular convention, *ius connubii* ["the right of marriage"], *hymenia* ["right of intermarriage"].

Every city had about its territory a line of sacred ground. This was the ori-

zation of the city, the gods of the city, and beyond the bounds the gods

of the alien. The character of the history of Greece and of Italy before the Roman conquest, the excessive division of property, and the spirit of isolation in each city, Greece never succeeded in forming a single state, nor

did the Italian. The mountains of the north had been so difficult to traverse, the nature of their country and were so difficult to traverse, the mountains which intersected each other established natural lines of demarcation among men. But there were no mountains between the Peloponnese and the north, between Argos and Sparta,

between Athens and Corinth. There was no mountainous barrier between them, and the influence of the history of a people, the beliefs of men have a much more powerful influence. In ancient times there was something more impassable than a mountain between two neighboring cities, there were the series of sacred

and the gods, the difference of worship, and the hatred of the gods towards

each other. For this reason the ancients were unable to establish, even to conceive of, any other social organization than the city. Neither the Greeks, nor the Latins, nor even the Romans, for a very long time, ever had thought that sev-

eral cities might be united and give an equal footing to the same gov-

erment. There might indeed be an alliance, or a temporary association, views of some advantage gained, and some dangers repelled; but there was never a complete union for religion made of every city a body which could never be joined to another. Isolation was the law of the city.

With the belief in the religious usages which we have seen how could several things have become untenable to state? I need not understand human association and did not appear in games as I was founded on religion. The symbol of this association was a sacred part taken from common. A few thousand citizens might deal equally in the same, but the priestly class, with the same prayer and part of the same sacrifice, but how to perform with the same usages, making a list of ten or twelve, how could the public perform all the same ceremonies, which every citizen would take part? Where would they locate the priestly class, how would they perform the annual illustration of the citizens?

Wanted to be some of the new inhabitants of the place that had not been the rest of the earth's surface. What would become of all the local worship, the city divisions, and the heroes who inhabited very ancient Athens and within her limits the hero Oedipus the enemy of Thebes, now united Athens and

When the superstitious and morose gods of the old happened in a later period in common minds, it was to date to establish new forms of state. The division had become consecrated, customily interested by inveterate hatreds and by the memory of past struggle. Men could no longer return to

the party held fast to its autonomy; this was the name they gave to an assemblage which comprised their worship, their laws, their government, and their entire religious and political dependence.

It was easier for a city to subject another than to annex. Victory might

made slaves of all their inhabitants, for conquered by them, and borne
the conquer'd population with the victors, and associated under the same
government, it has never seen a month's ancient without an exception,
of which I shall speak presently. If Sparta conquer Messenia was to

make of the Spartans Messenians in general. The Spartans expelled the nobles of the country, and made them wander the roads in the same manner with Salamis, Egina, and Melos.

The thought of removing the conquered city of the victors could not enter the mind of anyone. The city possessed gods, hymns, festivals, and

laws, which were its precious patrimony. It took good care not to share

these with the vanquished, had no other right to do this. Could Athens admit that a citizen of Egin might enter the temple of Athena, or that he might offer his worship to Theseus? That he might take part in the sacred repasts of the Prytanes, he might keep in the public fire. Religion forbade it. The conquered population of the island of Egin could not therefore form a single state with the population of Athens. No having the same gods, the Eginetans and the Athenians could not have the same law, or the same magistrates.

But might not Athens, at any rate, having the conquered intact, send magistrates to hint its will to its vassal? It was absolutely contrary to the principles of the ancient constitution to place in any city who was not a citizen of it. Indeed, the magistrates were religious chiefs, and their principal function was to sacrifice to the name of the city. The foreigners had no other right to offer the sacrifice, could not therefore form a magistrature, having no religious

functions. Besides, in this case, the relations of the magistrature with the people of the cities, they could not maintain themselves for any great length of time.

Every day, in the copying of the text, the intelligent reader will find a number of errors. The text is a middle course. Either the city ceased to exist, or it was a sovereign state. So long as it retained its worship, it retained its government, it lost them only by losing the other, and then it existed no longer. This absolute

idea of the constitution of the city, which has been the basis of all the theories of the moderns, is a very recent discovery. It is the result of the evolution of the ancient societies, which might come to have an idea of, and to establish a large state, governed by other rules. But for this it was necessary that men should discover other

principles, and the social bonds that those of the ancients had.

CHAPTER V.

RELATIONS BETWEEN THE CITIES IN WAR AND PEACE.
THE ALLIANCE OF THE GODS.

THIS religion, which exercised power in the interior life of the city, intervened with the same authority in all the relations between cities. We may see this by observing how men of those ancient ages carried on war, how they concluded peace, and how they formed alliances.

Two cities were of religious association, which had no other gods. When they were at war, it was not the men alone who fought—the gods also took part in the struggle. Let no one suppose that this was simply poetical fiction. There was among the ancients a very definite and very vivid belief by reason of which each army took its god along with it. Men believed that these gods took an active part in the battle; the soldier defended them, and they defended his soldier. While fighting against the enemy, each one believed he was fighting against the gods of another city. The foreign gods were permitted to detest, to abuse, to strike, to maim, to make their prisoners. Thus war had a strange aspect. We may picture to ourselves a warm day, facing each

other in the midst of a battle, statues of the gods, the priests, the augurs, and the soothsayers, to assure the victory. Before the battle each soldier in the two armies thinks and says like the Greek in Euripides: 'The gods who fight for us are more powerful than those of our enemies.' Each

has preserved a god, the guardian of his city, his land, his people, his houses. Let these men and whoever inhabits the land and cities be deprived by you of the light of the sun. May their city and their land and their heads, and their persons be devoted to you. After this imprecation they rush to

battle. But the gods, who have the strength of which the men have in them, their isomer, for the enemy, a far simpler and more reliable, presides over the struggle, and excites the combatants. There are no superiors to moderate the desire for slaughter; they are permitted to kill the prisoners

and the wounded. In the field of battle they have no idea of a duty of any kind towards the enemy. There are no rights for a foreigner, as of all time of war. No one was required to distinguish between the just and the unjust. To him Mucius Scaevola and all the Romans believed it was a glorious deed to

send a message to the enemy. The consul Manius Curius Dentatus received Epirotes who had voluntarily surrendered themselves to him.

The Lacedæmonians bid a seized port of the city of the Thebans in time of peace. Agesilaus was questioned on the justice of this action. In-

quire only if it is useful, and if it is? for when every action is useful, it is

country is right. This was the intention of ancient times. Another king of Sparta, Leomenes, said that all the evils could do to enemies was always in the eyes of god and men.

The conqueror could see his victory, she please. No human or divine law restrained his vengeance or his cupidity. The day on which the Athenians decreed that all the Mitylenæans should die, no distinction of ages or sex should be exterminated. They did not dream of transcending their rights, and when on the next day they revoked their decree and contented themselves with putting a thousand citizens to death and confiscating the land, they thought themselves as men and indulgent. After the taking of Plataeæ the men were put to death and the women sold and yet no one accused the conquerors of having violated the law.

These men made war not only upon soldiers, but upon an entire population: men, women, children, and slaves. They waged war not only against human

beings, but against fields and houses. They devoted the sacred lands and groves; consequently they exterminated the cattle they ever destroyed the seed which might produce crops the following year. A war might cause the name and race of an entire people to disappear as a single blow and change

fortunes and blood. So the victory of the Rhodians over the Carians, twenty-threes, made the Pontian marshes fifty-threes of Latium have disappeared in Samnium, the places where the Roman armies had passed could no longer be recognized by the vestige of their camps, and by the

soldiers which were in the neighbourhood. Vanquished they had right to suppress their city—that is to say to break up their religious and political associations. The worship increased and the gods were forgotten. The religion of the city being destroyed, the religion of every family disappeared, the

sacred fire. The same fire was extinguished. With the loss of the sacred fire, the prisoners, whose life was spared, were made to pronounce the following formula: Give me my person, my city, my land, and the water that flows over it, my boundaries, my temples, my movable property, everything which

has been the property of the Rhodians. Roman people, I am a Rhodian. I am a victor. We shall relate to you what the result of this was and the domin-

1 Cicerón *Verz.* II. 3. 6. Siculus *Flaccus* *passim*. Thucydides II. 50 and 58.

2 Livy I. 38 Plautus *Amphitrua* 100–105.

ion of Rome.

When a war did not end by the extermination of one of the two parties, a treaty of peace might terminate it. But for this a convention was not sufficient; religious act was necessary. Every treaty was marked by the immolation of a victim. To sign a treaty was a modern expression. The Latins said, *strikid* "I *ceded*, *cedidit* "I *ceded*." The name of the victim most generally employed for this purpose has remained in the common language designating a contract. The Greeks expressed themselves in a similar manner; they said of a libation *εὐδοκία*. The ceremony of the treaty was always accomplished by priests, who conformed to the ritual. In Italy they were called *efficiales* and *pendophori*; libation-carriers in Greece.

These religious ceremonies gave a sacred and inviolable character to international conventions. The history of the Caudin Forks is well known. An entire army through its consul, questors, tribunes and centurions had

sworn before the *efficiales* to stand fast. To violate that oath was to be validly annulled in the eyes of the patricians. He who was committing an act of bad faith.

It was the universal opinion among the ancients that a man was bound by

his oath to the gods. When the Greeks were speaking of a mortal Greek, another deity that worshipped Hercules, Alabandos, *Idie*, "is a god and Hercules is not one." With such ideas it was important in a treaty of peace that each city called its own gods to be witnesses to its oaths. We made

treaties and oaths to the gods in the Plataean and the Caudin Forks country. Both parties tried indeed if it was possible to invoke divinities that were common to both cities. They swore by those gods that were visible—the sun which shines upon all and then nourishes all. But the gods

of each party were not the same. Some had no visible form, but were invoked by religion. As the gods mingled in the battles during the war they had to be included in the treaty. It was stipulated therefore that there should be an alliance between the gods as between the two cities. To indicate

this alliance of the gods it sometimes happened that the two people agreed

1 Festus *Fædum* and *Fædus*.

2 In Greece they were a crowd. Xenophon *Hell.* IV. 7.3.

3 Cicero *De Nat. Deor.* III. 19.

4 Thucydides,

mutually take part in each other's sacred festivals. Sometimes they opened their temples to each other and made an exchange of religious rites. Rome once stipulated that the city of Lanuvium should henceforth host the Roman who should have the right to invoke him and to enter his temple. Afterwards each of the contracting parties engaged to worship the divinities of the other. Thus the Eleans having concluded a treaty with the Etolians, thenceforth offered an annual sacrifice to the heroes of the allies.

It often happened that an alliance that the divinities of two cities were represented by statues or medals holding near to the hand. Thus it is that the medals which represent the Apollo of Miletus and the Genius of Smyrna, the Pallas of the Sidae and the Artemis of Perga, the Apollo of Hierapolis and the Artemis of Ephesus, all speak of an alliance between the Thracians and the Trojans, represent the Penates of the two nations united and associated.

It is not surprising that the gods of the cities which had these god should figure in battles and treaties. An alliance between two cities was war or peace between two religions.

International law among the ancients was founded upon this principle.

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they were allied forever.

1 Thucydides 23 Plutarch *Theseus* 33.

2 Livy VIII. 14.

3 Pausanias 15.

4 Livy V. 50 Aulus Gellius VI. 13.

5 It does not enter into my plan to speak of the numerous confederations and phictories of ancient Greece and Italy. We will only remember that they were much religious and political associations. There was one of them that had a common worship and sanctuaries. That of the Boeotians worshipped Athena; that of the Achaeans Demeter and Anax; that of the Ionians Asclepius; that of the Dorians Persephone; that of the Pentapolis Apollo; that of the confederates of the Cyclades offered a common sacrifice to the gods of Delos; that of the Argives to Calauris; that of the Amphictyons to Thermopylae; that of the

CHAPTER VI.

THE ROMAN THEATHENIAN.

THIS same religion which had founded society and which had governed it for a long time also gave the human mind its direction and marked its character. Its dogmas and its practices gave to the Greek and the Roman a certain manner of thinking and acting and certain habits of which they

were long time in divesting themselves before they made even a show of always having God against him and of him liberating him from his acts.

We must inquire what place religion occupied in the life of a Roman. His house was for him what temples for us. He found there his worship and his

god. His fires were the deities of his household and his gods were his ancestors and divin beings.

Each one of his daily actions was as it were his whole day belonged to his religion. Morning and evening he invoked his fire, his Penates and his ancestors; he

leaving no door of his house but he drew upon it his fire. Even weak as he was, he was strong in his religion. The taking of the toga, marriage, and the anniversary of all these events are the solemn acts of his worship.

He leaves his house and dares hardly take step without meeting some sacred

object, either a baneful place for men struck by lightning or a tomb; sometimes he must step back and pronounce a prayer; sometimes he must turn his eyes and cover his face to avoid the sight of some ill-boding object.

Every day he sacrifices in his house every month in his curia; every month in his curia with his gens he tribes Above all the gods, he must offer worship to

those of the city. There are in Rome more gods than citizens.

the same nature. All the meetings of the place temples and were principally offerings of sacrifice. Each of the confederates sent citizens to the forum with a sacred torch, and called the torch to take part in the meeting. A victim was slain in honor of the god of the association and the flesh, cooked and put on a table, was shared among the representatives of the cities. The common meal with the songs, prayers, and sacred plays that accompanied them, formed one of the confederations and was a sacred duty for the cities. Latium had the festival in which they shared the flesh of a victim and it was the same with the Etruscan cities. Besides all this emphasis on the political bond was always weak, that the religious. The confederates preserved perfect dependence. They might even make war against each other provided they observed the rules during the festival.

1 St Augustine *City of God* VI. 7. Tertullian *Ad Nat.* II, 15.

He offers sacrifice to thank the gods, he offers them and by far the greater number to appease his wrath. One day he figures in a procession dancing after a certain ancient rhythm to the sound of the sacred flute. Another day he conducts chariots which he statues of the divinities. Another time is a *lectisternia*, tables set in a tree and loaded with provisions upon beds lie statues of the gods and every Roman passes bowing with a crown upon his head and a branch of laurel in his hand.

There is a festival at seed-time, one for the harvest and one for the pruning of the vine. Before corn has reached the ear the Roman has offered more than ten sacrifices and invokes some divinity for the success of his harvest. He has above all a multitude of festivals for the dead because he is afraid of them.

Heneveleaves his own house without looking to see if any bird of bad augury appears. There are words which he dares not pronounce of his life.

He is fearful of the dead and of the living, his wish is upon a table which he places

At every moment he consults the gods and wishes to know their will. He finds all his resolutions in the entrails of victims, in the flight of birds, in the warning of the lightning. The announcement of a shower of blood or of an

only at a banquet, or when he is alone in the solitude of his bed he will be as

He steps into his house always with the right foot first. He has his hair cut only during the full moon. He carries a mule upon his person. He covers the walls of his house with magic inscriptions, again, for he knows of formulas

for every disease, and of herbs for curing, and of charms to protect them.

He does not deliberate at the senate if the victims have not given favorable signs. He leaves the assembly of the people if he hears the cry of a mouse. He renounces the best laid plan if he perceives a bad presage, if an ill-omened

was defeated in his army. He is brave in battle but on condition that the auspices

This Roman whom we represent here is not the man of the people, the feeble-minded man whom misery and ignorance have made superstitious. We are speaking of the patrician, the noble, powerful and rich man. This patrician

and always a private citizen, for he is not a senator, and so he is not where there is tumult of glory and of gold, whatever power he may have, even his

1 Livy XXXIV.55 XI.37.

2 Cato De Re Rust. 160 Varro De Re Rust. l. 2. §. 37 Pliny N. H., VIII. 8 XXVII. 28 XXVII.

12 XXVIII. 2 Juvenal X. 55 Aulus Gellius V. 5.

so the fear of the god still governs every thing. His oracle has written the most striking truth concerning the Romans:—

"Diseminore quod geris imperas."

["You rule because you bear your self with the gods."]

Men have sometimes called this a political religion, but can we suppose that a senator of the hundred and thirty body of the thousand patricians should have agreed unanimously to deceive and mislead the people and the forges, during so many rivalries and struggles, if a person had tried to raise his voice and say, "This is a falsehood of a patrician and betrays the secret of this sect"—addressing himself to the plebeians and imploring their support of the yoke of this religion, he had disembarassed himself from the auspices and priesthoods—this would immediately have obtained so much credit that he might have become the master of the state. Does any one suppose that if the patricians had not believed in the religion which they practiced, such a temptation would not have been strong enough to determine at least one among them to reveal the secret? We greatly deceive ourselves as to the nature of man if we suppose a religion can be established by convention and support by imposture to any one in Livy how many times this religion embarrassed the patricians themselves, how many times it stood in the way of the senate and impeded its action, and how decided if this religion was invented for the convenience of statesmen it was very late—not till the time of the Scipios—they began to believe that religion was useful to the government, but the religion was already dead in their minds.

Let us take a Roman of the first days we will choose one of the greatest commanders, Camillus, who was five times dictator and who was victorious in more than ten battles. To be just we must consider him quite as much a priest as a warrior. He belonged to the Furiæ gens, his surname was *corvulus*, which designated a priest's function. When a child he was required to wear the *prætexta*, which indicated a caste, and the *bullæ*, which kept bad fortune from him. He grew up, taking daily part in the ceremonies of the worship, he passed his youth in studying religious rites. A war broke out and the priest became a soldier, he was seen when wounded in the high in a cavalry com-

bat, he was raised to the rank of consul, he had the right to offer the public sacrifices, to judge and command the army. A day comes when men think of him for the dictatorship. On that day the magistrates go to his office after having watched during clear night, consult the gods, his thought has fixed

upon Camillus, whose name he pronounces in a low voice, and his eyes are

fixed upon the heavens, where he seeks the presages. The gods send only good ones for Camillus agreeable to them, and he is named dictator.

Now as chief of the army he leaves the city not without having consulted the auspices and slain many victims. He has unde his orders many officers and almost many priests. A pontiff augurs, and suspends the sacred chickens, and stands by the sacrifices, and bears the sacred fire. His work is to finish the war again at Veii, which for many years has been besieged without success. It is an Etruscan city—that is to say almost sacred, yet it is against piety not to have courage that the Romans have to contend. If the Romans have been unsuccessful for many years, it is because the Etruscans have a better knowledge of the rites that are agreeable to the gods, and the magic formulas that gain the favour of Rome on her side has opened the Sibylline books, and has sought the will of the gods, and it appears that the festival has been vitiated by some eagle of form and the sacrifice renewed. Still the Etrus-

canes are the superstitious people of the gods. Veii is a city of Etruscans and brought to the senate. To insure the success of Rome, it is said, the level of the Alban Lake must be lower than the king's good earth, that the water does not run into the sea. The Romans obey. They dig many canals and ditches and

the water flows into the sea. The dictator has repaired to the army at Veii. He is sure of success, for all the oracles have been revealed, all the commands of the gods have been fulfilled. Moreover, for leaving Rome, he has promised the protection of festivals and sacrifices in order to insure success.

And so the gods have been propitiated, and the army is now ready to engage, for the attack arrives. Camillus leads his men to take the auspices and sacrifices victims. The pontiff and augurs surround him, clothed in the *paludamentum*, he invokes the gods: 'Under thy conduct, O Apollo, and by thy

will, which have given us long peace, the gods stand beside me. Veii to have gods on his side, the enemy has a powerful divinity that protects him. Camillus invokes his divinity in these words: 'Queen Juno, what present inhabit Veii I pray thee come with us conquerors, follow us into our city;

know we are coming. The gods are on our side, and the prayers are for them, and no god any longer defends the enemy, the assault is made, and the city is taken.

Such was Camillus. A Roman general was a man who understood admirably how to fight, who knew above all how to command, and who

believe firmly in the augurs, who performed religious acts every day and who were convinced that what was of most importance was not courage or even discipline, but the enunciation of certain formulas exactly pronounced according to the rites. These formulas addressed the gods, determined them and constrained them almost always to give him the victory. For such a general the supreme recompense for the senate to permit him to offer the triumph was a sacrifice. He ascended the sacred chariot drawn by four white horses, he wore the sacred robe with which the gods are clothed in festal days, his head crowned by a high and holds a laurel branch in his left hand, his scepter these are exactly the attributes and the costume of Jupiter's statue. With this almost divine majesty he shows himself to the citizens and goes before the senate and the people, the greatest of the Roman gods. He climbs the slope of the Capitol and arrives before the temple of Jupiter and immolates victims.

The faith of the people in the gods of the Romans was not a blind belief, religion and elevated intellect long preserved the marks of their first education. We know the scruples of the Spartans who never commenced an expedition before the full moon, who was continually sacrificing virgins to know whether

the gods had taken pleasure in the sacrifice. The Athenians were no less scrupulous. An Athenian army never set out on a campaign before the seventh day of the month and when a fleet set sail on an expedition, great care was taken to regild the statue of Pallas.

Yet the gods of the Romans were not the gods of the Greeks. The Greeks had a thousand temples, a thousand statues, a thousand sacrifices, a thousand processions. At every moment of the year we see religious feasts and crowned victims. The city of Athens and its territory are covered with temples and

shrines. Some of the temples were so large that the people were permitted to enter as a sacred tomb.

The Athenians who we picture to ourselves as so inconstant and capricious, such a free-thinker, has on the contrary singular respect for ancient tradi-

tion and religion. He is so proud of his ancestors that he believes in the gods of his fathers and fears them. One of his laws obliges him to offer the yearly he-

1 Livy X. 7, XXX. 15 Dionysius II. 8 Appian *Pun. Wars* 59 Juvenal X. 43 Pliny XXXIII. 7.

2 Xenophon *Govt. of the Athenians* II. 2.

3 Aristophanes *Clouds*

first fruits of his harvest, and he forbids him to pronounce a single word that can allow the angels whatever relates to antiquity sacred to the Athenians. He has old collections, in which are records of rites from which he never departs; he introduces the slightest innovation to the worship, he is punished with death. The strange customs are observed to this day. One day in the year the Athenians offer a sacrifice in honour of Ariadne; and because it was said that the beloved of Theseus died in child birth, they are compelled to imitate the cries and movements of a woman in travail. They celebrate the festival of the Oschophoria, which is a sort of pantomime representing the return of Theseus to Attica. They crown the van of a herald because these heralds drowned in the staff. They utter a certain cry, which they suppose the herald uttered, and processions are formed, and each wears the costume that was in fashion. Theseus is seen. On another day the Athenians did not fail to boil vegetables as a pot of a certain kind. This was a rite

significant, which was said to be instituted by Minerva, which no one knew the

The Athenians like the Romans had unlucky days on the days some marriage took place, or enterprizes begun, no assembly was held, and justice was not administered. The eighteenth and nineteenth day of every month

was employed in the sacrifice to the goddess Pythia. On the twentieth day of the Panathenaea, the goddess was carried in grand procession, and all the citizens without distinction of age or rank made up the cortège. The Athenians offered sacrifices to the harvest, for the return of grain, and for

the return of the sick, and offered them to cure sickness, and to drive away

Athenians as its collection of ancient oracles. Rome has her Sibylline books, and supports the Prytaneum, in which the future in her streets is seen every type of soothsayers, priests, and interpreters of dreams.

The Athenians believed in omens, and in the augurs, and in the haruspices. Before marrying, they did not fail to consult the flight of birds. They assembled the people, and as soon as anyone declared that he had seen a bird, the heavens ill-boding sign, a sacrifice was offered, and the announcement

made. And when a man was about to set out, he invoked good fortune, and he put the same word at the head of all his decrees. On the peak-

1 Plutarch *Theseus* 22.23.

2 Plato *Laws* p. 800 Philochorus *Fragmenta* Euripides *Supp.* 80.

3 Aristophanes *Peace* 408-413 Bird 596-715 Schol. *Ad Aves* 2 II Thucyd. 1.18.

er's stand the orator prefers to commend with an invocation to the gods and heroes who inhabit the country. The people heed by oracle the orator to give the advice more force; repeat every moment, The goddess ordains thus."

Nicias belongs to a great and rich family. While still young he conducts the sanctuary of Delos, the orator that is to say, victim and chorus, using the praise of the god during the sacrifice. Returning to Athens, he offers a part of his fortune as a homage to the gods, dedicating statues to Athena and chape to Dionysus. By turns he is *hestiat* and pays the expenses of the sacred repast of his tribe and *choregus* when he supports a chorus for the religious festival. No day passes that he does not offer a sacrifice to some god. He has as oracles attached to his house, where he lives, and whom he consults on public affairs as well as on his own. Having been appointed general, he commands an expedition against the Corinthians while he is returning victorious.

After the capture of the city, he is drawn into the big boat of the public trial, flees, and sends a herald to demand of the Corinthians permission to bury the two bodies. Some time after, the Athenian people are deliberating on the Sicilian expedition. Nicias ascends the speaker's stand and declares that his

direct wish is that he may never witness the same scene repeated. He has contradicted the people and decided to remain, while those who have just arrived from Egypt have consulted the god Ammon, who is beginning to be quite the fashion, and they report this oracle from him. The Athenians will

capture the Syracuse. His wife, the old woman, immediately comes for setting out, he offers a sacrifice according to custom. He takes with him like other generals a troop of diviners, sacrifices, auspices, a herald. The fleet carries its sacred fire every vessel has an emblem representing some god.

But Nicias has little hope. A statue of Pallas Athena and her prodigies upon an altar, and the departure takes place during the unlucky days of the Plynter. Nicias knows only too well that this war will be fatal to him and his country. During the whole course of this campaign, he always appears

and comes before the soldiers to encourage them. But the Athenians have not taken Syracuse, and after cruel losses they are forced to decide upon returning

1 Lycurgus, Aristophanes, *Knigh*, 9039991, 171, 1179.

2 Plutarch, *Nicias*, Thucydides,

home. Nicias prepared his fleet for the return, the seas still free. But an eclipse of the moon happened. He consulted his diviner, the divine answers that the presage was unfavorable, and that they must wait three times in days. Nicias obeyed, passed all this time inactive, offering many sacrifices to appease the wrath of the gods. During this delay the enemy closed upon the port and destroyed his fleet. Nothing left for him but to retreat, and this impossible. Neither he nor any of his soldiers escaped the Syracusans.

What did the Athenians say at the news of this disaster? They knew the person and courage of Nicias, and his admiration of the gods. Did they dream of blaming him for having followed the dictates of religion? They found but one thing to reproach him for, this was for having taken with him an ignorant divine. For this man had been mistaken as to the meaning of the eclipse of the moon, he ought to have known that for an army wishing to retreat, a moon that concealed its light was favourable.

CHAPTER VII.

THE city had been founded upon religion, and constituted a church.

The priests, the gods, the laws, the omnipotence of the gods, the principles of individual liberty, could not exist if the citizen was subordinate to everything, and without any reserve, to the city he belonged, to his body and soul. The religion which had produced the state, and the state which supported the

religion, sustained both, and made them the two powers which associated and the body were equally enslaved.

There was nothing independent in man, his body belonged to the state, and was devoted to its defence. At Rome military service was due to all man

was a citizen, he could not be exempted from it. If he was poor, he was to deliver up his jewels, his creditors to give up their claims, and the owners of olive trees to turn over gratuitously the oil which they had

1 Plutarch *Nicias* § 3.

made.

Private life did not escape the omnipotence of the state. The Athenian law, in the name of religion, forbade a parent to remain single. Sparta punished not only those who remained single, but those who married late. At Athens the state could prescribe a husband's partial enervation, or exercise of tyranny even in the smallest things; at Locri the law forbade a parent to drink pure wine at Rome, Miletus and Marseille were forbidden to women. It was a common thing for the kind of dress to be invariably fixed by each city; the legislation of Sparta regulated the head-dress of women, and that of Athens forbade them to take with them on a journey more than three dresses. At Rhodes and Byzantium the law forbade a parent to shave the beard.

The state was under no obligation to suffice any of its citizens to be deformed; therefore a command of a father to whom a son was born to have him put to death. This law is found in the ancient codes of Sparta and of

Rome. We do not know the precise date of this law, but we know only that Aristotle has in the history of Sparta a trait which Plutarch and Rousseau greatly admire. Sparta had just suffered a defeat at Leuctra, and many of its citizens had perished. On the receipt of this news, the relatives of the dead

had to show some display of grief, and to do so in the same way and place. One who was afflicted and wept, another who knew that she should have gained her son, some appearing joyous and venturing to thank the gods. What, then, was the power of the state that could thus order the reversal of the natu-

ral? The state has no regard for individual interests, a philosopher or the studious man has no right to live apart. He was obliged to vote in the assembly, to be a magistrate, to turn out at a time when disorders were frequent. The Athenian law permitted a parent to remain neutral; he must take

side with one of the parties to a civil war, or to appear in the arena and renounce the punishment of exile with confiscation of property.

Education was far from being free among the Greeks. On the contrary,

1. Aristotle *Econom.*
2. Pollux VIII. 40. Plutarch *Lysand.* 80.

3. Athenæus 33. Elian *H.* II. 37.

4. *Fragm. Hist. Græc.* Didot, II. p. 129. 1. Plutarch *Solo.* 21.

5. Athenæus III. Plutarch *Geomet.* 2. The Romans thought that a marriage, or rearing of children, or of a feast, or drinking out ought to be permitted according to every man's appetite or fancy without being examined or inquired into, Plutarch *Cato the Elder* 23.

there was nothing over which the state had greater control. At Sparta the father could have no thought of doing with the education of his son. The law appears to have been less rigorous at Athens, still the state managed to have education in the hands of masters of its own choosing. Aristophanes in a eloquent passage shows the Athenian children on their way to school in order distributed according to their districts, the march serried in ranks through rain, snow or scorching heat. These children seem already to understand that they are performing a public duty. The state wished to control education, and Plato gives the motive for this: "Parents ought not to be free to send or not to send their children to the masters whom the city has chosen for the children, but to leave them to the parents and to the city."

The state considered the mind and body of every citizen as belonging to it, and wished therefore to fashion this body and mind in a manner that would enable it to draw the greatest advantage from them. Children were taught

that this was their duty, and they were made to understand that they were best taught religious songs and hymns and sacred dances because their knowledge was necessary to the correct performance of the sacrifices and festivals of the city.¹

this was the way in which the state made it impossible for bad instruction of young people without authority from the magistrates, and another which specially bad teaching of philosophy.

A man had no chance to choose his beliefs. He must believe and submit to

the religion of the city, for he had no despised gods of the night, nor Cybele or Juno, he was free to believe or not to believe in them, but it would not do to entertain doubts about Athena or Poseidon or Erechtheus or Cecrops. That would have been grave impiety which would have endangered religion

and the state was permitted to punish which the state could not even regard to the state religion was absolutely known among the ancients. Men had to conform to all the rules of worship, in all the processions, and take part in the sacred past. The Athenian legislation punished all who by a fine which failed

1 Aristophanes *Clouds* 960-965.

2 Plato *Laws* VII.

3 Aristophanes *Clouds* 966-968.

4 Xenophon *Memorabilia* 2. Diogenes Laërtius *Theophrastus* the word *didonai* continued long time but he did not disprove the omnipotence of the state in matters of instruction.

religious celebration festival.

The ancient therefore neither in private life, liberty, education, nor religion, liberty. The human person counted for very little against that holy and almost divine authority which was called out by the state. The state had not only as we have in our modern societies, right to administer justice to the citizen; it could strike when he was not guilty and simply for its own interest. It did assuredly commit crimes and was not even suspected; the city had the right to drive him from its territory for the simple reason that he had acquired by his virtues so much influence and might become a danger if he desired to be. This was called *ostracism*; this institution was not peculiar to Athens; it was found at Argos, at Megara, at Syracuse, and we may believe that it existed in all the Greek cities.

Now *ostracism* was not a chastisement; it was a precaution which the city took against a citizen whom it suspected of having the power to injure at any

time. At a time when the reputation of the state was at stake, it was a guarantee by nothing so soon as the interest of the state was at stake. Rome made a law by which it was permitted to kill any man whom it might have the intention of becoming king. The danger was in the safety of the state; the

supremacy of the law was the only way to keep the state from falling into anarchy.

It is a singular error therefore among all human errors, to believe that in the ancient cities men enjoyed liberty. They had not even the idea of it. They did not believe that there could exist any rights against the city and

its gods. We shall see further on that the government of the state was a palatine power, a little diminished. The government was called by turns monarchy, aristocracy, democracy, but none of these revolutions gave man true liberty, individual liberty. To have political rights, to vote to name magistrates,

had no value in the ancient cities. The only thing that was at stake was the importance of the rights of society. This was largely due doubtless to the sacred and religious character with which society was clothed in the beginning.

1 Pollux VIII. 46. Ulpian *Schol.* Demosthenes *Meidiam*.

2 Aristotle *Pol.* VIII. 2, 5. Schol. Aristotle *Night* 851.

3 Plutarch *Publicol.* 2.

4 Cicero *De Legib.* III. 3.

BOOK FOURTH.

THEREVOLUTIONS.

CHAPTER.

PATRICIANS AND CLIENTS.

CERTAINLY we could imagine nothing more solidly constituted than this family of the ancient ages which contained in itself its gods its worship its priests and its magistrates. There could be nothing stronger than this city which also had in itself its religion its protecting gods and its independent priesthood which governed the soul as well as the body of man and which in finite time more powerful than the state of our day united in itself the double authority that we now share between the state and the church. If any society was ever established and as it was certainly that. Still like every thing human it had its revolution. We cannot state at what period these revolutions commenced. We can understand that in reality this epoch was not the same for the different cities of Greece and Italy. All that is certain is that from the seventh century before our era this social organization was almost everywhere discussed and attacked. From that time it was supported only with difficulty and by a more or less skilful combination of resistance and concessions its struggle thus for several centuries the mists of perpetual contest and finally disappeared.

The cause of its destruction may be reduced to two. One was the change which took place in the course of time in ideas resulting from the natural development of the human mind and which in effacing ancient beliefs the

same cause, the social edifice to crumble which he believed built, and could alone sustain it. He was a class man who found himself placed outside his city organization, and who suffered from it. These men had no interest in destroying it, and made vain pious points continually.

When therefore the belief in which his social *legime* was founded became weakened, and the interest of the majority of men was at war with it, the system fell. No city escaped this law of transformation. Sparta more than Athens, Rome no more than Greece. We have seen that the men of Greece and those of Italy had originally the same belief, and that the same series of institutions was developed on both hands, and we shall see that all these cities passed through similar evolutions.

We must try to understand why and how men became separated from this ancient organization, not to fall but on the contrary to advance towards social organization, large and better. For under these semblances of disorder,

and in the midst of confusion, the changes brought them nearer an object

Thus far we have not spoken of the lower classes, because we have had no occasion to speak of them. For we have been attempting to describe the primitive organization of the city, and the lower classes counted absolutely for

nothing. We have not said anything of the institutions of the slaves, and of the period of the revolutions.

The ancient city like all human societies had ranks, distinctions, and inequalities. We know the distinction originally made at Athens between the

Four orders, the Tetras, the Spartes, the Knights, the Eques, and the history of Rome full of the struggle between the Patricians and Plebeians, struggles we find in all the Sabine, Latin, and Etruscan cities. We can even remark that the highest ascent in the history of Greece and Italy, the more

pronounced the more they broke with the distinction, was seen at the beginning, and that was contemporaneous with the birth of cities.

It is worth while to inquire upon what principle this division of classes rested. We can thus the more easily see by virtue of what ideas or what needs the

struggle between the different classes was kindled, and on what principle

We have seen above that the city grew out of the confederation of families and tribes. Now before the day on which the city was founded, the family already contained within itself this distinction of classes, and indeed the family

was never dismembered, and was indivisible, the primitive religion of the

heart. The oldest son alone succeeded the father took possession of the priesthood, the property, and the authority, and his brother swore to him what they had done to the father. From generation to generation the first-born to first-born there was never but one family chief. He presided at the sacrifice, repeated the prayer, pronounced judgment, and governed him alone originally he longed the title of *pater* for this word which signified a father and not paternity could be applied only to the chief of the family. His sons his brothers his servants called him by this title.

Here then in the inner constitution of the family the first principle of inequality holds: the privileged for the worship, for the succession, and for command. After several centuries there were naturally formed each of the great families young branches, as were, according to religion and by custom inferior to the elde branch and wholly living under its protection, submitted to its authority.

It is finally the *ancillæ* who were the *domestici*, who were subject to the authority of master, magistrates, and priests. They were called *dynames* that varied with the locality the more common name was *Client* and *hetes*.

Here was another inferior class. The client was inferior not only to the su-

premise of the family but to the young *domestici* who were his and in the series of his ancestors was arrived at a *pater*, that is to say a family chief, one of those divine ancestors whom the family invoke in its prayers. As he was descended from a *pater* they called him in Latin *patricius*. The son

of a client had no other title, he was the *plebeus*, as the *patricius* was the *patricius*, hence came from a state of inferiority from which there was no escape.

The distinct difference between these two classes of men was manifest in what

one man might inherit as the property of his family he might inherit as and even with the client. But while the young branch had at least an eventuality to this property in case of the extinction of the elde branch, the client could never become a proprietor of the land that he cultivated. He

had no other title than that of a *domesticus* or *ancilla*. The *patricius* was the *patricius* ["right of application"] the client's one even did not belong to him the patron was the true owner of it, and could take for his own need it was by virtue of this ancient law that the Roman law required the client to endow

the daughter of the patron to pay the patron for the land and furnish his ransom,

or contribute to the expense of his magistracy.

The distinction is still more manifest in religion. The descendant of the patrician alone can perform the ceremonies of the family worship. The client takes a part in it, as a sacrifice offered for him he does not offer it for himself. Between him and the domestic divinity there is always a mediator. He cannot ever replace an absent family. If this family become extinct the client does not continue the worship; he is dispersed, and the religion is not the patrimony; it is not of the blood; it does not come from their own ancestors. It is borrowed religion; they have no other enjoyment of the ownership of it.

Let us keep in mind that according to the ideas of an earlier generation the right to have a god and to pray was hereditary. The sacred tradition writes, the sacraments, the power, the formula which determine the gods to act—all this was transmitted with the blood; it was therefore a very natural attribute of these ancient families, the property of a person who was really

the ancestor of the family, for this the property of the priest and of the altar having religion that belonged to them alone.

Thus even before the fall of the family state there existed a distinction of classes; the old domestic religion had established ranks. Afterwards when the

city was already forming, the chief was recognized as the head of the family, a confederation of tribes, curies and families, and that in this sort of alliance each of the bodies remained what had been before. The chiefs of the little group united with each other, but each remained as in the

solitude of the primitive state. In the primitive family the Roman law of and the right of judging his clients. The distinction of classes in the family was continued therefore in the city.

The city in its first age was no more than an alliance of the heads of families.

There was no separation of functions between the magistrates. This may still be seen in an ancient law of Athens which declared that to be a citizen one must have domesticity. Aristotle remarks that in ancient times, many cities, was the rule that the son was not citizen during the life of his

father, and that the father and the son were no longer considered as the family, nor for still stronger reason the clients. Aristotle also adds that the

1 Harpocration, ἐπεὶ ἔρατο;

2 Aristotle, *Pol.*, VIII, 5, 2-3.

read citizens at that time very few.

The assembly which deliberated the general interests of the city was composed at those ancient times only of heads of families *patres*. We may be allowed to doubt Cicero when he tells us that Romulus called the senators *patres* to mark their paternal affection for the people. The members of the senate naturally bore this title because they were the chiefs of the *gentes*. At the same time that these men united to represent the city each one of them remained absolute master in his *gens*, which was for him a kind of little kingdom. We also see from the commencement of Rome another more numerous assembly that of the curies but it differs very little from that of the *patres*. These formed the principal element of this assembly, every *paterfamilias* appeared there surrounded by his family, his relatives, his slaves, even, formed his cortege and marked his power. Each family had more or less but one vote in the comitia. The chief might indeed consult his relations and

divine in order to form his opinion. But still the vote was not decided in that way, it was through the patrician chiefs. They took part in public worship, they appeared before the tribune, they entered the assembly, but it was the suite of their patrons.

When we look at the ruins of the city of Rome enclosed within the walls in the earliest times the city was hardly the place of habitation, it was the sanctuary where the gods of the community were, it was the fortress which defended the land which their presence sanctified, it was the centre of the

association, the centre of the religious and political life. As the generations yet men continued to live outside the city in isolated families, at a distance from the soil on which the gods of the community were, it was the centre of the domestic sanctuary, and where it formed the authority of its *paterfamilias*.

In this sense the Roman *paterfamilias* was the centre of the community. He was the one who, when he was called to the city and assembled under the king or the magistrate to assist at a sacrifice, it was a question of war, each of these chiefs arrived followed by his family and his servants, *manus*, "his hand," his company. They

were surrounded by their slaves and formed the army of the city under

1 Aulu Gellius, V. 27. We shall see that this institution underwent changes. We speak here only of the first ages of Rome.

CHAPTER I.

THE PLEBEIANS.

WE must now point out another element of the population which was below the clients themselves, and which originally winsensibility, required strength enough to break the ancient social organization. This class, which became more numerous at Rome than in any other city, was here

called the plebs. We must understand the origin and character of this class, and endeavor to ascertain the position which it occupied in the ancient Roman community. The plebeians were not the clients; the historians of antiquity do not confound these two classes in any place says, The plebeians did not wish to take part in the election of the consuls. The consuls were,

therefore, elected by the patricians, not their clients. The same is shown in the Theban account of the vote of their clients. In Dionysius of Halicarnassus we read, The plebeians of Rome and retired to Mons Saceth. The patricians remained in the city with their clients. And farther along, The ple-

beians being dissatisfied, refused to enroll their names. The patricians, with distinct from the clients, formed a part of what was called the Roman people. At least in the first century, as an old prayer which was still repeated at the time of the Punic wars, the gods were asked to be propitious to the people

and the plebs. The plebs were not therefore comprised in the people. Any part of the original people comprised the patricians and the clients; the plebs were excluded.

1 Livy II. 64. II. 56.

2 Dionysius II. 46. VII. 19. X. 27.

3 Livy XXIX. 27. *Ute mihi populi plebiq[ue] Romanæ bene vrrunc[ur]* if that the things may be good fruit to me and to the Roman people and plebs. Cicero *pro Murena* I. *Ute res mihi in agnitione populi plebiq[ue] Romanæ bene atq[ue] felice eveni[ant]* if that this fact may turn out happily and favourably to me for my office and for the Roman people and plebs. Macrobius *Satur.* I. 17. cites an ancient oracle of the prophet Marcius, which had the words *Praetor ius populi plebiq[ue] dabit*, "the praetor shall have supreme judicial authority over the people and plebs." The ancient writers have always paid attention to this essential distinction between the people and the plebs, though not to surprise when we recollect that the distinction no longer existed at the time when he wrote. In Cicero's age the plebs had for several centuries been made part of the *populus*. But the old formula which Livy, Cicero, and Macrobius remain memorial of the time when the two classes were not yet confounded.

What constituted the peculiar character of the plebs was that they were foreign to the religious organization of the city and even to that of the family. By this were recognized the plebeians and distinguished from the clients. The clients shared at least in the worship of their patron and made part of the family and of the gens. The plebeians at first had no worship and knew nothing of the sacred family.

What we have already seen of the social and religious state of ancient times explains how this class took its rise. Religion was not propagated by birth in a family; it remained shut in there each family was forced to create its gods and its worship. But there must have been in those times so distant from us a great number of families which themselves had not the power to create gods or arrange a cult or to institute a worship or even hymns and the rhythm of the prayer. These families naturally found themselves in a state of inferiority compared with those which had a religion,

and could not keep in the society of the others. In the plebeian families which had a religion it might either be by negligence or by forgetting the rites or by one of those crimes which prevented them from approaching the hearth and continuing its worship. It must have happened that clients took account

of this and decided to quit the family and to form a new one. The people formed was reputed as bastard like one who had been born of adultery, and the family religion did not exist for him. All these men excluded from the family and from the worship fell into the class of men without a sacred fire—

that is, the *capite censi*. In all the ancient cities but separated by a line of demarcation. Original Greek city was a double city, the city, properly so called, *polis*, which was built on a hill, by the summit of some hill; it had been built with the religious rites and enclosed in a sanctuary.

The *temenos* was the first form of the city, and the *polis* was the second. The enclosure was the dwelling of the plebeians who could not live in the sacred city.

At Rome the difference between the two classes was striking. The city of the patricians and the *temenos* were the *urbs* and the *plebs* were the *subura*. The species of enclosure situated on the slope of the Capitoline hill, where Romulus admitted people without their homes whom he could not admit into his city. Later when the plebeians came to Rome as they were strangers to the religion of the city they were established on the Aventine—that is to say,

without the pomœrium or religio.

One word characterizes the plebeians — they without heart. They did not possess in the beginning least and domesticated. Their adversaries were always proaching upon them with having no ancestor, which certainly meant that they had no other worship of ancestors, had no family tomb where they could carry the funeral past. They had of father *pater*, that is to say the ascend series of the ascend *ins* in the never arrived at religious family chief. They had no family *gentem*, *habere* if they have *gens* — that is to say they had only the natural family, as to the one which religion formed and constituted. They had no that.

The sacred marriage did not exist for them; they knew not its rites. Having no heart, the union that the heart established was forbidden to them; therefore the patricians who knew no other union than that which united husband and wife in presence of the domesticity, could say in

speaking the principles of the christian religion. The power of the father for them is paternal authority. They had the power over their children which strength gave them but has a sacred authority with which religion clothed the father they had not.

Both the theory of the origin of the tribe from the tribe of the established elements of the domestic worship of the tribe possessed that land and no sacred character was profane and had no boundary. But could the land in the earliest times we know that Rome no one could exercise the

Right of participation in voting and the right to hold office were
 prior to the plebeians, but the plebeians were not counted as first
 among the Quirites. At the foundation of Rome the *ager Romanus* (Roman
 territory) was divided among the tribes, the *curies*, and the *gentes*. Now,

the labor and the possession of the soil, the individual qualification which enabled him to make a portion of the soil his own. We know that the young inhabit the Aventine and build houses here, but it was only after three centuries and many struggles that they finally obtained the ownership

Of this plebeian law, as a law no justice in the law was the decision of religion and the procedure was by fides. The client had the benefit of the Roman franchise through his patron, but for the plebeian this right did not exist. An ancient historian says formally that the sixth king of Rome was

the first to make laws for the plebs, whilst the patricians had had their for

long time. It appears even that the laws were afterwards withdrawn from the plebs, so that no being founded upon religion the patricians refused to pay any attention to them. For we see in the historians that when the tribunes were created a special law was required to protect their lives and liberty, and that this law was voided thus: Let no one undertake to strike or kill a tribune as he would one of the plebs. It seems therefore that any one had a right to strike or to kill a plebeian, or at least that this misdeed was committed against a man who was beyond the pale of the law and was not punished.

The plebeians had no political rights. They were not at first citizens, and no one among them could be a magistrate. For two centuries there was no other assembly at Rome than that of the curies, and the curies did not include the plebeians. The plebs did not even enter into the composition of the army, so long as that was distributed by curies.

But what a manifest separation of the plebs from the patricians! That the

plebs had no share in the religion of the state, that it was impossible for a *varna* to be forbidden him, and that the rites could not be revealed to him. It was in India where the *Sudra* should always be ignorant of the sacred formula. He was a foreigner, and consequently his presence alone defiled the sacrificial

was such a thing, and the division between the patricians and the plebs was as deep as that between the *varnas*. Beyond the pale of religion, law, society, and the family, the patricians could come into existence only with that of the brutes, *more ferarum* in the manner of beasts. The touch of the plebeian was impure.

Thus the *varna* and the *tribus* had been forgotten, and the *interdum* had been entered in the mind of none of them that such a marriage was possible.

Were not many classes in the primitive age of the cities superposed one above another? At the head was the aristocracy of family chiefs, those

who bore the office of *varna* and *tribus*, and the *interdum* had been entered in the mind of none of them that such a marriage was possible. Below were the younger branches of the families; still lower were the clients; and lowest were the plebs.

This distinction of classes came from religion. For at the time when the

existence of the *varna* and *tribus* had been forgotten, and the *interdum* had been entered in the mind of none of them that such a marriage was possible. Below were the younger branches of the families; still lower were the clients; and lowest were the plebs.

1 Dionysius iv. 43.

2 Dionysius vi. 89.

ily had been the sacerdot and dominant branch. Still religion made great account of the young branch, who were species reserved to replace the old branch, some day it should become extinct and so save the worship. It also made some account of the client and even of the slave because they assisted in the religious acts. But the plebeians who had no part in the worship, it reckoned absolutely no account. Their rank had been thus fixed.

But none of the social arrangements which man studies and establishes is unchangeable. It carried in itself the germ of disease and death which was to overcome inequality. Many men had an interest in destroying social organization that had no benefit for them.

CHAPTER II.

FIRST REVOLUTION.

1 Political Authority Taken From the Kings.

WE have said that originally the king was the religious chief of the city, the high priest of the public hearth, and that he had added political authority to the priestly because it appeared natural that the man who represented the religion of the city should at the same time be the president of the assembly, the judge, and the head of the army. By virtue of this principle, it happened that all the powers of the state became united in the hands of the king.

But the heads of families, the patres, and above them the chiefs of the phratries and tribes formed by the side of this king a very powerful aristocracy. The king was not the only king every where waking in his own gens even at Rome it was an ancient custom to call each one of the powerful patrons by the name of "king." At Athens every phratry and every tribe had its chief and by the side of the king of the city there were the kings of the tribes, *πολιτάρχαι*. It was a hierarchy of chiefs, all having no more or less extended domain,

the aristocracy of the family, the aristocracy of the city, and all the clients escaped dissection. Like the feudal king who had as subjects only a few powerful vassals, this king of the ancient city commanded only the chiefs of the tribes and the gentes each one of whom might be individually

powerful, and who united, very much more powerful. We can easily see-

lieve that he had some difficulty in commanding his subjects. Men would have greater respect for him because he was the head of the worship and guardian of the sacred hearth, but they might be very submissive since he had little power. The governors and the governed were not long in perceiving that they were not of the same opinion on the measure of obedience that was due. The king wished to be powerful, and the *patres* preferred that they should be. A struggle then commenced in all the cities between the aristocracy and the kings.

Everywhere the issue of the struggle was the same. Royalty was vanquished. But we must not forget that this primitive royalty was sacred. The king was the man who pronounced the prayers, who offered the sacrifices, and in fine by hereditary right the power to call down upon the city the protection of the gods. Mercur could not think here of doing away with the king, one was necessary to their religion, new was necessary to the safety of the city. So

we see that the king was the head of the religion, and that the king was that in a way his political power. His was only a sort of appendage which the kings had added to their priesthood, and was not like that sacred and inviolable. might be taken from the kings without imperilling religion.

Royalty was the first form of government, and it was not long that absolute power in peace and war but in the course of time some renounced this power voluntarily, from other it was taken by force, and nothing was left to the kings but the care of the sacrifices. Plutarch gives similar account:

“The kings of the day of the gods, and the only heads of religion.” Herodotus speaking of the city of Cyrene says, “They left to Battus, a descendant of the kings, the care of the worship and the possession of the sacred lands, but they took away all the power which his father had enjoyed.”

This form of government, the monarchy, continued in the East, and the commencement of national worship in the time of the Roman empire—that is to say seven or eight centuries after this revolution—there yet at Ephesus at Marseilles, and the *patres* families preserved the title and insignia²

of the kings, so that the king was the head of the religion, and the king was the elective and generally annual.

1 Aristotle *Politics* II.9, 8. Plutarch *Roman Questions* 63.

2 Strabo IV; IX. Diodorus IV.29.

2. History of the Revolution at Sparta.

Sparta was a kingship and still the revolution of which we speak was accomplished here as well as in the other cities.

It appears that the first Doric king reigned absolutely. But in the third generation the struggle commenced between the king and the aristocracy. During two centuries there was a series of struggles which made Sparta one of the most unquiet cities in Greece. We know that one of the kings, the father of Lycurgus, was killed by the blow of a stone in a civil war.

Nothing is more obscure than the history of Lycurgus. It is an ancient biography commended to the words: "We can say nothing of him that is not subject to controversy." It seems certain, at least, that Lycurgus appeared at a time of dissension, a time when the government floundered in the midst of perpetual agitation. What appears most clearly from all the information that has come down to us concerning him is that his reform dealt a royal blow from which it never recovered. Under Charilaus, says Aristotle, the monarchy gave place to an aristocracy. Now this Charilaus was king when Lycurgus made his reform. We know more of him from Plutarch. Lycurgus was intrusted with the duty of making laws only when a civil disturbance arose during which king Charilaus sought safety in a temple. Lycurgus had for a moment the power to suppress royalty; he took good care not to do this, judging that royalty was necessary to the royal family in violation. But he arranged that the kings were henceforth subordinate to the senate, whatever concerned the government, that they were no longer anything more than presidents of the assembly and the executors of its decrees. A century later royalty was still farther weakened; the executive power was taken away, and was intrusted to annual magistrates so-called *ephors*.

It is easy to judge by the duties of the *ephors* what those were that were left to the king. The *ephors* pronounced judgment in civil cases, while the senate tried criminal cases. The *ephors*, with the advice of the senate, declared war or settled the articles of a treaty of peace. In time of war two *ephors* accompanied the king and watched over him; they decided on the plan of the campaign, and superintended the operations. What remained then for the kings?

1 Strab. VIII. 5. Plutarch *Lycurgus*.

2 Aristotle *Politics* VIII. 103 (V. 10). Heracleides Ponticus *Fragmenta* Hist. Graec. coll. Didot, t. II, p. 1. Plutarch *Lycurgus*.

3 Thucydides 5. 53 *Hellenica* 4. 4. Xenophon *Constitution of the Lacedaemonians* 1. 13. Plutarch, *Agessilaus* 1. 17. 328 *Lysander* 23. The king had so little of his own right, the direction of military affairs that a special officer of the senate was necessary to confirm the commands of the king.

the law the foreign relations and military operations were taken from them? They had the priesthood left. Herodotus describes its prerogative as the city offers a sacrifice they have the first place at the sacrifice, past they are served first and have double portion. They are the first also to make libation and the skins of the victims belong to them. Each one receives a victim a month, a victim which he sacrifices to Apollo! "The kings say," Xenophon, "offer the public sacrifice and they have the spare of the victims. If they did not act as judges in the civil or criminal affairs they still had reserved to them the right of deciding all affairs which concerned religion. In case of war one of the kings always proceeded at the head of the troops, offering sacrifices and consulting the presages, the presence of the enemies, the victims and when the signs were favorable he gave the signal for battle. During the combat he was surrounded by diviners who indicated to him the will of the gods and flute-players who sounded the sacred hymns. The Spartans said

that the king was the head and the polemos was the heart of the religion and the army.

We can therefore justly say that the royalty of Sparta was merely an hereditary priesthood. The same revolution which suppressed the political power of

the kings and the priestly power of the Spartans, however, did not suppress all that did not concern religion beyond the phoroi. Herodotus would therefore say that Sparta did not know the monarchic regime and Aristotle that the government of Sparta was an aristocracy.

3. The Same Revolution at Athens.

We have seen above what the primitive population of Attica was. A certain number of families independent and without any bond of union among them occupied the country, each one of them formed a society governed by an hereditary chief. Later the families were united in groups and from the association grew the Athenian city. The great work of completing the unity of Attica attributed to Theseus, but the tradition is old—and we can easily believe—that these us have met with strong resistance in the class

army of Agesilaus, thus united, exceptionally, by function of king and general, Lartach, Agesilaus and so on. It had been the same previously, the case of king Pausanias, Thucydides, 128.

1 Herodotus, 1.5657.

2 Xenophon, *De re Laced.*

3 Herodotus, 1.92 Aristotle, *Politics*, III.10 (V.10).

of men who opposed it were not the clients but the poor who were scattered about in the villages and the *ἐννῆ* [pl. of *γένος*]. These men rejoiced rather, at a change which gave each of them a chief and assured them self-
 fug and protection. The ones who suffered by the change were the chiefs of families and the chiefs of villages and tribes the βασιλεῖς φυλοβασιλεῖς those Eupatrids who by hereditary right held the supreme authority in their *γένος*, or in their tribe. These stoutly defended their independence and when it was lost they lamented its loss.

At any rate they retained all they could of their ancient independence. Each remained the absolute chief of his tribe or of his *γένος*. These would not destroy an authority which religion had established, which rendered it inviolable. Still further, if we examine the traditions which relate to this epoch we shall see that the power of the Eupatrids grew in association with the purpose of forming a city only after stipulating that the government should

be a deliberative and legislative assembly in which all the members of the community should take part. The chief was no longer a monarch, and nothing of importance could be done without the consent of this species of senate.

The traditions in the language of succeeding generations expressed

some of the changes in a popular manner. These changes were not those of Pericles, Demosthenes, or Plutarch. In this somewhat deceptive statement there is a foundation of truth. These words indeed are traditions, says, restore the sovereign authority to the hands of the people. Only the word *people* (*ἴμνος*)

is new. The words *people* and *people's* are old. The traditions themselves are old. In the time of Pericles the people's political body was the *motheia* or aristocracy—that is to say the entire body of the chiefs of the *ἐννῆ*.

These words, establishing an assembly, are not necessarily innovators.

But in spite of this the formation of the new Athenian city, which brought together remained intact in the families, were united in the same city they formed a powerful body which had its rights and might make its claim. The king of the little rock of Cecropia became the king of all Attica, but instead of being,

an hereditary monarch, he was a popular figure, a man who had to be elected by the aristocracy and royalty could not belong to the office. The Eupatrids regretted the real royal power which each one of them had previously exercised in his village. It appeared that these warriors placed religion in the front rank,

and pretended that the authority of the local worship had been diminished.

If it is true as Thucydides says that these attempted destruction of the Prytanea of the village is not surprising, that the religious sentiment was aroused against him, it is impossible to say how many contes he had to sustain how many isings he had to repress by address by force. What is certain is that he was finally vanquished that he was driven from Athens and died in exile.

The Eupatrids had a fulcrum, they did not suppress, but they set up a king of their choice, Menestheus, of his family. These were covered in power and held during three generations. It was then replaced by another family — that of the Melanthids. This whole period must have been very quiet, but no definite account of the civil war has been preserved.

The death of Codrus coincides with the final victory of the Eupatrids. They did not yet suppress, but they did not restore for bad, but they took away its political power. He travelled to Pausanias, who lived on after these events, but who are fully consulted traditions say that royal then

lost the right of a sacred robe to which he had been elected. This signifies. Modern historians of this period of Athenian history that of the archonships and are fail to say that royalty was then abolished. But this is not strictly true. The descendant of Codrus succeeded to the throne, father to

son, and to his son in turn, and that he had the right to say that he had already said that the two titles were exactly synonymous. Athens, therefore, during this long period still had hereditary kings, but had taken away their power, and had left them only the religious function. This is what had been done at

Sparta. At the end of three centuries the Eupatrids found that this religiousalty was still more powerful than they desired and they weakened it still more. They decided that the same man should be clothed with this high sacerdotal dignity for more than ten years. But they continued to believe that the

ancient royal robe was a sacred robe, and that the office of archon was stained with a crime and men thought could no longer fill the priestly office that thenceforth the archon should be chosen outside his family and that this dignity should be accessible to all the Eupatrids. Forty years later in order to

and feel the great altar of the distribution of his robe to the great men.

1 See *Paria Marblen* and Comp Pausanias, 2, VII, 2, 1; Plato *Menexenos* 238; Elian, *V.H.*, V, 13.

2 Pausanias, 3.

3 Heracleides Pontus, 3, Nicholas of Damascus, *Strabo* 51.

was at the same time king but thenceforth the two titles were separated. A magistrate called *narchon* and another magistrate called *king* shared the attributes of the ancient religion. The duty of watching over the perpetuation of families, of authorizing or forbidding adoption, of receiving wills, of deciding questions relating to real property—every thing which religion was interested in—devolved on the *narchon*. The duty of offering the solemn sacrifices and that of judging cases of impiety were reserved to the king. Thus the title of king—sacred title which was necessary to religion—was perpetuated in the city with the sacrifices and the national worship. The king and the *narchon* together with the polemarch and the six thesmothetæ, who had perhaps existed a long time, completed the number of nine annual magistrates. It was the custom to call the *narchon* by the name of the first month.

The revolution that took from royalty its political power was carried

on in the case of Sparta. The king was called *Agon* for he was the father and descendant of *Lemnus*, the name of king without any power still his royalty remained hereditary for ever after. At Cyrene the descendants of Battus first united in their hands the priesthood and the political

power. At Corinth the royalty was a fiction, it was the office of the family of the Bacchids. The effect of the revolution was to end the office annual, but without taking it from this family whose members held it by turns for a century.

4. The Same Revolution at Rome.

At first royalty at Rome what had been in Greece. The king was the high priest of the city; he was at the same time the supreme judge, he also commanded the armed citizen. Next to him were the patres, who formed the senate. There was no king because religion joined unity in the priesthood and unity in the government. But it was understood that an important affair the king must consult the heads of the confederate families. From this time historians mention an assembly of the people. But we must inquire

what he meant by this assembly. The *comitia* was the assembly of the people, always by curies, now the curies were the collection of

1 Pausanias II. 19.

2 Herodotus V. 16 Diodorus VIII.

3 Cicero *De Rep.* II. 8.

The third king certainly united them in his own hands. He held both the priestly office and the command. He was even more warlike than priests. He neglected and wished to diminish the religious element, the strength of the aristocracy. He welcomed a multitude of strangers into Rome in spite of the religious principle which excluded them. He even dared to live in the midst of them on the Cælian hill. We also see him distribute plebeian lands, the revenue of which up to that time had been appropriated to defraying the expenses of the sacrifices. The patricians accused him of having neglected the rites, and what was even worse, of having modified and altered them. And so he died like Romulus, the god of the patricians destroyed him and his sons with a thunderbolt. This event stored the supremacy of the senate, which set up a king of its own choice. Ancus scrupulously served all the religious rites, made wars seldom, and passed his life in the temple. He seated the patricians in his bed.

At the fifth king's funeral, a prodigy was observed, the burial of the king was scrupulous, indeed, he was very incredulous, thin lips, a miracle could convince him of the science of the augurs. He was an enemy of the ancient families, he created patricians and changed the old religious constitution.

The sixth king, a usurper, his passions were insatiable. He thought that the senate never recognized him as a legitimate king. He flattered the lower classes, distributed lands among them without regard to the rights of property, and even conferred political rights upon them. Servius

was a moderate, but strong and able man. He assumed the character of a social struggler. He sided with the people and depended on their support. He enlisted the clients and the plebs to the patrician and so powerfully organized the opposed lower classes, numerous as Rome. The aristocracy

then found itself strong to be a double with more friends than enemies. That it despised the plebs, organizing a law without religion and without a sacredness, it saw itself in danger of being attacked by its clients within the family itself, whose constitution, rights and religion were discussed

in a more intimate way. The king was powerful, for he had the government, the sacred organization of the family and of the city.

The second Tarquin succeeded Servius, he disappointed the hopes of the senators, who had elected him and wished to be masters. *De regibus dominus-*

stitt "from a king emerged a master." He weakened the patricians, the

extent of his power he struck off the highest heads signed without consulting the Fathers and made war and peace without asking the approval of the patricians seemed completely subdued.

Finally on an occasion presented to himself Tarquin was far from Rome his army—that is to say his support—was away. The city was for a time in the hands of the patricians the prefect of the city—that is to say the new who held the civil power during the absence of the king—was patrician Lucretius. The command of the cavalry—that is to say the new whose military authority was next to that of the king—was patrician Junius. These two men prepared the insurrection they had as associates the patrician Valerius and Tarquin's Collatinus. The place of meeting was not at Rome but at the little city of Collatia which was the property of one of the conspirators. There they showed the people the body of a woman they said this woman had taken her own life as a punishment for the crime of a son of the king. The people of

Collatia were so enraged by this story that they sent a mob to the city. At this very moment the legation in Rome belonged to Junius and Lucretius.

The conspirators took good care not to assemble the people but to repair to the senate house. The senate declared Tarquin de throne and royalty abolished.

But the people had the legation in their hands and they were not to be deceived. They agreed with the conspirators they declared for the deposition of Tarquin and the creation of two consuls.

This principle being decided they gave the nomination of the con-

suls to the people. They gave the consulship to the consul in the same manner as the curies. For every Roman assembly presided over by a magistrate who stated the object of the vote and no other question came up for deliberation more than this one. But the president in this period as the

rights are still uncertain he is not the president of the assembly but the one who presented the vote. For in the present as the president appointed by the senate Lucretius of the conspirators stated that the only object of the meeting was the election of two consuls. He presented two

names. These names were Junius and Collatinus. They were ready to be elected. At last the augurs confirmed in the name of the gods.

This revolution did not please everybody. Rome was to be a joined

1 The Junia family was patrician Dionysius IV, 68.

the king and followed his fortune. On the other hand a rich Sabinian patrician, the powerful chief of a numerous gens, the haughty Titus Clausus, found the new government much to his taste that he came to Rome to live.

Still there was political rivalry, but this was suppressed religious rivalry was sacred and must endure therefore he hastened to name king but one who was king only for the sacrifices *resacerdoti* [“king of the sacrifices”]. All imaginable precautions were taken that this king-priest should deviate advantage of the great prestige which his office gave him and seize upon the civibower.

CHAPTERV.

THE same revolution, in deformed slightly varied, took place at Athens, at Sparta at Rome in all the cities in fine whose history is known to

As expressed by the world famous playwright, a period of
 och during period of whose duration was very unequal different the
 the government of the city was in the hands of the aristocracy.

This aristocracy rested at the same time on birth and religion. It had its

Sound religion, the vigorous cultivation of the sacred principle of the law—that is to say, the law of the hereditary descent of the sacred fire, the right of primogeniture, and the right of pronouncing prayer, which was the prerogative of birth—An hereditary religion was the title of this aristocracy.

to honor the religion and to give him the same respect as the
 shipahone was a member of the city who embodied the religious character
 which constituted the citizen, he alone could be a priest, who as a descen-
 dant of a family having worshiped he alone could be a magistrate, had the

right-off-the-rack. As many who had hereditarily noble blood found another man's preferences could demand more of a sacrifice from many generations on, it is not entirely surprising that this inequality was unjust. Noon had thought of establishing a society upon the principles.

At Athens from the death of Codrus to the time of Solon all authority was

in the hands of the Eupatrids. They alone were priests and archons. They alone acted as judges and knew the laws, which were not written and whose sacred formulae were transmitted from father to son.

This family preserved much of the ancient form of the patriarchate. It did not live in the city but continued to live in the various towns of Attica, each with its own surrounding but numerous servants governed by Eupatrids in practicing theireditary worship absolutely dependent during our centuries the Athenian was merely a confederate of the powerful heads of families who assembled certain days for the celebration of the central worship for the pursuit of common interests.

Men have often remarked much history regarding this long period in the life of Athens and generally in the life of Greece. They are surprised that when it has preserved the memory of so many events from the times of

them. The things that are before the eyes of the world are of no general interest to the people. The return of the patriarchs to the land almost suspended the national life. Men lived apart and had few common interests. The horizon of each one was the small group and the small hamlet where he lived as

Evangelina's aristocratic family lived on estates surrounded by clients. Men came to the city to celebrate festivals, the public worship, and for the public assembly. During the years that followed the expulsion of the king, the power of the aristocracy was absolute. None but a patrician

flamethrower and the officer who shot him was with them. If these men
 cians alone could be consulted, they alone composed the senate. Though
 they did not suppress the assembly by centuries, to which the plebeians had access,
 they at any rate regarded the assembly as the only one that was legiti-

but, and as that they would appear in the list of persons presented, besides their decisions, were submitted the triple ratification of these senate curies and the augur Patrician alone administered justice and knew the forms of the law.

Thir political system lasted. Remnants of few were in Greece on the contrary, the change occurring from patriarchy to democracy. The *Odyssey* presents with a faithful picture of this social state in the western portion of Greece. We see the patriarchal regime strongly resembling at

1 Thucydides 1.51.6.

we have remarked. A few great rich families with the whole country. Numerous slaves cultivated the soil, tended the flocks, the manner of living is simple—single table sufficient for the chief and his servants. These chiefs are called by a name which becomes due to the circumstances, a pompous title—ἀνακτες βασιλεις. Thus it happened that the Athenians of primitive times gave the chief of the *ἐνός* the title of βασιλεύς, and that at Rome the clients preserved the custom of calling the chief of the gens *x*. These heads of families have a sacred character, the poet calls them *divine kings*, it has very small yet it contains great umbra of the kings. Among them there is indeed a supreme king but he is of little importance and appears to have no other prerogative than that of presiding at the council, if the chief appears even from certain indications that his office is elective and it is clear that Telemachus is not the supreme chief of this land, lest the other chiefs, his equals, wish to elect him. Ulysses, returning to his country, appears to have

had the same object in his eyes, to show that he is not so all that he is, which the poet does not think blame-worthy. Among the Phæacians Alcinoüs has a supreme authority, but we see him repair to an assembly of the chiefs, and we may remark that he does not convok the council, but that the council

summons him. This is probably the case in the *Odyssey* and it is fully convoked by a herald at Rome for the *comitia lata* assembly, they occupy seats, the king makes an address, and calls his auditors sceptre-bearing kings.

It is not only the *Odyssey* which shows a class of aristocracy, the poet calls them *divine kings*. Pindar also shows a class of chiefs among the Cadmæans. Thebes extols the sacred race of the Spartans from which a later date Epaminondas derives his descent. We can hardly read Pindar without being struck with the

aristocracy which he still regards as Greek, or rather that is to say, the Perseus of two earlier times, for what the poet boasts of the most in his heroes is their family and we must suppose that this sort of praise was at that time highly valued, and that birth still seemed the supreme good. Pindar shows the

aristocracy in the *Chariadæ*, the *Balychida*, the *Syracuse* extols a priestly family of the *Iamida* at Agrigentum, that of the *Emmenida* and soon for all the cities of which he has occasion to speak.

At Epidaurum, the entire body of the citizens—this is to say of those who

had political rights—was a long time composed of more than one hundred and eighty members. All the rest were outside the city. There the citizens were still fewer. At Heraclea, where the young members of the great families had political rights. There as well as long time the same at Cnidus, Istros, and at Marseille. There all the power was in the hands of a few families which were reputed to be the same at Apollonia.

At Erythra there was an aristocratic class called the Basilidae. The cities of Euboea, the ruling class were called the knights. We may remark here that among the ancients as in the middle ages it was a privilege of fight on horse-back.

The monarchy had already ceased to exist at Corinth when a colony set out from there to found Syracuse. The new city there found nothing of royalty and was ruled from the first by an aristocracy. This class was called Geomorphists to say proprietors was composed of families which on

the day of the sack of the city but they had no right to vote in the assembly. For several generations the aristocracy of the government and it preserved its title of proprietors which seems to indicate that the lower class had no the right of property in the soil. An aristocracy of the same kind ruled for a long

time at Miletus and at Samos.

CHAPTER.

SECOND REVOLUTION CHANGES THE CONSTITUTION OF
THE FAMILY. THE RIGHT OF PRIMOGENITURE DISAPPEARS.
THE GENS IS DISMEMBERED.

THE revolution which had overturned royalty had modified the exterior form of the government but it had changed the constitution of society. It had not been the work of the lower classes who had interest in destroying the old institutions but of the aristocracy who wished to maintain them.

It had not been undertaken in order to overturn the ancient constitution of the

1 Plutarch *Græciæ* I. 52.

2 Aristotle *Politics* III. 5, 2.

3 Aristotle *Politics* II. 9, 8; VI. 3, 8.

4 Aristotle *Politics* III. 5, 10.

5 Diodorus VIII. 5. Thucydides III. 21. Herodotus II. 155.

family, rather than preserve the kingdom as before, he emptied the throne of his inheritance, and, as he was a weak and feeble person, he thought the kingdom itself had been dethroned. The aristocracy brought about a political revolution only to preserve society. He had taken the power in his hands, from the pleasure of ruling, that protected the old institutions, the ancient principles, the old modes of worship, the paternal authority, the régime of the gens—in fine, the private law, which the primitive religion had established.

This great and generous effort of the aristocracy seems a danger now, it appears to him, of these efforts and the victory itself the danger continued in the institution of the gentry, and the danger was about to be introduced into the new constitution of the family. He held up the gens founded by the domestic religion had not been destroyed at the time when perished the government of the city. They had not wished—they had not been able—immediately to enslave the chiefs, and to their

The old saying was that the best form of government was the best of all possible governments. In reality, two antagonistic forms of government which men could not hope to forego, and which must sooner or later beat war with each other. The family, indivisible and numerous, was too strong and too independent for

the Echinophylla group of the last mentioned suborder and five new species.

The ancient city, with its single heart, its sovereignty and its indivisible domain was a convenient arrangement for the state of isolation

non-extended to the poor nor to the sick and the lame. But essentially
 ministered to the sovereign, his own gens, he was a member of a
 community such the general interest obliged him to make sacrifices and
 general law commanded obedience to his eyes and above all in the eyes

of this inferior position was apparent. The number of members of the family on account of their number. The family which comprised several branches, and which attended all comitis surrounded by a multitude of clients naturally had greater authority in the general deliberation than a small family that

ount off his hands and feet sold to the North's inferior magistrates for
 men in poor hands and strength, certain men in poor hands and desire
 for a better fate grew upon them. Added to this was the rivalry of the
 head of families striving for influence and seeking mutually weaker
 other. Then too the were ambitious of the magistrates of the city. To obtain

these sought popularity and to hold them, they neglected for their

little sovereignty. These causes produced degrees of relaxation in the constitution of the gens, so for whose interest it was to maintain this constitution, and to it less while those who had an interest in modifying it became more numerous.

The force of individuality first strong in the family, sensibly became weaker. The right of primogeniture, which was the condition of its unity, disappeared. We ought not to expect that any writer of antiquity should furnish us the exact date of this great change; it is probable that there was a date, because the change did not take place may be it was effected in degrees—at first in one family, then in another, and little by little, until it happened to speak without any one perceiving it.

We can easily perceive that men did not pass at once from the indivisibility of the patrimony to the equal division among the brothers. There was apparently a transition period between these two conditions of property.

As far as the right of primogeniture was concerned, the law did not give it to the patrimony, if the father died to give some portion of it to his younger sons, then after having acquired it, the oldest should have at least a double portion permitted, and the apportionment to be equal and finished by recom-

ment with every generation. On these points a single fact is certain—that the right of primogeniture existed in an ancient epoch, and that afterwards it disappeared.

This change was not accomplished at the same time, nor in the same man-

ner. In all the Old Laws, as in legislation in the middle ages, the law as legislation still shows some preference for the oldest. At Sparta the right of primogeniture continued until the triumph of democracy. There were cities where it disappeared only after an insurrection. At Heraclea and Sidus, for

example, the gens were not broken up until the time of the tyrants. In cities that had not before counted more than a hundred men enjoying political rights, could count five or six hundred. All the members of aristocratic families were citizens, and magistrates, and the senate were open to them.

During the period of the tyrants, the aristocracy was suppressed, and the aristocracy all that lay in their power, thus suppressed and disorganized the gens. At the beginning of the republic, each hundred or two hundred men

1 Aristotle *Politics*, VIII 5, 2, ed. B. Saint-Hilaire.

these senators believed that they came from the plebs, but it is not possible that the hard rule of the patricians could have commenced with a concession of this nature. These new senators must have been taken from patrician families; they had no other samitlast the old members of the senate, the latter were called *patres*; the chief families, however, were called *conscripti* (Mörsen). Does not this difference of name make it probable that the hundred new senators, however not family chiefs, belonged to young branches of patrician gentes? We may suppose that this class of the young branches, being numerous and energetic, lent its support to the enterprise of Brutus and the others, only on the condition of receiving civil and political rights. These branches thus acquired through the deed which the patres did for them, what the *amelas* won by their arms at Heraclea and Marseille.

The right of primogeniture thus disappeared everywhere — an important revolution which began to transform society in Italy, as it did in Greece — γένος

for the old patrician families, but for the new patrician families, and its independence. *Singulae families* (Mörsen) began to be individual men, began to have individual families. The jurisconsults in the Latin language used expressions which appeared to date from this epoch: *familiam*

duci (to lead) and *colonia* (to lead a colony). The old patrician families, they said, *duci colonia* to people "to transplant," "to lead a colony" of one who quitted the metropolis and went to found a colony. The brother who thus separated from the old brother had henceforth his own sacred

dominion. The chief of the old patrician families, however, preserved everything or a ham sort of religious authority over the different families that had left. Its worship had the supremacy over theirs. They were not allowed to forget that they had sprung from this gens; they continued to

be the same gens. For the gens was the same as the gens, and to have a religious chief and to be a gens was the same as to be a gens. The privilege of the priesthood, which long remained hereditary. With this exception, they were independent.

This dismemberment of the gens led to important consequences.

1 He contradicts himself when he says *primoribus iniquis* ("from the first knights"), he says: Now the *primores* of the equestrian order — that is to say the knights of the first six centuries — were the *primores* of the equestrian order. See below, *list of the equestrian order*, v. 1, ch. 2.

2 Festus, *Conscripti*. Plutarch, *Rom. Quest.* 58. For several centuries the *patres* were distinguished from the *conscripti*.

the priestly family which had formed a group so firmly united, so strongly constituted, so powerful, as to be forever weakened. This revolution paved the way for other changes, and rendered them easier.

CHAPTER VI.

THE CLIENT BECOME FREE.

1. What Clientship Was At First, and How It Was Transformed.

HERE is another revolution the date of which we cannot indicate, but which certainly modified the constitution of the family and of society itself. The ancient family comprised the authority of a single chief, two classes unequal in rank on the one side, and the younger—the *liberti*, as they were called—on the other. The servants, *clientes*, inferior by birth, but connected with the chief by their participation in the domestic worship. We have just seen one of these classes emerge from its inferior condition; the second also aspired to an equality, and to become free. It succeeded in the course of time; clientship became modified, and finally disappeared.

This was an immense change, which the ancient writers have given us no account of. In the same way, in the middle ages, the chroniclers do not tell us how the rural population was transformed, by degrees. There has been in the existence of human societies great turns of revolution, no trace of which has been handed down to us in any documents. Writers have not noticed them, because they were accomplished so slowly, in an insensible manner, without any apparent struggle, or profound silent revolution, which moves the foundations of human society without anything appearing on the surface, and which remained concealed from the generation that took part in them. History can seize them only a long time after they have taken place, when in comparing two epochs in the life of a people, it sees differences between them which show that a great revolution has been accomplished.

Formerly the *liberti* were born with a great and complete clientship; that is, their patron who defended his *cliens* before the courts, who sustained him with his money if he was poor, and who provided for the education of his children. What could be more touching than to see his *cliens* sustain the

patron when he had fallen into debt, paying his debts, giving him a dowry, pro-

cur his ransom. But there was not so much sentiment among the ancients. Disinterested affection and devotion were never institutions. We must have another idea of client and patron.

What we know with the greatest certainty concerning the client is that he could not leave his patron and his soil, and that he was bound from father to son to the same family. If we knew only this it would be sufficient to convince us that his condition could not be very desirable. Let us add that the client was not a proprietor of the soil, and belonged to the patron who as chief of a domestic worship and also as a member of a city was the only one qualified to be a proprietor of the client's cultivated soil. It was in the name and for the profit of the master. He was not even the owner of personal property, his money of his *peculium*, his private property. As a proof of this the patron could take from him all the things to pay his own debts or his ransom. Thus nothing belonged to the client. True, the patron owed

him and he could take from him all the things he had made for the patron. belonged to him, and whose will he was in all things subjected. During his whole life he was a client, and his sons after him were clients.

There is some analogy between the client of ancient times and the serf of

the middle ages. For in his position the client was bound to his patron, and his duty was exercised at the same time over the soil and over man. For the client this principle was the domestic religion to which he was bound, and the authority of the patron who was his superior. Otherwise the subordination of the client

to his patron was the same as the bond of the man to the lord. He was bound to the lord like the serf, and he remained subject to a master from father to son. A passage in Livy leads us to suppose that he was forbidden to marry outside the gens, as the serf was forbidden to marry outside the village.

Just as the patron could not possess anything without the permission of his lord, and the money which he possessed the lord could take in the case of the serf. If the client died all that he had been in possession of returned a right to the patron, just as the succession of the serf belonged to the lord.

The patron was his lord, and he was under his sacred and divine authority, the same in material and moral which held both body and soul. His religion, it is true, imposed duties upon the patron, but they were duties of which he alone was the judge, and for which there was no sanction.

The client saw nothing that protected him, he was not of himself a citizen, if

invoked to quithis family was to place himself outside all social organization and allow it to lose his god and to renounce the right of prayer.

But when the city had been founded the clients of the different families could see each other, could confer together, could make an interchange of their desires and griefs, could sympathize, could obtain glimpses of a better fate. Then their view began to extend beyond the limits of the family. They saw that beyond their circle there existed a society, laws, altars, temples, and gods. To quithis family was no longer therefore for them a evil without a remedy. The temptation became every day stronger, and clientship seemed to them a burden every day heavier, and they ceased to believe that the master's authority was legitimate and sacred. These sprang in the hearts of these men a new desire, to be free. True, we do not find in the history of any city mentioned a definite general insurrection on this class if there were armed struggles, they were shut up and concealed within the circle of each

family. Even the honor of a rebellion, the prestige of the hero, the glory of a deed in each household and dramatic series of events which it is impossible today to retrace. All that we can say is that the efforts of the lower classes were not without result. An invincible necessity impelled the master to do a little to

relieve his clients, with this motive, to put them with a bad conscience against the master. But this happened after a while, and the master, who no longer believed in the justice of his authority, defended his bad conscience by renouncing it. Besides, his inferior class was usefully cultivating the earth, it accumulated

wealth, and the master, who was not a miser, considered this as the strength of his interest, limited with humanity to recommend concessions.

It appears certain that the condition of clients improved, and first they lived in the master's house, cultivating the common domain together.

Later, as property and a social order began to take form, the clients were no longer in the master's house, but in the field, as no other place they belonged to. Still he cultivated for a long succession of years, and he loved it. There grew up between him and his master a bond which the religion of property had created between him and his

master, and which was called the client's bond, the difference was that

later, as new progress was no longer worked out by the master, but for himself, on condition of an annuity, which at first was perhaps variable, but which afterwards became fixed, he had the benefit of the harvest. He thus

found some recompense for his labor, and his life was at the same time fre-

lation for they retained an unfavorable collection of it. The people thought themselves happy that the preceding period appeared to have been sort of golden age. They regretted the kings and began to imagine that under the monarch they had been happy and free that they had then enjoyed equality, and that was only since the fall of the kings that the equality had suffered and commenced this was such an illusion as men often entertain. Popular tradition placed the commencement of the inequality at the time when the people began to find odious this slavery, this sort of slavery, which was sold as the constitution of the family, dated from the time when the first felt its weight and understood its injustice. Every certain however that was not the seventeenth century that the Eupatrist established the law of clientship. They did no more than to preserve them in this alone was their injustice. They maintain this law beyond the time when men accepted them without complaint. They maintain it again since it will fit the people.

It appears that even under the rule of this aristocracy the condition of the lower class was improved for certainly that time obtained possession of lots of land on the single condition of paying rent which was fixed at one

sixth, they belong to the same nation, they are of the same race, they are of the same language and labor for their own profit.

But such is human nature that these men, as their condition improved, felt more keenly the inequality that remained. Not to be a citizen and to have

hope to be capable of withstanding the conditions both born and bred;
affected in much more. What rendered their conditions supportable,
us, all lacked stability though they were really in possession of the soil,
no formal assurance, neither this possession nor the independence that

flowed from it. Weseia Plutarilla, the former prostitute, denies this claim, permitting herself to vent the annual debt was not paid for any other cause than her relapse into a sort of slavery.

Grave questions were agitated in Attica, therefore, during series four or five generations. It was hardly possible that men of the lower class could

remain in this unstable and anomalous position towards his kin and sensible progress and conduct. Hence no other thing was to be done for him, but losing this position they must elapse in the bond of a more useful friendship, or completely by a still farther progress they must rise to other rank of landed proprietors and freemen.

We can imagine the efforts on the part of the laborer, the farmer, the

and all the resistance on the part of the proprietors of the former patrit was not a civil war. The Athenian annals have not preserved the record of a single combat was a domestic quarrel in each hamlet, each house from father to son.

The struggle appeared to have had various fortunes according to the nature of the soil in different portions of Attica. In the plain where the Eupatrids had their principal domain and where they were always present in authority over the little group of servants who were always at their side they remained most intact. The *Pediæis*—men of the plain—therefore generally followed themselves faithfully to the old régime. But the *Diacrii*—those who cultivated the sides of the mountain with severe toil—being far from the masters more habituated to an independent life more hardy and more courageous, as it were, in their hearts, violent at first for the Eupatrids and firm resolved to be free. These especially were the men whose indignation rose about the field the

farmers and the mountaineers of the *Diakrii* had been slaves. But the soil tempted them less they had these before them and commerce and trade had become rich and with riches they were nearly free. They therefore did not share the ardent desire of the *Diacrii* and did not feel any

vigilance on the part of the Eupatrids. They had no power and thus no objection to their rights.

Solon satisfied these wishes so far as was possible. There is a part of the work of this legislator which the ancients have very imperfectly explained

used to be the principal basis of the constitution. But before the passage of the soil and might be reduced to persons of servitude. After him this class was no longer found and the right of property was accessible to all. There was no longer any slavery for the Athenians. The families of the lower classes were

for a long time from the south of the Eupatrids. Here was a great

According to Plutarch's account, it is true, Solon did not more than to soften the rigor of the law of debt by abolishing the right of the creditor to enslave the debtor. But we should dare fully examine what writes Solon long after this

period of the law. It is true that the law of debt was not so strict as it had been. It was so great a circulation of money that there were many borrowers and lenders. We are not to judge of those times by the period that followed. There was that

1 Solon Ed. Bach pp. 104-105.

time very little commerce, and so few exchanges were known and credits must have been very rare. On whose security could a man borrow who owned nothing? Men are not much accustomed in any society to lend to the poor. The assertion made is true on the faith of the translator of Plutarch rather than on Plutarch himself, that the borrower mortgaged his land, but supposing his land was his property, he could not have mortgaged it, for mortgages were not then known and were contrary to the nature of proprietary right. In those debts of which Plutarch speaks, he must mean the debts of the former clients, the debt of the annuity which they were to pay to their former masters; and the slavery to which they fell if they failed to pay, the former clientship to which they were again reduced.

Perhaps Solon suppressed or more probably reduced the amount of it, so that the payment became easy. He added the provision that in future the failure to pay should not reduce the debtor to servitude.

He did not, as he found in the former law, make the promise of the sacred and inviolable bounds of the former patro still stood. For the enfranchisement of the soil and of the cultivator was necessary, that these bounds should disappear. Solon abolished them. We find the evidence of this

in the famous account of Solon in which he is said to have "ploughed the furrow of the black earth, yoked his oxen, and marked in many places on up the earth, which was now slave and now free. In doing this Solon had accomplished considerable revolution. He had put aside the ancient religion

of the earth, which had been one of the mainstays of the former law, and given to the soil the authority of the Eupatrids, the authority of the soil, his authority remained, and he could say his verse: "Those who in this and suffered due servitude, and trembled before a master, have made free. It

is not probable that he had from his enemies, at the contemporary of Solon, but that liberty would not be believed that their forefathers had been slaves, explain this word, if it merely marked an abolition of debts. But there is an energy in it which reveals a great revolution, but us there

has been a step, a step which will be a great step, of Solon's

1 Aristotle *Gov of Ath*, *Fragm* coll Didott, II, p. 107.

3. Transformation of Clientship in Rome.

This war between clients and patrons filled a long period of Rome's history. Livy indeed says nothing fit, because he is not accustomed to observe the changes in institutions besides the annals of the pontiffs and similar documents from which the ancient historians whom Livy consulted had drawn could have contained accounts of these domestic struggles.

One thing at least is certain: there were clients in the very beginning of Rome. There has ever come down to us very precise evidence of the dependence in which the patrons held them. If, several centuries afterwards, we look for these clients, we no longer find them. The name still exists, but not clientship. For there is nothing more distinct from the clients of the primitive period than the plebeians. Cicero of course, who called them *seu* clients of some rich man in order to have the right to the *portus ad oleum*, "little basket".

There were those whom one nearly resembles the ancient clients: these were the freedmen. No more did one free from servitude once become a free man and citizen at the end of the republic than in the first ages of Rome. He remained subject to a master. Formerly they called him a client; now they call him a freedman. The name only is changed. As to the master, his name does not ever change. Formerly they called him a patron, and they still call him by the same name. The freedman, like the client of earlier days, remains attached to the family, he takes its name, like the ancient client. He depends on the patron, he owes him not only gratitude, but a veritable service, whose measure the master himself fixes. The patron has the right to judge the freedman; he had to judge the client; he can remit or slaver for the crime of ingratitude. The freedman, therefore, calls the ancient client. Between them there is but one difference: clientship formerly passed from father to son; now the condition of freedman passes at the second, or at farthest in the third generation. Clientship then has not disappeared, still it is less a man than a moment where servitude gives him up; only it is no longer hereditary. This alone is a considerable change, but we are unable to state where it took place.

We can easily discover the successive improvements that were made in the condition of the clients, and by what degrees they arrived at the right to hold

1 The freedman became a client. The identity of these two terms is marked in a passage of Dionysius, IV, 23.

2 *Digest* XXV, tit. 2, § 1, tit. 16 § 19 Valerius Maximus, I, 4. Suetonius *Claudius* 25 Dion Cassius. The legislation was the same at Athens, see *Demosthenes* and *Hyperides*. Harpocration, *v. Anoxotacion*, *Demosthenes Aristogiton*, *Suidas*, *Avayκαλον*.

property. At first the chief of the gens assigned him a lot of land to cultivate; he soon became the temporary possessor of this lot, on condition that he contributed all the expenses of his farm to the master. The severe condition of the old law which obliged him to pay his patron's ransom in the dowry of his daughter, or his *seignior's* ¹ *leat*, proved that when this law was written he was already the temporary possessor of the soil. The client made a farther step of progress, he obtained the right of transmitting his death-his lot to his son in default of a son, and returned it to the patron. But now came a new progress: the client who deviously obtained the right of making a will. Here custom hesitated and varied; sometimes the patron took half the property, sometimes the will of the testator was fully respected, and as his will is never invalid. Thus the client can no longer call himself proprietor, has at least a extended enjoyment of property as possible.

True, this was not complete enfranchisement, but no documentables

for the period. It is a question whether the client was a citizen or not. It is probable that from the first years of the republic the clients were citizens. There is a strong probability that they were already citizens at the time of King Servius; perhaps they even voted in the *comitia curiata*, the curiate assembly, for the

fourth time. The client was a subject to the patron, but the patron had no further interest to give his clients political rights without consenting that a count should give them civil rights.

It does not appear that the revolution which freed the clients at Rome was

accomplished in a single day. At first it was a very slow process. The power of the clientship was relaxed a little by little, and the client was removed sensibly from the patron.

King Servius introduced a great reform to the advantage of the clients, he

changed the organization of the gens. Before his reign the gens was divided, the gens was the head of his clients.

Servius divided the army into centuries, each had his rank according to his wealth. By this arrangement the client no longer marched by the side of

his patron, but he was recognized as a chief in battle, and he became

This change produced a revolution in the constitution of the *comitia*. Formerly

1 Festus, *Patres*

2 *Institutio* Justinian, III. 7.

only as client. Free at an early period, and enriched by what means we know not, they were first raised to plebeian dignities, and date to those of the city. For several centuries the Claudii are seen to have forgotten their rights over them. One day, however, in Cicero's time it recalled them to mind very unexpectedly. A freedman, a client of the Marcelli, died leaving property which according to law would devolve to the patron. The patrician Claudii claimed that the Marcelli being clients could do themselves as velint, and that their freedman and his property should belong to the chief of the patrician gens, who alone was capable of exercising the rights of a patron. This suit very much astonished the public, and embarrassed the lawyer Cicero himself, though the question very obscure. But it would do have been of four centuries earlier, and the Claudii would have gained their cause. But in Cicero's time the law upon which they founded their claim was so old that they had been forgotten, and the court easily decided the case in favor of the Marcelli.

The ancient clientship no longer existed.

CHAPTER II.

THIRD REVOLUTION—THE PLEBS ENTER THE CITY.

1 General History of This Revolution.

THE changes which in the course of time had taken place in the constitution of the family brought with them the constitution of the city. The old aristocracy and sacred family became weakened, the right of primogeniture having disappeared, and family lost its unity and vigor. The client, having been for the most part freed, lost the greater part of his subjects.

The people of the lower order were no longer distributed among the gentes but lived apart and formed body by themselves. Thus the city assumed quite another aspect. Instead of being as at an early date a fully united assemblage of many little states, where the families' union was formed, and

between them the great differences of strength and other conditions of the society placed before it was no longer as in a preceding period an obscure struggle, each family there was powerful in each city. One of these

1 Cicero *De Oratore* §39.

classes wish to maintain the religious constitution of the city and to continue the government and the priesthood in the hands of the sacred families. The other wish to break down the barriers placed beyond the pale of the law of religion and of politics.

In the beginning of the struggle the advantage was with the aristocracy of birth. It had not, indeed, its former subjects and its material strength had disappeared, but there remained its religious prestige, its regular organization, its habit of command, its traditions, and its hereditary piety. It never doubted the justice of its cause and believed that in defending itself it was defending religion. The people on the other hand had nothing but numbers on their side. They were held back by habit of respect which they could not easily free themselves from. Too, they had no leaders and every principle of organization was wanting. There were in the beginning multitudes without any bond of union, rather than a vigorous and well-constituted body of men.

It is the better right of the aristocracy to be the principle of social authority that was not derived from worship, which is easily understood that the plebs, who had been excluded from all the rites of religion, could not at first form a regular society and that much time was required for them to discover

the laws of their society and to evolve a regular government for their society than by meeting with monarchy.

In the cities where the population had been already consolidated in the time of the ancients, kings sustained them with all its strength and encour-

aged them. From the people of Rome, Lucius Junius Brutus, the son of Tarquin, is said to have taken his love, Servius, and regretted that Tarquin was so great. When the king had been everywhere thrown and the aristocracy became supreme, the people did not content themselves with regrettable

monarchy, they respected the aristocracy, and from the aristocracy they called the king, because his title implied the idea of religion and functions and could only be borne by the sacred families, they called the tyrants.

Whatever might have been the origin of this word, it certainly was

used as a new word, the aristocracy being the old word, and the tyrants. It designated in fact something quite new among men—an authority that

1 The name of "king" was sometimes given to the popular chief when they were descended from religious families. Herodotus, 2.92.

was not derived from the worship power that religion had not established. The appearance of this word in the Greek language as a principle which the creed ~~imposed~~ ^{imposed} ~~was~~ ^{was} ~~known~~ ^{known} ~~to~~ ^{to} ~~the~~ ^{the} ~~idea~~ ^{idea} ~~of~~ ^{of} ~~an~~ ^{an} ~~man~~ ^{man} ~~up~~ ^{up} ~~to~~ ^{to} ~~that~~ ^{that} ~~time~~ ^{time} ~~there~~ ^{there} ~~had~~ ^{had} ~~been~~ ^{been} ~~no~~ ^{no} ~~other~~ ^{other} ~~chief~~ ^{chief} ~~of~~ ^{of} ~~the~~ ^{the} ~~state~~ ^{state} ~~than~~ ^{than} ~~those~~ ^{those} ~~who~~ ^{who} ~~had~~ ^{had} ~~been~~ ^{been} ~~chief~~ ^{chief} ~~of~~ ^{of} ~~the~~ ^{the} ~~religion~~ ^{religion} ~~had~~ ^{had} ~~been~~ ^{been} ~~only~~ ^{only} ~~the~~ ^{the} ~~governor~~ ^{governor} ~~of~~ ^{of} ~~the~~ ^{the} ~~city~~ ^{city} ~~who~~ ^{who} ~~offered~~ ^{offered} ~~the~~ ^{the} ~~sacrifices~~ ^{sacrifices ~~and~~ ^{and} ~~invoked~~ ^{invoked} ~~the~~ ^{the} ~~god~~ ^{god} ~~son~~ ^{son} ~~of~~ ^{of} ~~the~~ ^{the} ~~gods~~ ^{gods} ~~of~~ ^{of} ~~the~~ ^{the} ~~city~~ ^{city} ~~and~~ ^{and} ~~only~~ ^{only} ~~the~~ ^{the} ~~religious~~ ^{religious} ~~law~~ ^{law} ~~and~~ ^{and} ~~made~~ ^{made} ~~a~~ ^a ~~oath~~ ^{oath} ~~of~~ ^{of} ~~sub~~ ^{sub} ~~mission~~ ^{mission} ~~to~~ ^{to} ~~the~~ ^{the} ~~divinity~~ ^{divinity} ~~and~~ ^{and} ~~obedient~~ ^{obedient} ~~to~~ ^{to} ~~a~~ ^a ~~man~~ ^{man} ~~authoritative~~ ^{authoritative} ~~in~~ ⁱⁿ ~~this~~ ^{this} ~~and~~ ^{and} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~same~~ ^{same} ~~way~~ ^{way} ~~as~~ ^{as} ~~the~~ ^{the} ~~men~~ ^{men} ~~of~~ ^{of} ~~the~~ ^{the} ~~ancient~~ ^{ancient} ~~times~~ ^{times} ~~and~~ ^{and} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~origin~~ ^{origin} ~~and~~ ^{and} ~~nature~~ ^{nature} ~~of~~ ^{of} ~~this~~ ^{this} ~~had~~ ^{had} ~~been~~ ^{been} ~~known~~ ^{known} ~~to~~ ^{to} ~~the~~ ^{the} ~~ancient~~ ^{ancient} ~~Roman~~ ^{Roman} ~~and~~ ^{and} ~~was~~ ^{was} ~~ever~~ ^{ever} ~~thought~~ ^{thought} ~~of~~ ^{of} ~~until~~ ^{until} ~~the~~ ^{the} ~~last~~ ^{last} ~~day~~ ^{day} ~~when~~ ^{when} ~~the~~ ^{the} ~~inferior~~ ^{inferior} ~~and~~ ^{and} ~~the~~ ^{the} ~~weak~~ ^{weak} ~~of~~ ^{of} ~~the~~ ^{the} ~~yoke~~ ^{yoke} ~~of~~ ^{of} ~~the~~ ^{the} ~~aristocracy~~ ^{aristocracy} ~~and~~ ^{and} ~~attempted~~ ^{attempted} ~~to~~ ^{to} ~~change~~ ^{change} ~~the~~ ^{the} ~~government~~ ^{government}.}

Let us cite a few examples. At Corinth, the people supported the government of the Bacchiadae, an unwilling Gypselus, and, hating him, and seeing that the people sought chiefly to conduct them to freedom, offered

himself over the Baictheffthe people of yesthisistheaudasht
a certainrasybulMitylenebeyittacusandSamoPolycratWe
findyrantstArgosEpidaurandatMegarithesixtcenturSicyon
hadyrantsduringhundreadndirtyyears,without interruptionAmong

they grew so fast, by the year 1850 the town of Gardiner had surrounded the city and banished the aristocratic class but they could neither maintain nor govern themselves, so at the end of a year they had to set up a tyrant.

Everywhere the tyrants, with more or less violence, had the same policy.

Any man of high position asked himself how he could govern his subjects better than the others. Thus their rule of conduct was to cut down the high heads, and to strike at the aristocracy while depending on the people.

The Roman plebs at first formed conspiracies to overthrow Tarquin. They af-

Spurred by those who had and the desire to move from a public life
addressed those of their own order who became popular and have been
pure calumny. The fear of the great attests the desire of the plebs.

But we ought to remark that if the people in Greece and Rome sought to

rest upon a right of force, an attachment to this sort of government. The policy and the aim of the present monarchy is to destroy the monarchy. It is a means of conquering and avenging themselves, this government, which was the result of force alone, and never rested upon any sacred tra-

1 Nicholas of Damascus, *Exag. Aristot.* IV.9. Thucydides, 4.26. Diodorus, V.5.

themselves the elements of a better government, it indeed became for some time as weak as by and by a principle of social organization.

There is one other change of which we must speak for it greatly aided the lower class to rise—the change that took place in the military art. In the first ages of the history of cities the strength of armies was in their cavalry. There a warrior was he on whom you fought from a horse or from a chariot. The foot-soldier of little service in combat was lightly esteemed. The ancient aristocracy therefore everywhere reserved themselves the right to fight on horseback. In some cities the nobles even gave themselves the title of knights. The *celeres* or bodyguards of the Romans were of the Roman knights. The knights of the early ages were all patricians. Among the ancients the cavalry was always the noble arm. But by degrees the infantry became more important. Improvement in the manufacture of arms and in discipline enabled the foot to resist cavalry. When this point was reached, the infantry took the first rank in battle,

for it was the more firmly rooted than the cavalry in the legions. The infantry and the hoplites were plebeians, and so this maritime operation became more extended, especially in Greece, that there were no cavalry battles and that the destiny of a city was often in the hands of the rowers—that is to say of

the plebeians. For it is that strength which in the end opens the strong and political state of a nation always bears a certain relation to the nature and composition of its armies.

Finally the inferior class succeeded in having religion of its own. These

separated from the aristocracy the religious and the political necessary to us. They suffered therefore to find themselves shut out from all religion by the ancient principle which prescribed that every god belonged to a family and that the right of prayer was transmitted in the blood. They strove,

therefore, to become known by the details of the efforts that they made, of the means which they invented of the difficulties they overcame, of the labors which they endured. This work for a long time separated and for each individual, was on these secret of each mind we can see only the results. Sometimes

the plebeians found a break in the system which had been established by the aristocracy in the protection of the family and the priestly domination of the patrician family. Sometimes the plebeians without having any domestic worship had

1 Aristotle *Politics* vi. 3, 2.

recourse to the temples of the city. At Rome those who had no sacred fire and consequently no domestic festival offered their annual sacrifices to the god Quirinus. When the upper class persisted in driving the lower orders from the temples, the latter built temples of their own. At Rome they had none on the Aventine which was sacred to Diana; they also had the temple of Plebeian Modesty. The Oriental worship which began the sixth century over-ran Greece and Italy were eagerly received by the plebs; these were forms of worship which like Buddhism excluded caste and race. People often too the plebeians could make themselves gods like those of the patricians and tribes. Thus King Servius erected an altar in every quarter of the city so that the multitude might have places of sacrifice. As Pisistratus set up Hermae in the streets and squares of Athens. I know where the gods of the democracy the plebeians previously in multitude without worship; henceforth religious ceremonies and festivals they could pray thus in a society where religion

made religion the law was made. It defined these points when they had among themselves as men, soldiers and priests, when they had gained all that gave a man sense of his own worth and strength, when in fine they had compelled the aristocracy to consider them of some account—it was impos-

possible to shut the gates out of social and political life and the city could be closed. The entry of this inferior class into the city was a revolution which from these events to the fifth century filled the history of Greece and Italy.

The efforts of the people were everywhere successful; it was everywhere

in the south the nobles strong men, for in the hands of the nobles of the city where they had been forbidden to live. Once masters they either drove out the nobles and occupied their houses or contented themselves with proclaiming equality of rights. This was what happened at Syracuse. Eryth-

ra and the Milesians the contrary; the people employed means less violent. Without an armed struggle and merely by the moral force which their fast steps had given them they constrained the great to make concessions. They then appointed a legislator and the constitution was changed. This was the

case of Syracuse. Athens arrived at the same degree and without any shock at its object. Thus at Cumæ the number of members of the city very few in the

1 Varr. *L.*, VI. 13.

2 Dionysius IV. 5. Plato *Hipparchus*

beginning was increased first by the admission of those of the people who were rich enough to keep a horse, and then the number of citizens was raised to one thousand, and by degrees the city reached a democratic form of government.

In a few cities the admission of the plebeians among the citizens was the work of the kings; this was the case at Rome; in other it was the work of popular tyrants, as at Corinth, at Sicyon, and at Argos. When the aristocracy regained the supremacy generally, the good sense of the lower orders, the rights of citizens which the king or tyrant had given them. At Samos the aristocracy did not succeed in its struggle with the tyrant until he had freed the lower classes; it would occupy too long to enumerate all the different forms under which this great revolution appeared. The result was everywhere the same: the inferior class entered the city and became a part of the body politic.

It is therefore not surprising that the great idea of the revolution of the good men is called the class of the good, *γαῖος*; this indeed is the name which they took in most of the Greek cities. The other he calls the class of the bad, *κακός*; this too is the name by which it was customarily designated.

In the cities of the good men, the aristocracy was not only excluded from the right of the citizens; the men were not even permitted to approach the city; "they lived without like wild beasts. They took no part in the religious repasts; they had no right to marry into the families of the good."

But even the good men themselves were not free from the influence of the bad men, and as a strange novelty have replaced them. Riches have become the only object of men's desire, because wealth gives power. The name of noble race married the daughter of the rich plebeian, and marriage found its races.

The revolution of the good men is a revolution which is not only a revolution, but a revolution of the good men. It is a revolution which is not only a revolution, but a revolution of the good men. It is a revolution which is not only a revolution, but a revolution of the good men.

It was a revolution which was not only a revolution, but a revolution of the good men. It was a revolution which was not only a revolution, but a revolution of the good men. It was a revolution which was not only a revolution, but a revolution of the good men.

1 Heracleides Pontus, *Fragmenta*, Didott, II, p. 217.

for the immortals."

But these regrets are useless, and he knows it well. If he complains, his duty is as before, pious duty is because he has received from the ancients the holy tradition, and his duty is to perpetuate it. But he labors in vain; the tradition itself will perish, the sons of the noble will forget the nobility, soon all will be seen united by marriage, people and families; they will drink at the festive table at the tables; they will soon adopt the sentiments of the common people. Theognis regrets all that was for the Greek aristocracy, and even this regret is soon to disappear.

In fact, after Theognis, nobility was nothing but a recollection of the great families, continuously to preserve the domestic worship and the memory of the ancestors; but this was all. There were still men who amused themselves by counting their ancestors, but such men were ridiculed. They preserved the custom of inscribing upon some tomb that the deceased was

of a noble family, that attempt has made no progress for the noble families, except their tombs.

Thus the ancient city was transformed by degrees. At the beginning it was an association of some hundred chief families, and the number of citi-

zens of the city was small. People began to build houses outside the city walls, and remained outside the political and religious associations. Sometimes even outside the sacred enclosure of the city broke down the barriers which were opposed to them, and penetrated into the city where they immediately

became masters.

2. History of the Revolution at Athens.

The Eupatrids, after the overthrow of royalty, governed Athens during four centuries upon this long dominion, silently known only in fact—that it was diabolical to the lower order, and that the people tried to change the government.

In the year 598, the discontent which appeared generally, and certain signs which showed a revolution in the air, and roused the ambition of a Eupatrid,

Clisthenes, a popular tyrant, the government of the aristocracy, the enterprise of the agitation continued. In vain the Eupatrids employed all the resources of their religion, in vain did they announce that the gods were irritated, and that specters had appeared, in vain did they purify the

city from the crimes of the people, and raise new altars to Violence and Inso-

lence to appease the two divinities whose malign influence had agitated all minds. All this was on no purpose; the feeling of hatred was not appeased. They brought from Crete the pious Epimenides, a mysterious personage who was said to be the son of a goddess, and he performed a series of expiatory ceremonies, which he hoped by thus striking the imagination of the people to revive religion and consequently to fortify the aristocracy. By these people were not moved, the religion of the Eupatrids no longer had any influence upon their minds; they persisted in their demanding form.

For sixteen years long the fierce opposition of the peasants to the mountain and the patient opposition of the rich men of the shore waged war against the Eupatrids; finally those who were wisest among the three parties agreed to intrust to Solon the care of terminating the discord and of preventing still greater misfortune. Solon had the rare fortune to belong at the same time to the Eupatrids by birth and to the merchants by the occupation of his earlier

years. His personal habits were austere, his mind free and his heart full of love of pleasure. He was far removed from the old Eupatrids he belonged to new Athens.

We have said above that Solon began by freeing the land from the old dom-

ination which the religion of the Eupatrids had made sacred and so brought with it another political order.

The word *secedere* thenceforth according to the expression of Solon himself is a shield to defend the newly-found liberty. This shield was political

rights. Solon's constitution, far from being well known, was it appears however that all the Athenians read on that time apart of the assembly of the people and that the senate was no longer composed of Eupatrids; not appear even that their names could be elected outside the ancient priestly caste.

The dragging revolution destroyed the ancient rights of dignity. The right be shared by the Eupatrids with the inferior castes in the new constitution accounts taken of the rights of primogeniture. There were still classes but men were no longer distinguished by wealth. The rule of the Eupatrids

disappeared. Then Euripides was long to come again with his verse in the poet could say, "In poverty the nobles of no account and the people applauded the heat of the poet! Of what rank is this man?—Rich,

1 Diogenes Laërtius 11 (Cicero) *de Leg.* II. 1 Athenæus 602.

for those are now the noble!"

The system which was thus founded had two sorts of enemies—the patrids, who regretted their lost privileges, and the poor, who still suffered from the inequality of their rank.

Hardly had Solon finished his work when agitation commenced. The poor, say Plutarch, showed themselves fiercer enemies of the rich. The new government displeased them perhaps quite as much as that of the Eupatrids. Besides, seeing that the Eupatrids still bore a chasmic denation, many imagined that the revolution had not been complete. Solon had maintained the republic forms, so that the people still entertained a blind hatred against the forms of government under which they had seen for four centuries nothing but the reign of the aristocracy. After the example of many Greek cities, they wished for a tyrant.

Peisistratus, an Eupatrid, but following his own personal ambition, promised the poor that he would give them a tyrant, and that he would be asked to guard them from the higher classes, and about to replace him in his falsehood, but the people were ready to resort to violence to sustain Peisistratus, the rich seeing this fled in disorder. Thus one of the first acts

of his reign was to establish a tyranny, so that he might be able to become

But it does not appear that the reign of Peisistratus affected in any way the development of the destinies of Athens. Its principal effect, on the contrary, was to guarantee the great social and political reform which had just taken

place, and to give it a more solid basis. The tyrant, however, did not restore liberty. Twice a coalition of the great and the rich overthrew Peisistratus, he returned to power, and his sons governed after him. The intervention of the Lacedæmonians was required, and Attica was put under the fam-

ily rule. The ancient aristocracy, for a moment, the hope of profiting by the fall of Peisistratus, and regaining its privileges, they not only failed of this but received a still rude blow. Cleisthenes, who belonged to this class, but who was of a family which had covered with opprobrium, and had seemed to

most of the power, and in the hands of the new tyrant, he was not able to retain the old religious organization of Athenian society. The population remained divided into two hundred gentes, and twelve phratries, and

1 Euripides, *Orestes*, Athenæus, IV, 49.

four tribes in each of these groups there were in the preceding period, an hereditary worship priest who was a Eupatrid and a chief who was the same as the priest. All this was a relic of the past which disappeared slowly. Through this tradition the usage of the rule of the distinction that existed in the old social state were perpetuated. All these had been established by religion and in their turn they maintained religion—that is to say the power of the great families. There were in each of these organizations two classes of men. On the one side were the Eupatrids who had by right of birth the priesthood and the authority of the other men of inferior condition who were no longer in the slave or client status but who were still retained by religion under the authority of the Eupatrids. A vivid shadow of Solon declared that all Athenians were free the old religious ideas were not to be taken into the assembly where he had voted freely and said to him, "Thou art bound to the Eupatrid through worship how wilt thou respect deference and submission?"

One of the Eupatrids, Solon, in one of his speeches said of Eupatrids, "I am a chief in the family itself in the gens where I have been born and which I cannot leave; I have still found the authority of the Eupatrid. Of what avail was it that the political law had made a citizen of this man if religion and

many of his relatives still thought of him as a slave? The tradition of the foreign countries had escaped from the gens and the tribes to be free. But the men suffered in another way they found themselves in a state of moral inferiority compared to the men and so a bignominy was attached

to the independent Eupatrids as the reformer of the political state of Solon, accomplished by suppressing the four old religious tribes and replacing them with ten tribes which were divided into demes.

These tribes and demes resembled the ancient tribes and

gentes each of the four organizations were now to be placed in the common interest. But the new groups differed from the old in two essential points. First all the freemen of Athens even those who had not belonged to the old tribes and gentes were included in the divisions of Cleisthenes.

There was a second fact of great importance which had been changed from every association. The second place men were distributed in the tribes

1. Eschines, *Ctesiph.* 80 Demosthenes, *Subu Pollux* VIII.1995107.

2. Aristotle, *Politics* II.1.10/II.2. Scholia ad Eschines, *Didot* p. 511.

and demes, not according to birth as formerly, but according to their locality. Birth was of no account. Men were equal and privileges were no longer known. The worship for which the new tribes and demes were established was no longer the hereditary worship of an ancient family, no longer assembled around the hearth of a Eupatrid. The tribes and demes no longer generated an ancient Eupatrid as a divine ancestor of the tribe had given a pnyx to the roes whose names among the ancient persons of whom the people had preserved a grateful collection, and for the demes they uniformly adopted as their protecting god *Zeus the guardian of the wall*, and the paternal *Apollo*. Henceforth there was no reason why the priest should be hereditary, the demes it had been in the gens, why the priest should always be a Eupatrid in the new groups, the priestly offices as well as that of the chief, was annual and every member might enjoy it in his turn.

This reform completed the overthrow of the aristocracy of the Eupatrids.

From this time the new religion of politics substituted for the old religion of the family transformed.

Now the suppression of the old tribes replaced by new ones to which all men had access, and in which they were equal was not a fact peculiar to the

history of Athens. Demosthenes the Greek orator of Athens said in his oration to weaken the ancient aristocracy, Aristotle has written more efficaciously than this: "If one wished to found a democracy," he would proceed as Cleisthenes did at Athens, he would establish new tribes and new phratries;

for the hereditary families would thus be dissolved, the people would be much as possible being referred to break up all anterior associations."

When this reform has been accomplished all the cities, it may be said that the ancient mould of society has been broken and that a new social body

has been formed. This is not the main point which has to be considered, the end of the religious government of the city.

3 History of this Revolution at Rome.

1 The ancient phratries and *gēnē* were not suppressed. On the contrary, they continued, in the history of the Greeks, to be the religious bodies and of no account politically.

2 Herodotus, 6.768 Aristotle *Politics* VII.2, 1 Pausanias 9.

3 Aristotle *Politics* VII.3, 1 (VI.3).

At Rome the plebs had a great influence at an early date. The situation of the city between the Latins, the Sabines, and the Etruscans, and the necessity of perpetual wars, required that there should be a numerous population. The kings therefore had welcomed and invited all foreigners, without regard to their origin. Wars succeeded each other without intermission, and there was need of men; the most common result of every victory was to take away the inhabitants of the conquered city and transfer them to Rome. What became of these men brought with the booty? If there were found among them patrician and priest families, the patricians hastened to associate them with themselves; to the multitude of the others they became clients of the great, or of the king and a part were left with the plebs.

Still the elements entered into the composition of this class. Many foreigners flocked to Rome as a place whose situation rendered it convenient for commerce. The discontent among the Sabines, the Etruscans, and the

Latins found refuge in the city, and became in the hands of the patricians. A man who formed a misalliance or was guilty of any crime that lost him his rank fell into their inferior class. Every bastard was as such by religion, from pure families and counted among the plebs.

Though the great mass of the plebs and the king were the same, the king and the plebs still felt that they had a common enemy. The ambition of the king was to cut loose from the old principles of government which limited the exercise of his power. The ambition of the plebs was

to break the ancient constitution and to establish a new one. The king and the plebs sustained the kings.

The traditions and testimony of antiquity place the great progress of the plebs in the reign of Servius. The hatred which the patricians pre-

sented to this king, sufficient to show that his policy was to strip the patricians of territory by taking the territory from the enemy, still his conferring the right to own land upon families who had previously cultivated only the fields of others was one of the great innovations.

When a new territory was taken from the enemy, the king had the right to divide it among the plebs. The king's power was to be exercised in the hands of the plebs, and the king's power was to be exercised in the hands of the plebs.

1 Livy l. 47. Dionysius l. 13. The preceding king had already distributed the land taken from the enemy, but it is not certain that he admitted the plebs to share in the division.

men of a common law between the two orders and the plebs it was the commencement of equality.

Late in this same king's establishment a new division in the city without destroying the three ancient tribes where the patrician families and clients were classed according to rank before the new tribes which the entire population was distributed according to residence. We have seen this reformat Athens and we know what were its effects there as at Rome. The plebeians should not enter the ancient tribes were admitted to the new ones. This multitude up to that time a floating mass a species of nomadic population that had no connection with the city had henceforth a fixed division and its regular organization. The formation of the tribes in which the two orders were mingled really marked the entrance of the plebs into the city. Every tribe had a hearth and a sacrifice. Servius established a new every public place in the city in every district of the country. The service of divini-

ties was now that of his burg. The king's people made the great festivals celebrated the sacrifice of his god and of his curia. The plebeians had religion.

At the same time a great change took place in the sacred ceremony of the lustration. The people were no longer ranged by curies to the exclusion of

those who had no property but had with the king in the sacred fire. For the first time all men without distinction of patrician, client, or plebeian were united. The king walked round this mixed assembly driving victims before him and singing pious hymns. The ceremony finished, he like a founder

separated the people into two classes of men were distinguished at Rome—the sacerdotal or patrician with their clients and the plebeians. No other distinction was known at that which religion had established. Servius marked a new division which had a real foundation. He divided the

inhabitants of Rome into five classes according to the amount of their fortune. By this means Servius introduced an entirely new principle

1. Dionysius, IV. 13 IV. 43.

2. Dionysius, 26.

3. Modern historians generally have six classes in reality there were but five. Cicero *De Repub.* II. 22 Aulus Gellius, 3. 28 The knights the non-landed and the *proletarii* poor inhabitants on the other were not counted in the classes. We must not moreover overlook the word *classis* had not in the ancient language the same similar word *classis* was applied to military body and this shows that the division established by Servius was a military and political.

into Roman society, yet the begat indicated that religion had long before.

Servius applied this division of the Roman population to the military service. Before him if the plebeian fought, it was not in the ranks of the legion. But as Servius had made proprietors of the citizen, he could also make the legionaries. From this time the army was no longer composed of men exclusively from the curies, all freemen at least who had property, made a part of it, and the poor alone continued to be excluded. The rank of patrician or client no longer determined the arm of each soldier, and his position in battle the army was divided by classes exactly like the population, according to wealth. The first class, which had complete armor and the two following, which had at least the shield, the helmet, and the sword formed the three first lines of the legion. The fourth and the fifth being light-armed, made up the body of skirmishers and slingers. Each class was divided into

non-perforatibiles. The first of these consisted of the elite of the city and in this arm Servius made great innovations. Whilst up to that time the young patricians alone made up the centuries of the knights, Servius admitted certain numbers of plebeians chosen from the wealthier and fighting

horses and formed the two new centuries. At the same time modifying the political constitution, the plebeian found that the importance of the state had increased. They had arms, discipline, chiefs, even venturing into centurion and sacred signs. His military organization was permanent, peace

did not dissolve it. The old form still remained in the form of the camp, but after wards the first signal the citizen resumed the arms in the *Campus Martius*, where each returned his century, his centurion and his banner. Now it happened twenty-five years after Servius, that the army was called

to go to the front, the new military organization, the new army, its centurion at its head and its ensign in the centre, the magistrate spoke, proposed and took a vote. The six patrician centuries and the twelve of the plebeian knights voted first, after them the centuries of infantry of the

first line and the three of the last. This was the first time that the right of suffrage, where the plebeian and the patrician were hardly distinguished.

1 It appears incontestable that the comitia by centuries were identical with the Roman army. What proves this, first, is that this assembly is often called the army by Latin writers: *urbani exercitus* "army" "arm that guards the city" (Varr. l. 1. 93) *quæ comitiorum*

was descended from a sacred family and felt himself heir to a worship, understood the social system in which he lived as a sacred formula. In the ancient religion, in his eyes, the constituent element of every society was the gens with its worship, its hereditary rights and its clientship. In the city could do but one thing, except in assembly by the chiefs of the gens. It did not enter his mind that there could be any other political system than that which rested upon worship, upon the magistrature, upon those who performed the public sacrifices, upon the law, upon those whose sacred formula religion had dictated. It was useless to say to him that the plebeians had within a short time adopted a religion and that they offered sacrifices to the Lares of the public square. He would reply that his religion had the essential character of a religion, that it was not hereditary, that the fires were not ancient fires, and that these Lares were not real ancestors. He would have added that the plebeians, in adopting worship, had done what he had no right

to do, and that he himself had no religion. This was the principal point, no hereditary faith in the image of religion was absolutely the opposite of religion.

Since the patricians persisted in thinking that hereditary religion alone

should govern the state, the social law could be applied only to the patricians upon this class of men. The sacred law could not be applied to them, justice was sacred ground which was forbidden to them. So long as there had been kings, they had taken upon themselves to govern the plebs, and they had done

this with dignity and in accordance with the principles of sacred law. But the revolution had abolished royalty, religion, and sacred law; it necessarily followed that the whole plebeian mass was placed beyond the reach of social laws.

The patricians had established a new system for the plebs, but the plebs was patrician. They had not the courage to drive the plebeians from Rome, but they no longer found the means of organizing them into a regular society. We thus see in the midst of Rome thousands of families for which there existed no

fixed law, no society, no magistrature, no rights, no law. They were a powerful, organized, majestic, but ill-ordered plebeian multitude which was not a people and did not form a body. The consuls, the chiefs of the patricianity, maintained in this confused population the plebeians by a feeble,

generally worthy but under the power of the patrician body.

The problem that was so decided the future of Rome was this: How can the plebs become a regular society?

Now the patricians governed by the rigorous principles of their religion, saw only one means of resolving this problem: this was to adopt the plebs as clients to the sacred organization of the gentes. It appears as a noble attempt was made in this direction. The question of debts, which agitated Rome at this period, can only be explained if we see in it the more grave question of clientship and slavery. The Roman plebs sobbed at their hands, were no longer able to support themselves. The patricians calculated that by the sacrifice of a little money they could bring this poor class into their hands. The plebeian began to borrow, in borrowing gave himself to the creditor—sold himself. It was so much as a sale that was a transaction *per æt liberati* "with copper and scales"—that is to say with the solemn formality which was commonly employed to confer upon man the right of property in any object.

The plebs stipulated that he should gain his law of release on the fifth day of the payment, and that on that day he should recover his possession of himself in paying the debt. But on that day if the debt was not paid he lost the benefit of this contract. It was in the power of his creditor to hold him to

this thus ended his liberty. In the servitude of his society, might his eyes the government of the gentes saw nothing more legitimate and more commendable than bringing men into it by any means possible. If this plan had succeeded the plebs would have disappeared in a little time and the Roman

city would have been a multitude of patricians sharing

But this clientship was a chain which the plebs held in horror. He fought against the patrician who harmed with this debt, wished to make client of him. Clientship was for him equivalent to slavery. The patrician's use was,

which they were paid for, not to be slaves. Men in the plebs, crying that he was a freeman and displaying the wounds which he had received in the defence of Rome. The calculation of the patricians only served to irritate the plebs. They saw the danger and strove with all their energy to

free themselves from this new servitude which the royal govern-

But it does not appear that the men inspired a first to share the law and rights of the patricians. Perhaps they thought with the patricians themselves,

1 Varr. *L., VII.* 103. Livy *VIII.* 28. Aulus Gellius *XX.* 1. Festus, *Nexum*

that there could be nothing in common between the two orders. No one thought of civil and political equality. That the plebeians could raise themselves to the level of the patricians never entered the minds of the plebeians of the first centuries any more than it occurred to the patrician.

Farther off from claiming equality of rights and law, these men seem to have preferred at first complete separation. In Rome they found no remedy for their suffering, they saw but one means of escaping from their inferiority—this was to depart from Rome.

The historians we express their thoughts in the language of the patricians. Since the patricians wish to possess the city and let them enjoy it at their ease, for us Romans nothing we have either dearer or more sacred than our country. We only leave for foreignity no hereditary religion attached to this place. Ever and good for us, where we find liberty there shall be our country. And they went to take up their abode in the Sacred

Mountain, for the patricians had no other refuge. If from the territory of the patricians it showed clearly that the departure of the plebs was far from afflicting them. Henceforth the patricians alone would remain in Rome with the clients that were still faithful to them. Rome would denounce its future

travellers. The patricians were provoked that the plebs would no longer be able to be applied and wherever an embarrassment to the city. They ought perhaps to have been driven out at the same time with the kings, but since they had of themselves taken the resolution to depart the patricians

ought to have sought to hold their peace. But for the grandeur of Rome were afflicted at the departure of the plebs. Rome would lose half its soldiers. What would become of it in the midst of the Latins, Sabines, and Etruscans—enemies? The plebs had good qualities, they could do these

have done so with the best of them. These people, these slaves, these serfs, these packmen, these thousands of arms that made the strength of the regions.

On the other side the plebs perceived at the end of a few months that there could be no return to the Sacred Mountain. How could they lead a civilized society as wanting? They could not found a city there because they could not find a priest who knew how to perform the religious ceremony of the

1 Dionysius, l. 45-79.

foundations. They could elect magistrates, as they had no prytaneum with its perpetual fire where the magistrates brought sacrifices. They could find no foundations or social laws, since the only laws of which men then had any idea were derived from the patrician religion; and, in a word, they had not among them the elements of a city. The plebs saw clearly that by being more independent they were no happier than they did not form a more regular society than at Rome, and that the problem whose solution was so important to them was not solved. They had gained nothing by leaving Rome; it was not in the isolation of the Sacred Mountain that they could find the law and the rights to which they aspired.

It was found therefore that the plebs and patricians, though they had almost nothing in common, could not live without each other. They came together and concluded a treaty of alliance. This treaty appears to have been made on the same terms as those which terminated a war between two dif-

ferent peoples. The plebs and patricians did not agree that the plebs should make part of the religious and political unity; it does not appear that the plebs demanded it. They agreed only that in the future the plebs having been organized into something like a regular society should have chiefs taken

from their own number. This was the original basis of the law which was then in force.

The power of the tribune was not of the same nature as the authority of the magistrate. It was not derived from the city worship. The tribune performed

no religious functions, and he was not clothed with the auspices. He wore a purple robe or crown of leaves, or any of those insignia which in all the ancient cities designated the magistracies of the most venerable men. He was never counted among the Roman magistrates, and that then was the

reason why he was not included in the list of powers. His power was the basis for possible development of the ideas of the ancients; but to that time men had understood political authority only as an appendage to the priesthood. Thus, when they wished to establish power that was not connected with worship,

and when they wished to create a power that was not connected with a religious ceremony, a peculiar character of history is not describable.

1 Dionysius, Plutarch, *Rom. Quest.* 64.

2 Livy III. 55.

rites, they merely say that the effect was to render the *first tribunes sacrosanct*, if inviolable. But these words signify that the body of the tribune should be *consecrated* for the object which religion had made it to be touched, and whose simple touch made a man *clean*. That happened, if some devout Roman, some patrician, met a tribune in the public street, he made it duty to purify himself, returning home, as if his body had been defiled simply by the meeting. This *acrosanct* character remained attached to the tribune during the whole term of his office, in creating his successor, he transferred the same character to him just as the consul in creating a *pro* consul passed to him the auspices, and he hoped to perform the sacred rites after the tribunes had been interrupted for two years; it was necessary in order to establish the new tribunes, to renew the religious ceremony which had been performed the Sacred Mount.

Wedonotsufficientlyunderstandtheideaoftheancienttosaywhether

blies of the past and stands before the tribunal of a fairer
 tion and horror. The second conjecture more accordant with probability. What is certain is that never was the tribune so inviolable, and of
 a patrician could not touch him without gravempiety.

persons and the sacred temple of Minerva, and the deposition of the statue. To add that "whoever committed one of these acts against it, should be impure, that his property should be confiscated, that the profits of the temple of Ceres and that one might kill him with impunity." The law concluded

in these words: "We have sworn upon a pile of skulls of those who go down by
thing against a tribune. All the citizens solemnly swear by which they agreed
always to observe this strange law calling down upon the heads the wrath of
the gods if they violated, and added that whoever rendered himself guilty of

and then the plaintiff wrote "they had interfered with the opportunity" and he could extend direct action if a plebeian was maltreated by a consul who condemned him to imprisonment by a creditor who laid hands on him the tribune appeared and placed himself between them (*intercesse* ["intervention"]),

and stayed the patrician and Who would have dared to do anything against

1 This is the proper sense of the word *sace* Plaut. Bacch. IV.6, 13 Catull. XIV.12 Festus, v. *Sace* Macrobius I.7 According to Livy the epithet *sacrosanctus* is not at first applied to the tribune but to the man who injures the person of the tribune.

2 Plutarch *RomQues* 81.

3 Dionysius I. 89X. 3242.

tribune to expose himself to be touched by him?

But the tribune exercised this singular power only when he was present. Out of his presence the plebeians might be maltreated, but he had no power over what took place beyond the reach of his hands or his sight or his word.

The patricians had not given the plebeians rights they had only agreed that certain men among them should be inviolable. Still this was enough to afford some security to all. The tribune was sort of living altar to which the right of refuge was attached.

The tribune naturally became the chief of the plebs and assumed the power of deciding cause for them. They had not it true, the right of citing before them even a plebeian but they could seize a person on can in their hands and manumbe it was sufficient to be found within the circle where their voice could be heard. His word was irresistible and a man had to submit even if he were a patrician or a consul.

The tribune had no political authority. No tribune opposed to the senate was not supposed at the beginning that he could appeal there. He had nothing in common with the city—that is to say with the patrician city where men did not recognize any authority. This he was not the tribune

of the people. He was the tribune of the plebs in Rome—that is, the city and the plebs, the one strong organized with laws, magistrates, and senate, the other a multitude which remained without rights and laws but which found in its inviolable tribune protectors and judges.

In sacred days as on the day of the tribune's corn law, the people, but they convoked them. Nothing called them to the senate; they sat first at the door of the chamber, then they sat within. They had power to judge the patricians, to judge them and condemn them. This was the result

of their inviolability. Attached to the mass, men that they the power over, with solemn rites that whoever touched a tribune should be impured. He said, 'Nothing shall be done against tribune,' then the tribune convoked the plebs, the plebs assembled, no one could dissolve this assembly by which

1 *Tribunus antiquitas auctoritatis iuridicae de causis querelis quibus absentibus ascendit intercessionem in quibus presentibus assentit in iura quae a se fieri crederet* the tribunes were created in ancient times for administration of the law nor for examining suits and complaints of absent parties but for intervening in the necessary protection of their presence in justice. Aulu. Gellius, III. 12.

2 Aulu. Gellius, V. 27. Dionysius, III. 87/1. 90.

the presence of the tribune placed beyond the power of the patricians and the laws of the tribune entered the senate upon a point which it could not retreat. If these seized consulship, one could take the consul from his hand. Nothing could resist the boldness of a tribune against a tribune, and a tribune had no power, except in the tribune.

As soon as the plebs had their chiefs, they did not wait long before they had their liberating assembly. These did not in any manner resemble those of the patricians. The plebs in their comitia were distributed into tribes, the domicile of religion, wealth, the regulation of place of each one. The assembly did not commence with a sacrifice, religion did not appear there. They knew nothing of presages, and the voice of an augur or pontiff could not compel men to separate. It was all the comitia of the plebs, and they had nothing of the old rules of the religion of the patricians.

True, these assemblies did not at first occupy themselves with the general

interests of the nation, they passed the *leges* and *plebiscites* in the *plebs* *tribus*, and carried *plebiscites* to the *plebs*, decrees of the people. There was at Rome for a long time a double series of decrees, *senatus consultum* and *plebiscitum*. The senate of the patricians, *plebiscitum* for the plebs. The plebs did not obey

the *senatus consultum* of the patricians, *plebiscitum* there were two peoples.

These two peoples always in presence of each other and living within the same walls, still had almost nothing in common. A plebeian could not be consul of the city, nor a patrician a tribune of the plebs. The plebeian did not enter

the *senatus*. The *plebs* and the *patricians* were separated by a wall, not having—*stos* speak—common ideas. If the patricians spoke the name of religion and the laws, the plebeians replied that they did not know this hereditary religion, the laws that flowed from it. If the patricians alleged sacred

rights, the plebeians replied that they were not of the same stock. They repudiated unjust according to the principles and beliefs of the other. The assembly of the *curies* and the union of the *patres* seemed to the plebeians a diabolical privilege. In the assembly of the tribes the patricians saw a meeting condemned by

religion. The *senatus* was a sacred assembly, the law was a sacred thing, the

1 Livy II. 60. Dionysius II. 16. Festus, *Scit. plebs*. We speak only of the earliest time. The patricians were enrolled in the tribes, but certainly took no part in assemblies which met without auspices and without religious ceremony, in which for a long time they recognized no legal authority.

normal contrary all principles could not understand this sort of chief, who was a patrician and who was elected without suspicion. The tribuneship deranged the sacred order of the city; it was what heresy in religion—the public worship was destroyed. The gods will be against us, said a patrician, “so long as we have among us this ulcer which is eating us up and which extends its corruption to the whole social body. The history of Rome during the century was filled with similar discord between the two peoples, who did not seem to speak the same language. The patricians persisted in keeping the plebs without the body politic and the plebs established institutions of their own. The duality of the Roman population became from day to day more manifest.

And yet there was something which formed a tie between these two peoples; this was war. The patricians were careful not to deprive themselves of soldiers. They had left to the plebeians the title of citizens, only to incor-

porate them into the legion. They had left them the right of the citizenship, but they decided that the tribunes should never go out of the city. In the army, therefore, the plebs were under control. There was no longer a double power in the presence of the enemy. Rome became one.

This thing, however, could not be done without the consent of the patricians. The mixed assemblage, where the plebeian appeared by the side of the patrician, now seemed clearly in history that the comitia centuries became more and more important and became a sensible what were called

legions. The patricians feared that the plebs would become a dangerous factor in the future. The patricians should become a sort of neutral ground where general interest would be debated.

The plebeian was not always poor. Often he belonged to a family which was

original from the city which was the most important in the city. He had the sentiment of dignity that ordinary companies. Sometimes the plebeian had become rich by his labors, especially the time of the kings. When Servius had divided the population into classes according to their for-

ms, some plebeians belonged to the first class. These patricians had a great deal of plebeians, therefore, on the side of the patricians, the foremost ranks of the legion and who voted with them in the first centuries.

This class, rich, haughty, and prudent, well who could do have been pleased with disturbances, must have feared them, who had much to lose

if Rome fell and much to gain if it prospered, a natural ally between the two hostile orders.

It does not appear that the plebs felt any repugnance to seeing distinctions of wealth established on them. Thirty years after the establishment of the tribuneship the number of tribunes was increased tenfold, that there might be two for each of the five classes. The plebs then accepted at once the division which Servilius had established, and even the poorer portion which was not comprised in the classes made no complaint of the privileges of the wealthier, and did not demand a share of the tribunes.

As to the patricians, they had little idea of the importance which wealth assumed by the also-wealthy. Wiser and more fortunate than the Eupatrids of Athens, they however annihilated the day that the direction of affairs fell to the rich, the patricians even neglected agriculture, commerce, or even manufactures, to increase their fortunes as a way to their great end, Labor,

for gold and power, and to the pleasures of the table. Besides, they saw no great evil in uniting power and wealth. The habit and character of the nobles were such that they could not feel contempt for a rich man, even though he was a plebeian. The rich plebeian approached them, lived with

them, and even sought to interfere in their affairs. He respected him as a patrician, and learned little of his wishes and the rights of his class. The patrician, and by being convinced as sensible, came to have less firm and haughty opinion of his superiority, he was no longer so sure about his rights.

Nevertheless, the nobles were not content with the few patrician prerogatives. The patricians were no longer an article of faith for them; this order might be said to be half vanquished.

The rich man appeared to have exercised an influence of another kind on the

plebs, for even when the plebs stood firm, when they did not vote for new orders. Besides, they were ambitious, they calculated that the absolute separation of the two orders foredoomed their own careers by chaining them forever to the inferior class, while a union would open a way to the end

of their desires. The action of these forces was to create a new separation, instead of making law for themselves, which the other order would never recognize, and working slowly the plebs came to make a species of law for their own use and to prepare a code which would have no official

value. They inspired the plebs with the idea of penetrating the patrician

city and sharing laws institutions and dignities from that time the desires of the plebeians were a union of the two orders on the condition of equality.

The plebeians started in this direction to demand a code. There were laws at Rome as in all cities, in changeable and holy laws which were written and the text of which was preserved by priests. But the laws which were a part of the religion applied only to the members of the religious society. The plebeians had no right to know them and may believe that they had no right to claim their protection. If the laws existed for the curies for the gentes for the patricians and their clients but not for others. They did not recognize the right to hold property in one who had no *sacra* "rites" sacrifices. They granted justice to none who had not a patroit was the exclusive religious character of the law that the plebeians wished to abolish. They demanded not only that the laws should be reduced to writing and made public but that there should be laws that should be equally applicable to the

patricians and the plebeians. It appears that the laws should be drawn up by the plebeians. The patricians replied that apparently the tribunes were ignorant of what law was for other wise they would have made such a claim. "It is a complete impossibility," said they, "for the plebeians to make laws. You

will have no success in this. You must not think that the law was made by the plebeians. This notion of the plebeians appeared and lost to the patricians and the old annals which Livy and Dionysius of Halicarnassus consulted in this part of their histories mention of rightful prodigies—the heavens in fire spectres

leaping from the earth and the blood of the republic. The plebeians were astonished at the persistence of the other the republic remained eight years in suspension. The tribunes made a compromise. Since you are unwilling that the laws should be written by the plebeians, they said, choose a legisla-

tors that are not plebeians. But the plebeians were not satisfied with this. The senate replied that it was now a way to the preparation of a code, but that this code could be drawn up only by patricians. Finally they found a means of conciliating the interests of the plebeians with the religious require-

ments. The laws were drawn up by the patricians but the plebeians put in force should be exhibited to the eyes of the public and submitted

1 Dionysius, 1.

2 Livy III. 31 Dionysius, 4.

3 Julius Obsequens, 6.

the approbation of all classes.

This is not the moment to analyze the code of the decemvirs; it is only necessary to present the remark that the work of the legislators was afterwards accepted in the forum and freely discussed by all the citizens, was afterwards accepted by the comitia centuriata—the assembly which the two orders were co-founded in; this there was a grave innovation adopted by all the classes; the law thenceforward was applied to all. We do not find in what remains of the code a single word that implies any inequality between the plebeian and the patrician in the rights of property, in contracts and obligations, or in legal proceedings; on that moment the plebeian appeared before the same tribunals, the patrician proceeded in the same manner and was judged according to the same law. Now there could not have been a more radical revolution than the daily changes in manners, the sentiments, smart towards an, the ideas of personal dignity, the principles of law, which were changed in Rome.

As the moment the plebeian was often and more precipitated, so much energy that the making of law belonged to the patrician class, so rapid was the progress of ideas that at the end of a year plebeians were admitted among the legislators.

The constitution of the decemvirs was a compromise between the bidding marriage between the two orders—certain proof that religion and manners no longer sufficed to prevent this. But hardly had they had time to make the law when it fell before an almost universal approbation of the patricians.

It is impossible to decide the merits of the religion of the decemvirs; but the noonewill any longer know of what a deity is born to what a sacrifice belongs; it will be the overthrow of all institutions, human and divine. The plebeians in the end of these arguments which appeared to them mere quibbles

without result. To dispute the merits of the religion of the decemvirs is religion speaks loudly; what he has of this law? It is of no account; withdraw, you remain free as before, not to all yourselves with plebeian families. The law was withdrawn.

At once was a new era opened for the plebeians. The patricians, the plebeians, the three of the patrician gentes, the Fabii, the Corneli, and the Manlii. It could be seen that the law had been for a moment the only

1 Livy V.12 VI.34, 39.

barrier which separated the two orders. Thenceforth the patrician blood and plebeian blood were mingled.

As soon as equality was conquered in private life, the great difficulty was overcome and it seemed natural that equality should also exist in politics. The plebs then asked why the consulship was so close to them and they saw no reason why they should be without it.

There was however a very potent reason for the consulship. It was not simply a command; it was a priesthood. The consul was not sufficient to offer guarantees of intelligence, courage, probity; the consul must also be able to perform the ceremonies of the public worship. It was necessary that the rites should be duly observed and that the god should be satisfied. Now the patricians alone possessed this sacred character which permitted them to pronounce the prayers and to call down the divine protection upon the city. The plebeians possessed nothing in common with the worship of religion; therefore,

fiat plebeius consul "let a plebeian consul be!" (itis) impious to

We may imagine the surprise and indignation of the patricians when the plebeians claimed for the first time the right to be consul. Religion itself appeared to be menaced. The noble took a great deal of pains to make the plebeians

forget that the gods had chosen him for a priest and that he was bound by the duties of the deliberative assembly as well as the republic's magistracy. He added that this religion was according to ancient custom (*in maiora ueluti*) according to tradition, "by the custom of the ancestors" (*pro patrum*) the

patricians thought it would be to the advantage of the plebs if the plebeians had plebeian consuls as well as to suppress a religion of the city. Thenceforth the worship would be impure and the city would no longer be at peace with its gods.

The patricians saw all their influence and their hands were taken from religion and their power. As soon as they saw that the consulship was in danger of falling into the hands of plebeians, they separated from the religious function which was the most important of all—that which consisted in making

the laws of the city. It was possible to make a consul a plebeian, but the consulship was replaced by the military tribuneship. But the plebs showed great patience; they waited twenty-five years before their hopes were realized.

1 Livy VI.41.

It is clear that they display less ardor in obtaining high magistracies than they had shown in conquering the tribes and the code.

But if the plebs were somewhat different, there was a plebeian aristocracy that was ambitious. Here is a legend of this period. Fabius Ambustus, one of the most distinguished of the patricians, had married his two daughters to a patrician who became a military tribune, the other to Licinius Stolo, a prominent plebeian. This plebeian wife was one day at the house of her sister, when the dictators conducting the military tribunes into his house struck the door with the fasces. As she was ignorant of this usage, she showed signs of fear. The daughter and the tribune questioned her sister, and she told them how much a plebeian marriage had degraded her by placing her in a house where dignities and honor could be won. Her father guessed the cause of trouble and consoled her by promising that she should leave her own house, which she had seen her sister leave, and be planned with his son-in-law and both worked with

the same ambition. This legend, which is not a thing, is not a thing, and it aspires to their dignities, whether they are patricians or encouraged and excited the ambition of these aristocrats, which was united with them by the closest ties.

called that the plebs would be a great force to be reckoned with in the coming consul, for they thought it necessary to propose a law at the same time. Then the object of which was to make it imperative that one of the consuls should be chosen from the plebs, as preceded by two others, one of which

first in the plebs and the other in the patricians, to the plebs of the third Forum. For a moment the plebs were too clear-sighted; they fell in with the law that was offered them—the reduction of debts and the distribution of lands—arguing little need to the consulship. But Licinius replied that the

the plebs were in a position that the plebs could not be a great force in the plebs, preferred to accept all rather than to lose all. But it was not enough that the plebs wished to make the law; it was also necessary that at that time the senate should not involve the great omittian and should afterwards confirm the

decrees of the senate, and that the plebs should be a great force in the plebs, and that civil war in the streets of Rome. The patricians were conquered,

1 Livy IV.49.

2 Livy IV.42.

approved and confirmed and advanced by a senatus consultum, the decrees which the people should pass during that year. Now nothing prevented the tribunes from passing the law. From that time the plebeians every year one of the two consuls and they were not long in succeeding to the magistracies. The plebeians wore the purple dress and preceded by the fasces the administrator of justice, who was a senator, governed the city and commanded the legions.

The priesthood remained and did not seem as if these could be wrested from the patricians, for in the old religion it was an unchangeable right that the right of reciting the prayers and of touching sacred objects was transmitted with the blood. The knowledge of the rites and the possession of the gods, was hereditary in the same manner as the domestic worship was patrimony, in which no foreigner could take part. The worship of the city also belonged exclusively to the families that had formed the primitive city. Assuredly the

first generation of the pontiffs had changed the old religion, which was from religion its hereditary character, and made a religion of their own use. They had made for themselves domestic altars in public squares and had hearts for the tribes. At first the patricians had nothing to contend for this

change of the religion. But with the passage of time, when the gods were equal to the patrician.

Here were two opposing principles at action. The patricians persisted in declaring that the sacerdotal character and the high favour in the divinity

were hereditary in the patrician religion, and the plebeians produced prayers and that provided he was a citizen, he had the right to perform the ceremonies of the city worship. He thus arrived at the conclusion that a plebeian might be a priest.

If the priestly offices had been in the hands of the patricians, they would have been more ardent. But all these things were confounded. The priest was a magistrate; the pontiff was a judge; the augur could dissolve the public assembly. The plebeians did not fail to perceive that without the priesthood they had not

sovereignty. The religion was little less the property of the pontificate

It became difficult to allege the religious incapacity as an objection. Since, for sixty years, plebeians had been seen as consuls performing the sacrifices as censors, making the lustrations, conquering the enemy, fulfilling

the sacred formalities of the triumph. Through the magistracies the plebeians

already gained possession of a part of the priestly office; it was not easy to save the rest. Faith in the hereditary principle of religion had been destroyed among the patricians themselves; a few among them invoked the ancient tales declaring that the worship will be changed and sullied by unworthy hands, you are attacking the god himself, take care that he ianges not fell again in surcity. It does not seem that these arguments had much influence with the plebs, reveal that the majority of the patricians were moved by them. The new man gave the advantage to the plebeian principle. It was decided therefore that half of the pontifical and augural should from that time, be chosen among the plebs.

This was the last conquest of the lower order; they had nothing more to wish for. The patricians had lost even their religious superiority. Nothing distinguished them now from the plebs; the name patrician was now only as souvenir of the old principle upon which the Romanity, like all ancient cities, had

been founded, and the dependence of the laws on the religion which there now remained only the exterior forms. The plebeians had struggled against it for four centuries—under the republic and under the kings—and had conquered.

CHAPTER VIII.

CHANGES IN PRIVATE LAW, THE CODE OF THE TWELVE TABLES, THE CODE OF SOLON.

It is not in the nature of law to be absolute and unchangeable; it is modified and drawn from the necessities of the time. The laws of the twelve tables, which had always followed the movement of its institutions, manners, and religious beliefs.

Men of the early ages had been governed by a religion which influenced the mind, and even the political system. This religion had produced the patriarchal rule, which its hereditary religion had produced as

¹ The dignities of the king, of the sacrificer, of the flamens, and of the augurs, which in political importance were attached to the hands of the patricians, had always remained sacred, but who were no longer dominant.

dissolved with the lapse of time in the rule of the city. Insensibly, regens was dismembered. The young members separated from the old, the servan from the chief. The inferior class increased, took arms, and finally vanquished the aristocracy, and conquering equality. This change in the social state necessarily brought in a new law for a stronger. The Eupatrids and patricians were attached to the old family religion, and consequently ancient law just so strongly by the lower classes opposed to this religion, which had caused the inferiority and to this ancient law which had oppressed them. Not only did they detest, but they did not even understand. As they had the belief in which it was founded, this law appeared to them to be without foundation. They found it unjust and from that time it became impossible for the law to maintain its ground.

If we place ourselves back to the time when the people had increased and entered the body politic and compared the law of this epoch with primitive

law, we have seen the first stage of the evolution of the law. The law had become a mystery, which was repeated with pious respect on ages which priests alone wrote and which men of the religion families alone could know. The law had left the ritual and the book of the priests, it had lost

its religious character, and in the world of the law of the law and its foundation are no longer the same as in the preceding period. Formerly the law was a religious decision, it passed for a revelation made by the god to the ancestors, to the divine founder, to the sacred kings, to the

special priests, the gods themselves, from the legislation comes from the people. The people is invested with the right to make laws. The legislation is no longer a present, it is a tradition, the popular will. The principle of the law henceforth is the interest of men and its

foundation is the consent of the human race. It is that the law is no longer presented as an immutable and undisputable formula. As it becomes a human work, it is acknowledged to be subject to change. The Twelve Tables say, "What the votes of the people have ordained, that stands as the law."

Of all the stages of the law, the last remains the most recent, the one that has taken place in the law. The law was no longer a sacred tradition—*mos*—"custom" or "usage," it was simply text—*lex*—"law"—and the

1 Livy VII.17 IX.3334.

will be made, the same will be changed.

The other consequence of this law which before had been a part of religion and a consequence of the patrimony of the family was now the common property of all the citizens. The plebeians could plead in the courts. At most the Roman patricians were more cunning than the Eupatrids of Athens attempted conceal the legal procedure from the multitude but even these forms were not long being revealed.

Thus the law was changed in its nature from that which could no longer contain the same provisions as in the preceding period. So long as religion controlled it had regulated the relations of men to each other according to the principles of this religion. But the inferior class who brought their principles to the city understood nothing of the old rules of the right of property of the ancient rights of succession of the absolute authority of the father or of the relations of patronage and wished to do away with

all this. The transformation of the law which is true could not be accomplished once it fit some times possible for a man quickly to change his political institutions he cannot change legislation and private law except slowly and by degrees. The history of Roman law was well as that of Athenian law proved this.

The law of the Twelve Tables was not the law of the patricians of the plebeians and the in between. This legislation therefore is no longer the primitive law of Rome; it is a pretorian law which is a transition between the two.

Here then are the points in which it does not yet deviate from the antique

law in its main principles. In the following we shall see how far some of these principles have been reached in the majority of the laws of succession which follow the ancient rules in their inheritance to the agnates and in default of agnates to the gentile's clansmen members of the gens. As to the cognates,

the first question is whether the law of the Twelve Tables recognizes the son or the son of the mother.

Emancipation and adoption preserve the character and effects which these acts had in antique law. The emancipated son no longer takes part in the wor-

ship of the family and has no voice in the family council. In succession from a primitive view:—

It formally admits that the patrimony may be divided among the brothers,

1 Gaius II. 1724. Ulpian XVI. 4. Cicero *De Inventis* II. 50.

since it grants the *actio familiae erciscundae* of dividing the property".¹ It declares that the father cannot sell his son more than three times and that after the third sale, the son shall be free. This is the first blow struck by Roman law at the paternal authority.

Another change still more important, and that which gave man the right to transmit his property by will. Before this period the son was a *self-succesor* and a necessary default son; the nearest agnate inherited in default of agnates; the property returned to the gens, a trace of the time when the gens still divided the sole property of the domain which afterwards had been divided. The twelve tables threw aside those old principles; they treated property as belonging not to the gens, but to the individual; they therefore recognized man the right of disposing of his property by will.

Still the will was not entirely unknown in primitive law. Even the man might choose to delegate outside the gens, but on the condition that his choice

should be ratified at the assembly of the curies, so that from him it established. The new legislation freed the will from this vexatious and gave it a more convenient form—that of a pretended sale. The man feigned to sell his property to the one whom he had chosen; and in reality, he made a will in this

form. The choice of the person to whom the property was sold was made by the people. The plebeians, however, had nothing in common with the curies; and up to that time, found no means of making a will. But now they could employ the process of a pretended sale and dispose of his property. The most remarkable feature in

this period of the history of Roman legislation is the distinction between the orders. Ancient rules and formalities had only been applicable to the patricians; but now they were still applied only to religious families; but new rules and new methods of procedure were prepared which were applicable to the plebeians.

For the same reason, the laws of the *manus et嫁娶* (marriage) laws were such that the plebeian families did not contract sacred marriages, and that for them the conjugation rested only upon the mutual agreement of the parties (*mutuus consensu*), and on the affection which they had promised each

other (*affectio maritalis*). No formal religious ceremony took place. This ple-

¹ Gaius II. 19.

² *Digest* X. tit. 2. 1.

³ There was indeed the testament *procinctum* for the eve of battle, but we are not well informed as to this or if will perhaps was the testament *latissimum* in the late assemblies of the century, as to the assemblies of the curies.

beiammarriagefinallyprevailedcustomandlawbutinthebeginning
thelawofthepatriarchydidnotrecognizestallbindingofhisact
hadimportantconsequencesforamaritalandpaternalauthoritytheyes
ofthepatriarchywereonlyforthereligiousceremonywhichinitiated
thewifetotheworshipofthehusbandfollowedthattheplebeians
andnothispowertheadworecognizedfamilyhisandforhimprivatelaw
didnotexisthiswasasituationthatcouldnotlastaformalitywasthere-
fore devised by those of the plebeians in civil affairs had the same
effect as the sacred marriage they had recourse to in case of will; to (ac-
tional)sale of the wife was bought by the husband as *emptio* (fictional sale);
from that time she was recognized as a part of his property *familia*
["family" property] She was his hand and ankle and his daughter ab-
solutely for the religious ceremony had been performed.

We cannot affirm that this proceeding is not older than the Twelve Ta-

the law of the patricians thought differed widely in principle *sed* “use”] corresponded so emphatically to two forms of the same act. Every object may be acquired in either of two ways—by purchase or by use; the same is the case

with this kind of people, and of these marriages, as to such a union;
 us, more if it is hardly necessary to add that the cohabitation is to
 be preceded by marriage, at least by the plebeian marriage which was con-
 tracted by the consent and affection of the parties. Neither the coemptior

the marriage – which resulted in the death of his wife. There had been too often repeated hopes of marriage, they were only means of acquiring the marital and paternal power.

But the marital authority of ancient times had consequences such that the

specific to the one which has never rivaled the power of the latter, even to the extent of alienating the seller.² In another

1 GaiusI, 114.

2 Gaius, 11 *pauca continens*, persevered bushes hadived his lawfully wedded wife uninterrupted year so little was he contempt of marriage as wifemight contract with another beside her husband—with a guard, for example.

3 Gaius, 11.7.18. That his emancipation was merely fictitious in Gaius is beyond doubt; but it was perhaps at the beginning of the case was not the same more over with the marriage by simple consensu with the sacred marriage which established between husband and wife an indissoluble bond.

point of view the power of the husband and produce effect which the good sense of the plebeian would hardly comprehend if he put the woman in place in the hands of the husband and separated absolutely from the paternal family. She inherited none of its property and had no relations with it in the eyes of the law. This was very well in primitive law where religion forbade the same person to belong to two gentes or to sacrifice to two hearths in her inheritance. But the power of the husband was no longer conceived to be so great and there were ever excellent motives for wishing to escape these hard consequences. The code of the Twelve Tables while providing that a year's cohabitation should put the wife in the husband's power was compelled to leave him the liberty of contracting in ignorance and binding for each year the wife interrupted cohabitation by an absence of more than three nights, it was sufficient to prevent the husband's power from being established. Thus the wife preserved a legal connection with her own family and could inherit

from it. Without entering into further details, we see that the code of the Twelve Tables already departed considerably from primitive law. Roman legislation was transformed with the government and the social state a little by little and in almost every generation some new change took place. As the lower class-

es of the State gradually came to modify the law with their knowledge. Then. Next it was the Papirian law which forbade a debt to be pledged in person to the creditor. The procedure became simplified greatly to the advantage of the plebeian by the abolition of the *actio in rem*. Finally the pretor continued

in the tradition of the code which the Twelve Tables had produced and which approached continually nearer to the law of nature.

An analogous evolution appears in Athenian law. We know that two codes were prepared at Athens with an interval of thirty years between them; the

first Draconian code which was the first struggle of the two classes was at its height and before the Eupatrides were vanquished Solon prepared his at the moment when the inferior class gained the upper hand. The difference between these codes therefore is great.

"Draconius Eupatibus et plebeiis legibus servatis. His enim servatis the old custom of writing without any way hanging in them. His first law is this: 'Men should honor the gods and heroes of the country and offer them annual sacrifices, without deviating from the rites followed by your ancestors.'"

Memorials of his laws concerning murder have been preserved. They prescribe

that the guilty ones shall be kept out of the temple and forbidden to touch the lustral water, the vessels used in the ceremonies.

His law appeared to do succeed in generation. They were indeed dedicated by an implacable religion which saw never a fault or offense against the divinity and never an offense against the divinity unpardonable. The theft was punished with death because it was an attempt against the religion of property.

A curious article of this legislation which has been preserved shows what spirit it was made to grant the right of prosecution for a murder only to the relatives of the dead and the members of his gens. We see by this how powerful the gens still was at that period, in that it did not permit the city to interfere in its affairs, even to avenge. A man still belonged to the family more than to the city.

In all that has come down to us of this legislation we see that it does not

make a distinction between the classes, but that it is based on the old distinction between the classes, the free and the inferiors, as always tested at the end of thirty years, and demanded a new code.

The code of Solon is entirely different, because that it corresponded

to a new state of affairs. The first principle of the law was to distinguish between the free and the inferiors, the free and the inferiors. The names are not even found in many of the articles that have been preserved. Solon boasts in his verse of having written the same laws for the great and the small.

Like the law of Solon, the code of Solon departed from the old law, that the Roman decemviri copied the laws of Athens, but the two codes, works of the same period and consequently of the same social evolution, could not but resemble each other. Still, his resemblance is not more than

the spirit of the two codes, even when we compare the primitive law of the Twelve Tables with the others in which it departs more widely from it.

The very early law had prescribed that the eldest son should inherit

the whole of the inheritance, and this principle was not more than a primitive law enough to give the sister a part in the inheritance. The divi-

1 Aulu Gellius, *XI*, 18; Demosthenes, *Lept*, 15; Porphyry, *De Abstinentia*, *IX*.

2 Demosthenes, *Evergetis*, 1 in *Macar*, 57.

sion, he says "shall be among ~~the~~ sons."

Further, if a father left only a daughter, this daughter could not inherit; the property fell to the nearest agnate. In this Solon conformed to the old law, but he succeeded in giving the daughter the enjoyment of the patrimony by compelling her to marry. Relations through women was unknown in the primitive law. Solon admitted in the new code but placed it below the relations through males. Here is his law: "If a father leaves only a daughter, the nearest agnate inherits by marrying the daughter. If he leaves no child, his brother inherits, and his sister—his mother, if the same father and no brother inherits. In default of brothers and sons of brothers, the succession falls to the sister, if there are neither brothers nor sisters, nor nephews, nor cousins, and the children of cousins, in her if no cousins are found in the paternal branch (that is to say among the agnates), the succession is conferred on the collateral of the maternal branch (the cognate)."

These were the grounds on which he said that the rights of the agnate descended through males excluded women and the descendants of women. But this sort of relation was recognized and took its place in the laws—a certain proof that natural rights began to speak in most of the ancient

regions. Solon introduced into Athenian legislation something entirely new—the will. Before him property passed necessarily to the nearest agnate; in default of agnates, the *gennete* (*gentile*). This was because goods were considered as belonging not to the individual but to the family. But in Solon's

time, and he gave the dead a voice in his property. That is, Solon, the legislator, therefore permitted the disposal of their fortunes and to choose the legate. Still, while suppressing the rights which the *ἐϋοί* had over each of its members, he did not suppress the rights of the natural family—his son

remained the son, and if the father was dead, his daughter could. A man without children was free to will his property according to his fancy.

This as a rule was absolute in Athenian legislation and was used by this woman in a wide concern in the family property at that time.

The principle was to be developed further by the agnate and the agnate

1 Isæus VI. 25.

2 Isæus III. 42.

3 Isæus VII. 19 K 11, 11.

4 Isæus III. 41 68, 73 V 1, 9; X 9, 13 Plutarch *Solon* 21.

son or to put him to death. Solon, conforming to the new manner of life, made this power of the father certain, and forbade a father to sell his daughter, and it is probable that the same injunction protected the son. The paternal authority went on diminishing, the ancient religion lost its power—an event which happened earlier at Athens than at Rome. The Athenian law, therefore, was not satisfied as yet like the Twelve Tables. After the triple sale the son shall be free. It permitted the son on reaching a certain age to escape from the paternal power. Custom, if not the law, was sensible enough to establish the majority of the son during the lifetime of his father. There was an Athenian law which enjoined the son to support his father when old or infirm. Such a law necessarily indicates that the son might own property, and consequently that he was free from parental authority. This law did not exist at Rome, because the son never possessed anything and always remained a minor.

As for females, the law of Solon still conformed to the earlier law when it forbade a man to marry his daughter before she had been betrothed, and permitted her to marry only a man of her own rank. The law of Solon was not so far from the law of Rome as it is often represented.

There was still the innovation in this code in opposition to Draco, who permitted only the family of the victim to prosecute for a crime,

Solon proclaimed his right to every citizen. Here was a more democratical law.

Thus at Athens, as at Rome, law began to undergo a change. For the new social state and new code sprang up. Beliefs, manners, and institutions having been modified, the law which had before appeared just and wise ceased to appear

so and by slow degrees was abolished.

CHAPTER IX.

NEW PRINCIPLES OF GOVERNMENT, THE PUBLIC INTEREST, AND THE SUFFRAGE.

1 Plutarch *Solon* 13.

2 Plutarch *Solon* 23.

3 Isæus II. 24, 25. Dion Chrysostom *ἑξ ἀμαρτίας*, Harpocration *ὅτι καὶ μετρίμηνον*, Demosthenes *Ἐν ἐργῇ τῇ Βαυτοῦ*, *De orat.* Neærg. 5152.

4 Plutarch *Solon* 18.

THE revolution which overthrew the rule of the sacerdotal class and raised the lower class to level with the ancient aristocracy marked a new period in the history of cities. A sort of social reconstruction was accomplished. It was not simply replacing a class of men in power by another. The old principle had been thrust aside and new rules adopted that were to govern human societies. The new city it is true preserved the exterior forms of the preceding period. The public system remained almost everywhere the magistracy preserved the ancient names. A then still had its archons and Rome its consuls. Nor was anything changed in the ceremonies of the public religion. The repasts of the prytaneuthe sacrifice the opening of the public assembly the auspices and the prayers—were preserved quite common with many who here rejected institutions they wished to preserve their exterior forms.

In reality all was changed. Neither institutions nor laws nor beliefs, nor old systems in place any longer. It had become the merit of the established things, a new order of things was established, human life changed its aspect.

During long ages religion had been the sole principle of government. Although the principle had been founded upon a basis which was liable to fluctuation and conflict. The principle upon which the governments of cities were founded henceforth was public interest.

We must observe this new dogma which had appeared in the midst of a new history. Here religion no longer formed the basis of worship had been the social bond. From this religion necessarily derived, for some the right to command for others the obligation to obey. From this had come the rules of justice and the legal procedure of public deliberation.

It was the desire of cities to have a religion that was not based upon it thus. Neither interest nor convenience had contributed to establish them. And if the sacerdotal class had tried to defend them it was not in the name of the public interest, was the name of religious tradition. But in the period

when more regular principles had been substituted for the older authority—the only one which is above individual wills and which obliges them all to submit—public interest. What the Latins call *res publica* "state" "commonwealth" the Greeks κοινὸν ["common"] "public",

"league" replaced the old religion. This is what from this time establishes

institutions and laws, and by this all the important acts of cities are judged. In the deliberation of the senate or of popular assemblies the laws are discussed, or a form of government, or a question of private right or a political institution. In no one any longer asks what religion prescribes, but what the general interest demands.

A saying is attributed to Solon which well characterizes his new régime. Some one asked him if he had given his country the best constitution. "No," he replied, "but the one which is the best suited to it. Now it was something quite new to expect in forms of government and in laws only relative merit. The ancient constitution is founded on the rules of a worship, never proclaimed infallible and immutable. It possesses rigidity and inflexibility of the religion. Solon indicated by this answer that in future political institutions should conform to the wants, the manners, and the interests of the men to which they were a solution of a question of absolute truth, the rules of

government, and that the laws ought to be made and modified by the people.

The receipt of public interest is not so absolute and clear as manifest, and those of religion we may always discuss, but they are not perceived once they have appeared, the simple and sure to know what the public

interest is, and to see to it that it is done. In the time of the high priests, the period of the epic and of the heroic age, the chief weight of the deliberation, the opinion of the priests, of the king, of the sacred magistrates, all-powerful men, voted little and then rather as a formality than to express an opinion. After

that time, the priests were no longer consulted, and the sacred magistrates of government were the source of institutions, and the rule of right; decided what was useful and what was just. It was above them the magistrates, and above the laws, it was sovereign the city.

The new forms of government, which have been substituted since, have been instituted to maintain order and peace within and dignity and power without. What had before been of secondary importance is now of the first. Politics took precedence of religion, and the government of men became the human

affairs. It is now said that the new forms of government are a free sample of Athens and of Rome. At Athens, during the domination of the aristocracy, the archons had been especially the care of deciding causes, of administering the law, and of making laws of minor importance, and

might, without inconvenience, be joined to the priesthood. When the Athe-

nians rejected the old religion and form of government. They did not suppress the archonship for they had an extreme repugnance to abolishing what was ancient. But by the side of the archon they elected the magistrates also, by the nature of their duties corresponding to the wants of the age. These were the strategæ, the word signified chief of the army, but the authority of these officers was not purely military. They had the care of the relations with other cities, of the finances, and of whatever concerned the police of the city. We may say that the archon had in his hands the state religion and all that related to it, and that the strategæ had the political power. The archon preserved the authority such as the ancient magistrates had conceived. The strategæ had what he wanted to cause to be established in all time to come, while the archon had only the semblance of power, and the strategæ had all the reality. These new magistrates were no longer priests. They hardly performed the ceremonies that were indispensable in time of war. The government had more

and more of the secular functions. It is that which might be seen in the archons appointed (ἐκκλησιασταί), they were not asked, the archons were if they had a domestic orship and if they were of a pure family it was sufficient if they had a way to perform the duties of citizens and of a property in Attica.

It was the war and the struggle of the government with the enemies of the state, and more complicated society was no longer the principal quality, and as skill, prudence, courage, and heart of command became necessary, men no longer believed the choice by lot was sufficient to make a good magistrate.

The archon had been considered the god who presided over the city, and should be designated by the gods, was a natural but the strategæ, who held in his hands the material interests of the city, was better elected by the citizens.

If we closely observe the institutions of Rome, we see that a change of the

same kind was going on there. On the one hand, the tribunes of the people, whatever related to internal affairs—finally absorbed them. Now the tribunes, who had a priestly character, were a greater semblance to the strategæ. On the other hand, the consulship itself could subsist only by changing its

character. What was a sacred institution was degraded and profaned. Thus, the consul should continue to perform the ceremonies instituted by their ancestors, but we can easily understand that the day when the plebeians became

1 Deinarchus § 7 (coll. Didot).

these ceremonies were no longer anything more than vain formalities. The consulship passed from the priesthood to the people, and more and more command. This transformation was slow and insensible, and it was not till the middle of the consulship, certainly not in the time of the Scipios, what had been in Publicola's day the military tribuneship, which the senate instituted in 443 and about which the ancients give us very little information, was perhaps a transition between the consulship of the first period and that of the second.

We may also remark that there was a change in the manner of nominating the consuls. In the first age the vote of the centuries in the election of the magistrates was so vague a formality, in reality the consul of each year was created by the consul of the preceding year, who transmitted the auspices to him after having obtained the assent of the gods. The centuries voted on the two or three candidates presented by the consul's office; there

less complete. The people brought the candidates before them, and the election is quite different, though the form is still the same. There is still a former religious ceremony and a vote, but the religious ceremony is the formality and the vote is the reality. The candidates are still presented by

the consul, but he is no longer the sole candidate. The people have a right to propose all. Thus the centuries name those whom they honor. The election no longer belongs to the gods; it is in the hands of the people. The gods and the auspices are no longer consulted, except in the condition that they

will be impartial towards all the candidates, and make the choice.

CHAPTER.

AN ARISTOCRACY OF WEALTH ATTEMPTS TO ESTABLISH ITSELF AS A DEMOCRACY: FOURTH REVOLUTION.

THE government which succeeded the rule of the religious aristocracy was not at first democratic. We have seen from the example of Athens and Rome that the revolution which took place was not the work of the lowest class. There were indeed some cities where these classes rose first, but they could found nothing durable. The protracted disorders to which Syr-

acusē Miletus and Samos. Is there a proof of this? The new governments were not established with any solidity, except where a class was at once found to take a hand for a time in the power and moral authority which the Eupatrids and the patricians had lost. What could this new aristocracy do? The hereditary religion being thrown aside, there was no longer any of the social distinction of wealth. Men demanded therefore that wealth should establish rank, for they could not admit on a once that equality should be absolute.

Thus Solon did not think best to do away with the ancient distinction founded in hereditary religion, except to establish a new division which should be founded in riches. He divided the citizens into four ranks and gave them unequal rights, none but the rich could hold the highest offices; none below the two intermediate classes could belong to the senate or sit in the tribunals.

The case was the same at Rome. We have seen that Servius destroyed the

power of the patricians only by the introduction of the *tribus*, the *tribus* being the *quæstiones*, which was from that time the rich order at Rome. The plebeians did not possess the same rights, and knights were divided into five classes according to the amount of their fortunes. The poorer people

were limited by the *curiæ*. Servius had the political wisdom of the *curiæ* can constitution, preserve the distinction established by king and the plebeians did not at first appear very desirous of establishing equality among themselves.

What was the result of the political changes? The *tribus* were given to those who own no horse, formed sort of equestrian order, and those who ranked below them in wealth obtained the same rights, and this measure raised the number of citizens only to one thousand. At Rhegium the

government was for a long time in the hands of the *tribus* and the *tribus* like a part of the body politic. We see clearly in the poetry of Theognis that at Megara after the fall of the nobles the wealthy took their place. At Thebes, in order to enjoy the rights of citizen, none could be either an artisan or a

merchant. Political rights which in the preceding age belonged to birth,

1 Plutarch *Solon* 8; Aristotle *Eth.* 3; Aristotle cited by Harpocration, the word *ἐπὶ* ["knights"] *ἐπὶ* ["thebes"] *ἐπὶ* *Pollux* VIII.1.29.

2 Livy I.43.

3 Aristotle *Politics* II.3.4; VI.4, 5 (edit Didot).

were during some time enjoyed by fortune alone. This aristocracy of wealth was established in all the cities not by any calculation, but by the very nature of the human mind, which escapes from a régime of greater equality could not arrive at one of complete equality.

We have to remark that these new nobles did not found their superiority simply upon wealth. Everywhere the ambition was to become the military class. They undertook to defend the city at the same time that they governed it. They reserved for themselves the best arms and the great part of the perils in battle, desiring to imitate in this the nobility which they had replaced. In all the cities the wealthier performed the cavalry, the well-to-do composed the body of hoplites, the legionaries. The poor were excluded from the army, or at most they were employed as skirmishers, light-armed soldiers, or among the rowers of the fleet. Thus the organization of the army corresponded with perfect exactitude to the political organization of the city. The

flourishing proportions of the city, the wealth, and the material strength was

There was thus almost all the cities whose history is known, a period during which the rich class, at any rate, the well-to-do class, was in possession of the government. This political system had its merits, every system

It has now to be said that the creation of the hoplite class, the nobles, had assuredly undergone great service. They were the first to establish law and found regular government. If they had enabled human societies to live during several centuries in tranquillity and dignity, the aristocracy of wealth had in-

It was, in fact, the most important of the new nobles, the hoplite, who bore the brunt of the new government. He was the most politically important, the most laborious, the most active, the most skilful, and it was therefore favorable to industry and commerce, and was also favorable to intellectual progress.

the acquisition of his wealth, which was gained in a most ordinary way, according

1 Lycias, *Alcibiades*, 117; Isæus, *II*, 39; Xenophon, *Hellenica*, VII, 4. Harpocration, *op. cit.*

2 The relation between military service and political rights is manifest in Rome, the century after assembly was soothed that the army of Sulla was the army which had passed the day for military service, no longer had the right to vote in these omities. Historians do not tell us that

there was a similar case at Athens, but there are four or five significant cases. Thucydides, *op. cit.*

3 In 113, at the beginning of the war, Athens had thirteen thousand hoplites, and to these we

added the knights, number of Aristophanes, the *Vespers*, about a thousand arrived at the number of four thousand soldiers. Now Plutarch tells us that at the same date there

were four thousand and seven hundred hoplites, and therefore we could not serve among the

hoplites were not counted among the citizens. The Athenian constitution in 430 was

not yet completely democratic.

to achieve merit and instruction, the first need and intelligent the most powerful spring of human affairs. We are not therefore surprised that under this government Greece and Rome enlarged the limits of their intellectual culture and advanced their civilization.

The rich class did not hold the empire so long as the ancient hereditary nobility had held it. The title of dominion was not of the same value. They had not the sacred character with which the ancient Eupatridæ were clothed. They did not rule by virtue of a belief in the will of the gods. They had no quality that had power over conscience, that compelled one to submit. Man is little inclined to bow except before what he believes to be right, or before what is not to beach him far above him. He had on Greece made to bend before the religious superiority of the Eupatridæ, he repeated the prayers and possessed the gods. But wealth did not overawe him. In presence of wealth, the most ordinary sentiment is not respect, is envy. The political inequality

that resulted from the difference of fortunes soon appeared to be an iniquity.

Besides, the series of revolutions commenced could not be arrested. The old principles were overturned, and there were no longer the traditions or fixed rules. There was a general sense of the instability of affairs, which pre-

vented any institution that had done good enough to bind the citizens, and their turn began to make efforts to enter the body politic.

It is impossible to enter into the details of this new struggle. The history of cities as it gets farther from their origin becomes so much more diversified.

The fall of the aristocracy of Rome was the result of a revolution, and the city where the principal element of wealth was the possession of the soil, the rich class was no longer respected, and held its dominion longer, and that on the contrary, in cities like Athens, where there were few landed estates, and

where the poor were the principal element of the population, the aristocracy was soon attacked.

The rich class of Rome offered much stronger resistance than that of Greece, this was due to causes which we shall state presently. But when we

recall the history of Rome, we are struck by the fact that the aristocracy of the aristocracy was the great and powerful argument of tradition and piety. They could not call to the aid of their ancestors and the gods. They had no point of support in their own religious notions, nor had they any faith in the justice of their privileges.

They had indeed superior arms, but this superiority all failed them. The constitution which the state adopted would have lasted longer, no doubt if each state could have remained isolated; at least if it could have lived in peace. But under any system of constitutions, and hasty change now betwixt these cities of Greece and Italy was almost perpetual. Military service weighed so heavily on the rich classes, this class occupied the front rank in battle. Often at the close of a campaign, they returned the city decimated and weakened, and consequently prepared to make head against the popular party. At Tarentum, for example, the higher class having lost the greater part of its members in a war against the Iapygians, a democratic government was at once established in the city. The course of events was the same at Argos some thirty years before, at the close of an unsuccessful war against the Spartans, a number of free citizens had become so small that it was found necessary to grant the rights of citizens to

introduction of the Spartans, the sons of the fallen, and the sons of the captives. As to Rome, its revolutions are explained as a result of its continual wars. First war destroyed the patricians, of the three hundred families which this caste comprised, only the kings there remained, hardly thirty after

these and the Samnites, the Gauls, and the rest, who pressed on the cities, the legions.

One of the effects of war was that the cities were almost always brought to the state of putting arms into the hands of the lower order. It was in this

way that the Athenians gave the poor the right to share in the management of the state, and the Spartans gave the poor the right to share in the management of the state. The Thetians raised the rank of rowers and sailors, and even of soldiers, and holding in their hands the safety of their country, felt the importance of doing so. Such was the origin of the Athenian

democracy. Sparta was free from war, and the Spartans were not dragged despite of herself to the Peloponnesian war, but how many efforts she made to withdraw. This was because she was forced to arm her *ποταμιοὶ* [*inferiors*], the Neodamodei, the Mothacidae, the Laconians, and even

the Helots, especially the Helots, who were revolutionary in their nature, and compelled to disband the army, either to submit to the law of the Helots or to find means to have them massacred without disturbing the people, the

1 Aristotle *Politics* VIII 2, 8 (V. 2).

calumniate the Roman senate when they reproached it with always seeking new wars. The senate was too wise for that; it knew how many concessions and checks it had to make in its wars, so it could not avoid them.

It is therefore beyond doubt that as long as the distance which the aristocracy held between itself and the lower orders was not too great, it soon happened that constitutions were found to be at discord with the social state, and required modification. Besides, it must have been seen that all privileges were necessarily in contradiction to the principle which they governed. The public interest was not a principle that could long authorize an inequality among men; it inevitably conducted cities to a democracy.

So true is this that a little sooner or a little later it was necessary to give all freedom of political rights. As soon as the Roman plebeians wished to hold a portion of their own power, they were constrained to admit the lower classes and could not hold to the division into classes. Most of the cities thus saw a popular

assemblage of citizens, and the rights of the people were extended to a comparably greater extent than in modern states. By means of the *assemblies of the citizens*, the hands of all affairs were directed, and laws were decided, and declared for war or peace, and prepared treaties of alliance. This extension of the rights of

suffrage made it possible for the people to avoid the advent of democracy, if they had been able to find what Thucydides calls *ὀλιγαρχία ἰσώνομος* ["constitution of oligarchy"]—that is to say, the government for a few and liberty for all. But the Greeks had not a clear idea of lib-

erty, and liberty was not a principle on which to build a democratic government. Under the rule of the oligarchy the people were subjected to many vexatious and arbitrary condemnations, violent executions were made in this history, and the democratic government was needed to give the poor ref-

uge from the tyrants. The Greeks were too much interested in their individual rights, it seemed necessary to them that they should have the rights of suffrage, that they should be judges in the tribunals, and that they might elect and magistrates. Few were called to mind that among the Greeks the state was an absolute

power, and that the individual was a fraction of it. The state was not a mere possession of political rights—that is to say, in making a part of the government, the collective sovereign being omnipotent, that a man could do nothing less than as a part of this sovereign. His security and his dignity depended on

this. He wished to possess political rights, not in order to enjoy individual liberty,

but to have at least what might take its place.

CHAPTER I.

RULES OF DEMOCRATIC GOVERNMENT: EXAMPLES OF ATHENIAN DEMOCRACY.

As the revolution followed their course and men departed from the ancient system of government, it became more difficult. More intricate rules, more machinery and that more delicate became necessary. This we can see from the example of the Athenian government.

several times before he appeared in person, he told them to place their hands on the altar and watch the perpetuation of the domestic worship, picking up the sacrificial spoils, polearm, and shield, chief of the army, and deciding the cause of foreigners, the sixth the mother, the seventh

passed judgment upon those priests who had consulted them and also offered certain sacrifices (*παράσιτοι*) "parasites" paid at public expense." Who accompanied the archon and the king in the ceremony? Not even at the other end of the world remained four years in office to prepare the festival of Bac-

On the other hand, the tyrants the politicians and the false prophets all came from this that Athens remained faithful to the traditions of ancient times. So many revolutions had not yet completely destroyed this superstitious respect. No one dared to break with the old forms of the national religion, the democ-

[illegible]

water, and the marks on the face and on the Piramuth of the nose controlled weights and measures, in regard of the treasury, the receiver of the accounts, the levies, who were charged with the execution of sentences. In addition to this the greater part of these magistrates were repeated each

tribe and each of them. The smallest group of people in Attica had a sarchon,

its priests, secretaries, receivers, military chiefs. One could hardly take step in the city or in the country without meeting an official.

These offices were annual, so that there was hardly a man who might not hope to fill some one of them in his turn. The magistrates—priests chosen by lot. The magistrates attended only to public order, were elected by the people. Still there was a precaution against the caprice of the lot, as well as against that of universal suffrage. Every newly elected official was subjected to an examination either before the senate or before the magistratus, going out of office or lastly before the Areopagus—that they demanded proofs of capacity, talent, but an inquiry was made concerning the probity of the man and concerning his family. Every magistrate also required to have property of a certain state.

It would seem that the magistratus elected by the suffrage of his equals, named for only a single year, responsible, never removable, could have had

little prestige and authority. But the law prescribed that the magistratus, always the character of the ancients, even in that of the Athenians, great facility in submitting to discipline was perhaps a consequence of the habits of obedience with which their religious government had inspired them. They

respected the magistratus as the deity of discipline, and the magistratus elected by suffrage, as the deity of the most sacred source of authority.

Above the magistratus, who had no other duty than that of seeing to the execution of the law, there was the senate. It was merely a deliberative body,

so that it was not to be supposed that it was a body of men of great intelligence or great experience was required of its members. It was composed of fifty prytanes, some a tribe, who performed the sacred duties in turn and deliberated on the year upon the religious and political interests of

the city. It was so, both because the magistratus was the magistratus, and because by lot. It is but just to say that after the magistratus had decided a case was examined and any one was thrown out who did not appear sufficiently honorable.

Above even the senate there was the assembly of the people. This was the

real power. But it was a power which was not to be exercised without a magistratus. It also had no variable rules to which it submitted.

The assembly was convoked by the prytanes, the strategus, and the

1 / Eschine 41, 2; Andocides 4, 191, 45-55.

in an enclosure consecrated to religion in the morning the priests had walked around the Pnyx immolating victims and calling down the protection of the gods. The people were seated on stone benches, sponsors of platforms were the pyrtanes, and in front of them the proedroi presided over the assembly. An altar stood at the speaker's end, and the stand itself was reckoned as one of the altar. When all were seated, the priest κηρυξ ["herald"] proclaimed, "Keep silence, religion (ὁσιότης); pray the god and goddess (θεοὶ) here named the principal divinities of the country, that all may pass in prosperity by the assembly for the greatest advantage of Athens and the happiness of its citizens. Then the people, some on the name replied, "We invoke the god that they may protect the city. May the advice of the wise prevail. Curse be on him who shall give bad counsel, who shall attempt to change the decrees, and the law who shall reveal a secret to the enemy." Then the herald by order of the president declared the subjects with

which the assembly was to deal. The question of the proposed law was that it is called the *moderatio* language initiative. The senate offered a draught of a decree (bill) the people could reject or adopt, but could not deliberate on any other question.

The herald, who had the right to direct the discussion, spoke and stood according to age. Any man could speak without distinction of fortune or profession, on the condition that he had proved that he enjoyed political rights. He was not a debtor to the state, that his habits of life were

honourable, that he was a free man, that he was a citizen, that he had not been in the military expeditions which he had been assigned, that he had never thrown his shield away in any battle.

These precautions against eloquence taken, the people gave them- selves to the debate. The Athenians thus enjoyed the advantage of being enlightened politics were prolonged under the preceding government, affairs of tradition and faith were reflected and weighed. A discussion was necessary for every question, a more or less obscure and discussion

also possible. The result of the debate was the decision of the majority. They made great account of their orators and it is said paid them in

1. Eschines 23 III. 4. Deinarchus 11. 14. Demosthenes 19. 1. Aristotle 97. Aristophanes 1. 434. 4. and Scholia 1. 295-310.

2. Eschines 27-33. Deinarchus 1. 51.

more forever, discourse delivered to the people. They did better, they listened to them. For we are not picturing ourselves as sois and turbulent multitudinous. The attitude of the people was quite the contrary. The comic poet represents the motionless people on the stone seats, listening in open-mouthed. Historians and orators frequently describe the popular assembly. We rarely see an orator interrupted. He that was Pericles, Cleon, Eschines, Demosthenes, the people were attentive, whether the orator flattered them or upbraided them, they listened. They allowed the most opposite opinions to be expressed with patience, that was sometimes admirable. There were never cries or shouts. The orator, whatever he might say, could always reach the end of his discourse.

At Sparta eloquence was little known. The principles of government were not the same. The aristocracy governed, and had fixed traditions which saved the trouble of a long discussion upon every question. At Athens the

people were not so fond of it. They had been once, but thought it to have been too put in universal suffrage. In operation, discussion is necessary to the spring of democratic government. The orator, therefore, soon received the title of demagogue—the stay of conduct of the city and

into the world. It is not so. He should take proper notice of the existing law, had been anticipated, then had special magistrates as guardians of the laws. Seven in number, they watched over the assembly, occupying high seats, and seemed to represent the law, which was above even the people. If

they saw that the law was violated, they spoke to the assembly, and the people separated without having right to reach a vote.³

There was a law little applicable, indeed, that punished every orator convicted of having given the people bad advice. There was another that forbade

any orator to speak twice in the law. The orator who had three times advised a

Athenian knew very well that democracy could be sustained only by respect for the laws. There are few preparatory changes that might be useful, but proposals belonged especially to the thesmothetes. Their propositions were pre-

sented to the assembly, and had a public character, as being presented

1 At least this is what Aristophanes gives us to understand. *Uesp.* 711, 689. See the Scholiast.

2 Aristophanes *Knigh.* 119.

3 Pollux *XIII.* 94. Philochorus *Ag.* coll. Didot p. 407.

4 Athenæus *V.* 73. Pollux *XIII.* 52. See G. Perrot *Etist. du droit public d'Athènes* chap. II.

the bill for the mother. But the people could decide nothing at once; they put off the discussion to another day. Meanwhile they designated orators, whose special mission should be to defend the existing laws and to point out the inconvenience of the innovation proposed. On the day fixed, the people again assembled and heard first the orators charged with the defence of the old laws, and afterwards those who supported the new. When speech had been heard, the people did not decide yet. They contented themselves with naming a commission of many numerous but composed exclusively of men who had held the office of judge. This commission returned the examination of the affair, heard the orators anew, discussed and deliberated. If the commission rejected the proposed law, their decision was without appeal; if they approved it, the people were again assembled, and this third time they voted, and by their vote the bill became law.

Notwithstanding much prudence, an unjust or unwise proposition

might be adopted. These evils, however, which depend on the fact that sovereigns are reputed infallible, but every orator always remained answerable for the advice he had given.

Such were the rules which the democracy obeyed. But we are not to conclude

from this that the democracy was not mistaken. What a host of wrongs on government and other wise passions! No constitution ever suppresses the weaknesses and vices of human nature. The more in the rules the more difficult and full of perils they show the direction of society to be Democracy

could easily be forced to become unflavour which his democracy required of men. It was a very laborious government. See how the life of an Athenian passed. One day he is called to the assembly, by this demand has to deliberate on the religious and political interests of this little association.

Next day he must be at the assembly to be present at the festival of the judges. Three times a month regularly he takes part in the general assembly of the people, and he is not permitted to be absent. The session is long. He does not go simply to vote having arrived in the morning, he must

remain till late in the day, during the session. He cannot attend his business. For him this vote is one of the most serious affairs. At one time political air

1. Eschines, *Ctesiph.* 88 Demosthenes, *Timocr.* in *Leptin.* Andocides, 83.

2. Thucydides, 43 Demosthenes, *Timocratem*

military chief are to be elected—that is to say those to whom his interests and his life are to be confided for a year or another, that is to be imposed a law to be changed again, that is to vote on the question of war knowing well that in case of war he must give his own blood or that of a son. Individual interests are inseparably tied with those of the state. A man cannot be indifferent in considering the mistake he knows that he shall soon suffer from, and that he cannot help doing his fortune and his life. The day when the disastrous Sicilian expedition was decided upon, there was a citizen who did not know that one of his own family must make a part of it, and who was not required to give his whole attention to weighing the advantages of such an expedition against the dangers it presented. It was of the greatest importance that one should be the subject of a clear light for a check to receive. His country was for every citizen a diminution of his personal dignity, of his security, and of his wealth.

The day of justice is to him the time in which he is to be heard. He was a *heliast*, and passed all the year in the courts of justice occupied in hearing cases and applying the law. There was hardly a citizen who was not called upon twice in his life to be a senator. For a year he sat every day from

the middle of the plowing to the middle of the sowing, and was examining Athenian ambassadors, examining all affairs that were to be submitted to the people, and preparing the laws. Finally, he might be a magistrate of the city, an archon, a strategus, an *astynomus*, the heliots, or a *suffragete*, designated

himself to see by his name who he is, and of the reality of his little time for personal affairs and domestic life. Therefore Aristotle says, very justly, that the man who had to labor in order to live could not be a citizen. Such were the requirements of a democracy; the citizen like the public functionary.

For a man who was not in order to give his own life to the state. He public affairs in order to give more attention to his own was as the man who was required to neglect in order to labor for the profit of the city. Men passed their lives in governing themselves. Democracy could last except

that the citizens should not let their zeal diminish a little, that

1 There were 5,000 *heliasts* out of 14,000 citizens but were allowed to be on this second number 3,000 or 4,000 who might have been thrown out by the *ekklesia*.

CHAPTER II.

RICHANDPOOR DEMOCRACY PERISHES IN THE POPULAR TYRANTS.

WHEN a series of revolutions produced equality among men and there was no longer occasion to fight for principles and rights, men began to make war for interests. This new period in the history of cities did not come unprepared. At the same time it seemed to close the long chain of nations that had known how to govern themselves with moderation. But all the cities soon or late passed through these deplorable struggles.

As men departed from the ancient system, the poor class began to grow up.

Before, when a man was a slave, he was bound to his master, who was bound to him, and both were bound to provide for his want. But the revolutions which had dissolved the *l'érêvos* had also changed the conditions of human life. The day when a man was freed from the bonds of clientship

was the day when he became a free man, and he found himself in a more difficult position than before. He had no longer a master to provide for him, and he had to provide for himself. He had to find his own way of life, and he had to find his own way of death. He had to find his own way of life, and he had to find his own way of death. He had to find his own way of life, and he had to find his own way of death.

He had to find his own way of life, and he had to find his own way of death. He had to find his own way of life, and he had to find his own way of death. He had to find his own way of life, and he had to find his own way of death.

The democracy did not suppress poverty, but on the contrary, it rendered it more perceptible. The equality of political rights made the inequality of conditions appear still more plainly.

As there was no authority that was above rich and poor, the same time and could not find a way to keep the peace, it could have been wished that economic principles and the conditions of labor had been such as to compel the two classes to live on good terms. If, for example, the rich had stood in need of the other—the wealthy would have enriched themselves

and the poor would have found their own way of life. But the conditions of labor had been such as to compel the two classes to live on good terms. If, for example, the rich had stood in need of the other—the wealthy would have enriched themselves

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and the poor would have found their own way of life. But the conditions of labor had been such as to compel the two classes to live on good terms. If, for example, the rich had stood in need of the other—the wealthy would have enriched themselves

dent to give a part of it to the poor without despoiling anyone. Where there was commerce nearly all its benefits were for the rich in consequence of the high rate of interest. If the weaver manufactured his workman was a slave. We know that the rich men of Athens and of Rome had in their houses weavers, carvers, and more slaves. Even the liberal professions were almost closed to the citizen. The physician was often a slave who cured diseases for the benefit of his master, bank-clerks, and architects, shipbuilders, and the lowest state officials were slaves. Slavery was a scourge from which the society itself suffered. The citizen found few employments to do; the want of occupation rendered him indolent. As he saw only slaves at work he despised his own habits, moral dispositions, and prejudices. Combined to prevent the poor man's escape from his misery and living honestly. Wealth and poverty were not constituted a way to live together in peace. The poor man had equality of rights, but assuredly daily sufferings.

That the people who had no property had no voice in the public affairs, and that the master of the votes might become master of the wealth of his city.

He began by undertaking to give up his right of voting. He asked to be

paid for the privilege of not being called in person to the assembly. The resource he sold his vote and the occasion for voting was frequently given. At Rome this traffic was regular and was carried on in broad day; at Athens it was better concealed. At Rome, where the poor man did not act

as a judge, he could himself be a witness, and be a judge of all litigation.

These expedients did not suffice, and the poor man used more energetic means. He organized regular warfare against the rich. At first this was a dis-

trict of the poor against the rich, but it was changed into a public peace, shows. The fines were multiplied, and property confiscated for the slightest fault. No one could tell how many men were condemned to exile for the simple reason that they were rich. The fortune of the exile went into the public trea-

sure, and the poor man's fortune increased. The rich man's fortune decreased. The poor man continued to increase. The poor man began to use their right of suffrage either to decree abolition of debts, or a grant of confiscation, and a general subversion.

In earlier times they had respected their right of property because it was

founder of religion, he sold each patrimony attached to worship and was reputed to separate the domestic gods of a family, no one had thought of claiming the right to despoil man of his field, but at that time to which the revolution have conducted, the old belief is abandoned, and the religion of property has disappeared. Wealth is no longer sacred and inviolable, it no longer appears as a gift of the gods, but as a gift of chance. A desire springs to lay hold of it by despoiling the possessor, and this desire, which formerly would have seemed impiety, begins to appear right. Men no longer saw the superior principle that consecrated the right of property, each felt only his own want and measured his rights by them.

We have already seen that the cities especially in the Greek had unlimited power that liberty was unknown and that individual rights were nothing when opposed to the will of the state. It followed that a majority of votes might decree the confiscation of the property of the rich and that the Greeks

signified this second principle in the words that the best of men, for virtues and disorder, some which had little more respect for the rights of man, suffered less.

At Megaras Plutarch relates an insurrection was decreed that

the rich should be sold into slavery and that the rest of the people should

"At Megaras in other cities, says Aristotle, the popular party having got the power into their hands began by confiscating the property of a few rich families. But once on this road it was impossible to stop. A new victim was

once more assigned, and finally from numbers of the rich who were despoiled

In 412, the people of Samos put to death two hundred of their adversaries, exiled two hundred more and divided up the land and houses."

At Syracuse, hardly were the people freed from the tyranny of Dionysius,

when they were rent by the partition of the land. In a civil war the rich are on one side and the poor on the other. The poor are trying to gain possession of the wealth and the rich are trying to retain or to recover it. "In every civil war," says a Greek historian, "the great object is to change fortunes. Every

1 Plutarch *Greeks* 8.

2 Aristotle *Politics* III.4 (V.4).

3 Thucydides I.21.

4 Plutarch *Dion.* 37-48.

5 Polybius V.21.

demagogues like that Molpagon of Cios, who delivered the multitude those who possessed money as slaves, he exiled them and distributed their property among the poor. At Messene, as soon as the popular party gained the upper hand, they exiled the rich and distributed the lands.

The upper classes among the ancients have had intelligence and ability enough to direct the poor toward labor and thus help them to escape from the miserable and corrupt life. A few benevolent men attempted but they did not succeed. The result was that the cities always boated between two revolutions, one to despoil the rich, the other to enable them to recover their fortune. This lasted from the Peloponnesian war to the conquest of Greece by the Romans.

In every city the rich and the poor were two enemies living by the side of each other, the one coveting health and the other seeing their wealth coveted. No relation or service could unite them. The poor could acquire health

only by the profit of the labor they regarded as the property of the rich. There was a double conspiracy, every city the poor conspired from cupidity, the rich from fear. Aristotle says the rich took the following oath among themselves: I swear always to remain the enemy of the people and to do them all

the injury possible. Which of the two parties committed the most cruelities and crimes? Hatred effaced in their hearts every sentiment of humanity. "There was at Miletus war between the rich and the poor. At first the latter were successful and drove the rich from the city, but afterwards, regretting

that they had no means of subsistence, they recalled the rich and under the leadership of the rich afterwards returned to the city and became masters of it. They took in their turn the children of the poor, covered them with pitch and burnt them alive.

1 Polybius VII.10.

2 Aristotle *Politics* VIII.7, 1347b. Plutarch *Lycurgus* 49.

3 Heracleides Ponticus in Athenaeus VI. 26. It is quite the fashion to accuse the Athenian democracy of having Greece as an example of these excesses and disorders. Athens was on the contrary the only Greek city known to have had no such disorders between rich and poor within its walls. This intelligent and wise people saw from the day when his series of revolutions commenced the evils moving toward a day when labor alone could save society. They therefore encouraged and rendered it honorable. Solon directed that all men who had no occupation should be deprived of political rights. Pericles said that a slave should be both the construction of the great monuments which he raised and deserved his labor for free men. Moreover property was so divided that a census taken at the end of the fifth century shows that Attica had contained more than ten thousand proprietors. Besides,

What then became of the democracy? They were not precisely responsible for these excesses and crimes, but they were the first to be affected by them. There were no long any governing principles, now the democracy could only under the strictest and best observed rule. No longer any government, but mere factions and power. The magistrature no longer exercised authority for the benefit of peace and law, but for the interest of greed and party. A command no longer had legitimate title, or as sacred a character, there was no longer anything butuntary obedience was forced, it was always wanting for an opportunity to take revenge. It was now a *Slats* only, an assembly of men where one party was master and the others slave. The government was called *ristocracy*, with the rich were in power democratic when the poor ruled, in reality true democracy no longer existed.

From the day when it was mastered by material interests, it was changed and corrupted. Democracy with the rich in power had become violent mili-

gase, that the more of the people had that was of French affinity, Rome still excepted, that the republic for many perilled, and that they have become odious to one party. Now we can clearly see how it is to be destroyed, and who desires preservation. The rich more enlightened more

thoroughly in the future and public power, which the poor class
this poor class after several wars saw that victory gained them nothing,
that the opposite party always returned power and that after many inter-
changes of confiscations and restitutions the struggle always commenced,

they do not interfere with him in his private pursuits, and should assure him of the future fruits of his victory. And so they set up tyrant From that moment the parties changed names they were a colonial-gentry aristocracy and democracy they fought for liberty for tyranny Under

these two maternal and adolescent girls, and it was not clear if the two girls' government and school records, and the evidence of their families, truly indicated the contrary.

It is a general fact, and almost without exception in the history of Greece and of Italy, that the tyrants sprang from the popular party and had the aris-

the people against the rich and all ways common to the vulgar, and it is the essence of tyranny to oppose the aristocracy. The means far-

Athen's living under somewhat better economic regime than the other cities enjoyed, was less violently agitated than the rest of Greece. The quarrels between rich and poor were calmer, and did not end in the same disorders.

giving a tyrant, he also says, is to gain the confidence of the multitude, and to do this by declaring himself the enemy of the rich. This was the course of Peisistratus at Athens, of Theagenes at Megara, and of Dionysius at Syracuse.

The tyrant always made war on the rich. At Megara, Theagenes surprised the herd of the rich in the country and slaughtered them. At Cumæ, Aristodemus abolished debts and took the land of the rich to give them to the poor. This was the course of Nicocles at Sicily, and of Aristomachus at Argos. All these tyrants were very cruel. It is not probable that they were all so by nature, but they were urged by the pressing necessity which they found themselves of giving and so money to the poor. They could maintain their power only while they satisfied the cravings of the multitude and administered to their passions.

The tyrant of the Greek cities was a personage of whom nothing in our day

outlives a monarch. He was a man of private life, and he did not distinguish himself by any great talents. He was not in that lofty and independent position which the sovereign of a great state occupies. He had all the little passions of the private man; he was not insensible to the profits of a confiscation; he was accessible to a flatterer

had no personal enemies, and he was liable to the popular abuse of a mob. When it was a tyrant that was struck down, we can imagine what the government of such a man must have been. With two or three honourable exceptions, tyrants were set up in all the Greek cities in the fourth and

third centuries B.C. They were not the ideal tyrants of the poets, but they were, in fact, as unlimited as the Greeks could see. How easily a republic government, when it did not profess great respect for individual rights, was changed to a despotism. The ancients had conferred such powers on the state that the

downfall of a tyrant was a great event, and they could sing the dirges of the tyrant.

CHAPTER III.

REVOLUTIONS OF SPARTA.

1 Aristotle *Politics*, 8; VIII.4, 5; V.4.

We are not to believe that Sparta remained centuries without seeing a revolution. Thucydides is on the contrary that was a sorry dissension more than any other Greek city. The history of the internal dissension is true is little known, but this does not detract from the government of Sparta made a rule and a custom of surrounding itself with the most profound mystery. The great part of the struggle that took place there have been concealed and forgotten, but we know enough of them at least to say that the history of Sparta differs materially from that of other cities, that none of the events that passed through the same series of revolutions.

The Dorians were already united into a people when they overran Peloponnesus. What had caused them to leave their country was the invasion of a foreign nation or was an internal revolution. We do not know. But it appears certain that at this stage in the life of the Dorians the old rule of the gens had already disappeared. We no longer distinguish in them this

governing aristocracy, but they are already too much divided into tribes, and we see only warriors, all equal under the king. It is probable, therefore, that a first social evolution had already taken place in the Dorians on the road which conducted them to Sparta. If we compare Dorians society of the

fourth century with Dorians society of the seventh century, we see that the Dorians were centered upon the revolutionary road, but passed over it quicker.

Though the Dorians on their arrival at Sparta no longer had the govern-

ment of the gens, they had not the institutions of the gens, and they had not the institutions of primogeniture and the inalienability of the patrimony. These institutions could not fail to establish a aristocratic Sparta society.

All the traditions show us that at the time when Lycurgus appeared there

royalty was new at Sparta, and that there were nobles, and others, who as nothing became the chief of the aristocracy, and that the same blow weakened all, and brought the people under the yoke.

The declamation of a few of the ancients and of many of the moderns

the Spartans were blind, and that they were weak, and that they were not to be blind. Of all the cities that ever were upon the earth, Sparta is per-

1 Thucydides 4.8.

2 Thucydides 5.8.

happened where the aristocracy signed the most oppressive and where equality was desired, it is useful to select all of the divisions of the land if that division ever took place, it is at least quite certain that it was not kept up; for in Aristotle's time, some possessions remained, others had nothing or almost nothing. One could reckon hardly a thousand proprietors in all Laconia."

If we leave out the Helots and the Laconians, and examine only Sparta, society was still in a hierarchy of classes superposed one above the other. First, there are the Neodamodes, who appear to be former slaves freed; then come the Perneutes, who had been admitted to fill up the gaps made by war among the Spartans; a rank a little above figure. The Mothaces, who were similar to domestic tenants, lived with the masters, composed their *ortégas*, shared their occupations, their labors, and their festive and frolic days by their side; then came the class of bastards, who though descended from true Spartans,

were not permitted to marry, and so their families were not increased. Sons of families finally above all these was raised the aristocratic class, composed of them called the Equals, *ἰσῆτοι*. These men were indeed equal among themselves, but were much superior to all the rest. The number of this

class was not more than only the four hundred and one, as we learn from the middle of a multitude of four thousand people. These Equals alone had part in the government of the city. To be outside this class, says Xenophon, "is to be outside the body politic." Demosthenes says that a man who entered

the class of Equals became a citizen, and so became a member of the government between members and oligarchy."

On the composition of this body we have no precise information, it was recruited as it should be by election, but the right of electing belonged

to all who were citizens, and so it was possible to determine both how much wealth, rank, merit, and age were required to compose this vir-

1 Aristotle *Politics* II. 6, 10 and 11.

2 Myron of Priene in Athenæus.

3 Theopompus in Athenæus.

4 Athenæus II. 102; Plutarch *Geometre* 8; Elian XII. 43.

5 Aristotle *Politics* VIII. 6 (V. 6) Xenophon *Hellenica* II. 3, 9.

6 Xenophon *Hellenica* III. 3, 6.

7 Xenophon *Hellenica* III. 3, 5.

8 Xenophon *Constitution of Lacedæmon* 10.

9 Demosthenes *Leptylus* 107.

tueltisevidentthatbirthwasnotsufficientthere wasanelection. We may suppose that it was the wealth which determined the choice in a city "which had the love of money in the highest degree and where everything was permitted to wealth."

However, this may be the case. At least, it had the rights of citizens. They alone composed the assembly, the only one formed, what was called the *Sparta the people*. In this assembly, by election, the senators, to whom the constitution gave very great authority, for Demosthenes says that a day a man entered the senate, he became despotic toward the multitude. The senate of which the kings were simple members governed the state according to the habitual custom of aristocratic bodies, annual magistrates whose elective longed directly, it exercised its name as absolute authority. Thus Sparta had a republic government, it even had the external appearance of a democracy—king-priests, annual magistrates, deliberative senate and assembly, the

people. But this people was a gross slave in its own right, the establishment of the ephors, the government of Sparta. An aristocracy composed of a few rich men placed in a yoke upon the Helots, upon the Laconians, and even upon the greater number of the Spartans. By its energy, ability, unscrupulous-

ness and its great influence, it was able to suppress every outbreak of insurrections.

We have not spoken of the plots of the Helots. All those of the Spartans are not known. The government is too wise not to seek to suppress the

rebellion. Without doubt, the Helots, who included the Laconians, the Cretans, who had attempted to overthrow the government. In the discretion of the poet Tyrtaeus, revealed all Greece that during the Messenian wars, a party had conspired to obtain division of the lands.

What was Sparta, then, with this division which existed, had caused the Neodamodis coalition was possible and the aristocracy—thanks to its military education and the closeness of its members!—was strong enough to make head against any class of its enemies.

The spirit of the people, the Helots, who were not free. Although the democracy held them in support, the lower classes during the Persian war

1 *ἡ φιλοπνημία ἐνέπλεον ἔλας* ["love of money shall destroy Sparta"] was already a proverb in Greece. Aristotle in Zenobius II, 24. Aristotle *Ep.* VIII, 6, 7 (V. 6).

2 Demosthenes *Leptyl.* 10. Xenophon *Gov. of Laced.* 10.

Pausanias formed the project of elevating Alcibiades to the same rank by overthrowing the oligarchy. The Spartans thought of accusing him of having conspired with the king of Persia in a crime, was, rather entertaining the thought of freeing the Helots. We can see in history how numerous were the kings who were exiled by the Ephors. The cause of these condemnations is easily guessed. As Aristotle says, "The kings of Sparta order to make head against the Ephors and the Senate became demagogues."

In 397 B. C. a conspiracy came near overthrowing the oligarchic government. A certain Cinadon, who did not belong to the class of Equals, was the chief of the conspiracy. He would bring one whom he wished to join in this plot to the public square and make him count the citizens by including the Ephors and the Senators. They would teach the number of about seven. Cinadon would then say to him, "Those men are our enemies; all the others are

the enemies of the city." With this number of Spartans he thought to lead, in his manenement, to the masters of the Helots, Laconians, Neodamodes, and the slaves, all were united at this time and were the accomplices of Cinadon. Foal, says the historian, had such a hatred for the masters

that he would have been glad to see them all dead. Sparta would have served as a secret refuge for them. The Ephors pretended that the entrails of the victims had revealed the plot to them. Not a man was left for the conspirators. They were seized in secret and put to death. The oligarchy

was severely changed. The inequality continued to increase. The Peloponnesian war and the expedition into Asia had caused money to flow to Sparta, but it had been distributed in a very unequal manner and had enriched those only who were already rich. At the same time small properties

disappeared. The number of freed slaves increased. The amount of land in a few hands at a time whether it was either in manufacture or commerce to furnish occupation for the poor and whether it employed slaves or cultivating the immenses domains.

On the whole, however, the government was not very different from the

1 Aristotle *Politics* VIII.1 (V.1) Thucydides 4.32.

2 Aristotle *Politics* II.6, 14.

3 Xenophon *Hellenica* III.3.

4 Plutarch *Agis* 5.

Cleomenes presents with a picture of Spartan society where there is an unbridled love of wealth, everything is made secondary to this. Among a few there is a luxury of feminae and the desire endlessly augments their fortune. Beyond this there is a miserable lowly indigent without political rights of no weight in the city, envious full of hatred and condemned by their condition to desire a revolution.

Whether the oligarchy had pushed affairs to the limits, revolution was inevitable and the democracy long arrested and depressed. Finally broken down with the barrier we can scarcely believe that after ages of compression the democracy would stop with political changes but would arrive with the first bounds to social forms.

The small number of Spartans by birth (there were including all the different classes more than seven hundred) and the baseness of character, a result of long oppression, explain why the signal for change did not come

from the lower classes. By the gradual rise of Agis and Cleomenes the difficulties of the enterprise presented to the senate—that is to say to the rich men themselves—built for the abolition of debt and the partition of the land. We cannot be too much surprised that the senate did not reject these

proposals. Agis and Cleomenes were secreted about the court of the king, always difficult to carry through, that the bold Agis stopped short by the opposition of the phoroi, was constrained to go outside the law, he deposed those magistrates, and claimed the royal authority. He then

armed his partisans and established a law court of his own. During the public square evidence was taken but he had not time to divide the land. We do not know whether Agis hesitated at his point of frightened his own work or whether the oligarchy circulated well-devised calumnies against

him. At least the people of Sparta were not of all things so stupid.

Cleomenes took up the project of Agis but with more skill and fewer scruples. He began by massacring the phoroi, he boldly suppressed the magistracy, which was odious to the king and to the popular party and proscribed the

rich. At last the people were brought to the point of revolution. He is a worthy remnant of the oligarchy. Cleomenes showed that he was carrying through a revolution and he both claimed to act in the name of the old legislature, and pretended that he was bringing Sparta back to her

ancient sage. Assuredly the constitution of Cleomenes was very far from

them. Thinking as really an absolute master, there was no other authority to counterpoise his reign, and the manner of the tyrants who held sway in most of the Greek cities and the Spartan people satisfied, had obtained lands, appeared as very little for political liberty. This situation did not continue long. Cleomenes, the extent of the democracy in all Peloponnesus, where at the very same time was laboring to establish liberty and a well-regulated aristocracy in all the cities, the popular party, in the name of Cleomenes, aspired like Sparta to obtain abolition of debts and distribution of land, and it was his unexpected resurrection of the lower classes, a bludgeon to change all his plans. He thought he could count upon Macedonia, whose king Antigonus Doson was then acting on the plan of attacking the tyrant and the popular party everywhere, and therefore introduced him into Peloponnesus. Antigonus and the Achæans conquered Cleomenes at Sellasia. The Spartan democracy was again overthrown, and

the oligarchy established. The oligarchy of the G22 continued along time, one year three epochs, however favorable to the popular party, massacred its two colleagues. The following year the five epochs belonged to the oligarchy. The people took arms and killed them all. The oligarchy wanted

not to let the popular party thinking of kings were known before the Spartan. Thinking as really a tyrant, a wicked throne, and by the people because here refused to divide the lands and a second time by the aristocracy because they suspected him of wishing to make the partition. It is not known how he

could have done so, for Philip was a tyrant in Macedonia, Sparta—a

Philopœmen who at the head of the Achæan league made a everywhere upon democracy, tyrants conquered and killed Machanidas, the Spartan democracy immediately upon another tyrant Nabis. This man gave the

city of fortified itself for the first time, for in the month of the year the Greek cities became the dead of the poor against the rich and proscribed to death those whose riches set them above others.

This new democracy of Sparta was not wanting in grandeur. Nabis estab-

lished the democracy in Sparta, he had now to go far from Sparta, in the Hellespont, Argos. He formed a navy which was very far from the ancient traditions of the Spartan aristocracy. With his fleet he commanded the lands that surround Peloponnesus and extended his influence over Crete. He every-

where raised the democracy, and of Argos his first act was to confiscate

the property of the rich abolished, and distributed to the poor. We can see in Polybius how much the Achæan league was for this democratic purpose. The league determined Flaminius to make a vow in the name of Rome. Ten thousand Laconians without counting mercenary troops, arms to defend Nabis. After a check he desired to make peace, but the people refused. So much was the tyrant's fault that of the democracy. Flaminius's victory took away part of his force, but allowed him to reign in Laconia; there because the impossibility of re-establishing the old government was so evident, or because it was for the interest of Rome that there should be a few tyrants as counterpoise to the Achæan league. Nabis was afterwards assassinated in Æolian, but his death did not restore the oligarchy. The changes which he had made in the social state were maintained after him, and Rome herself refused to restore Sparta to her ancient condition.

BOOK FIFTH.

THE MUNICIPAL REGIME DISAPPEARS.

CHAPTER.

NEW BELIEFS PHILOSOPHY CHANGES THE RULES OF POLITICS.

IN what precedes we have seen how the municipal governments were constituted among the ancients. A very ancient religion had first founded the family and afterwards the city. At first it had established domestic law and the government of the gens; afterwards it had established civil law and municipal government. The state was closely allied with religion; it came from religion and was founded on it. For this reason, in the primitivity all political institutions had been religious institutions; its festivals had been ceremonies of the worship; its laws had been sacred formulas; and the king and magistrates had been priests. For this reason too individual liberty had been unknown and man had not been able to withdraw his conscience from the omnipotence of the city. For this reason also the state remained bounded by the limits of a city and had never been able to pass the boundaries which its nation-gods had originally placed for it. Everything had not only its political independence, but also its worship and its code. Religion, law, government, all, were municipal; the city was the single living force; there was nothing above and nothing below it; neither nation, nor individual liberty.

It remains now to relate how this system disappeared — that is to say, how, the principle of human association being changed, government, religion and

law threw off his municipal character which he had born in antiquity.

The ruin of the governments of Greece and Italy had created a value to two principles. One belonged to the order of moral and intellectual facts, the other to the order of material facts. The first is the transformation of beliefs. The second is the Roman conquest. These two great facts belong to the same period. They were developed and accomplished together during the series of six centuries which preceded our era.

The primitive religion whose symbols were the immovable stone of the hearth and the ancestral tomb—a religion which had established the ancient family and had afterwards organized the city—changed its time and grew old. The human mind increased in strength and adopted new beliefs. Men began to have an idea of immaterial nature, the notion of the human soul became more definite and almost at the same time that of a divine intelligence sprang in the minds.

Men could have still believed in the immortality of the soul, but the souls of the dead ancestors which it was necessary to continue to nourish with food. Such a faith became impossible. Such beliefs were no longer on a level with the human mind. It is quite true that these prejudices though deep were not easily

eradicated. But the vulgar notion of the soul being in the tomb was a gross error. They had other ideas of death. Some believed in annihilation, others in a second and entire spiritual existence in a world of spirits. In these cases they no longer admitted that the dead lived in the tombs supporting

them. Some persons believed that the dead to go to a better land than they imagined the soul going to seek its recompense in the Elysian fields or going to pay the penalty of its crimes and by a notable progress they no longer deified any man except those whose gratitude had placed above

humans the divinity was slowly transformed by the natural effect of the greater power of the mind. This idea which man had at first applied to the invisible force which he felt within himself transported him then comparatively grand powers which he saw in nature while he was elevating himself

the reverence for the human hero was then enough to satisfy them. Heroes appear to have had no significance except insofar as it was connected with the worship of the dead, that is to say its prestige. Men continued to have a domestic fire in the house as a salutary, to adore it, and to offer it libations but

this was now only a customary worship which faith no longer vivified.

The public hearth of the city or prytaneum was insensibly drawn into the discredit to which the domestic fire had fallen. Men no longer knew what it signified; they had forgotten that the ever-living fire of the prytaneum represented the invisible life of the nation and the souls of its ancestors and heroes. They continued to keep up this fire to have public meals and to sing the old hymns—various ceremonies which they dared not fret themselves with the sense of which no one understood.

Even the divinity of nature which they had associated with the sacred fire changed their character. After having commenced by being domestic divinities, after having become city divinities they were transformed again. Men finally perceived that the different beings whom they called by the name of Jupiter might be only one and the same being and thus of the gods. Their mind was oppressed with the multitude of divinities and felt the need of reducing their number. Men understood that the gods no longer belonged

and that the divinity of the city had been the thing to be changed, not, instead of the old hymns of the city new songs, where in either case or city-protecting divinities appeared and where the legends of the great gods of heaven and earth were related and the Greek people forgot their old do-

ctrine that the gods were for him a nation which was to have a greater sanctuary like those of Delphi and Delos attracted and made them forget their local worship. The mysteries and the doctrine which he taught accustomed them to disdain the empty and meaningless religion of the city.

This made the people of the city no longer believe in the gods. Their preference for designating the gods as the things of the city seemed to them that the ancient religion was preserved as a night and day and faith perished. Their rites received an attack. It happened therefore without the practice being modified that the

beliefs were transformed and that the domestic and municipal religion still

The philosophy appeared and overthrew the rules of the ancient polity. It was impossible to touch the opinions of men without also touching the fundamental principles of their government. Pythagoras having vague

some of the ideas of the ancient religion and of the ancient polity. He was to found a new order of society.

Anaxagoras comprehended the God-Intelligence which reigns over all men and all beings. In rejecting ancient religion, he also rejected the

ancient polity. As he did not believe in the gods of the prytaneum, he no longer

fulfilled all the duties of citizen, he avoided the assemblies and would not be a magistrate. His doctrine was an attack upon the city and the Athenians condemned him to death.

The Sophists came afterwards, and exercised more influence than these two great minds. They were more eager to combat all error in the struggle which they entered against that evil which belonged to the past; they did not spare the institutions of the city more than they spared religion or prejudices. They boldly examined and discussed the laws which still reigned in the state and in the family. They went from city to city proclaiming new principles, teaching not precisely different to the just and the unjust but a new justice less narrow and exclusive, a new bold more human, more clemency and freed from the formulas of preceding ages. This was a hard enterprise which stirred up tempers of hatred and rancor. They were accused of having either religion or morals or patriotism. The truth is that they had not a very well

settled doctrine. They thought that they had begun the good and the bad. They placed the rule of religion, sentiment and that of politics, the human conscience and that of the customs of ancestors in immutability. They taught the Greeks that to govern a state it was not enough to appeal to bold

customs and sacred traditions, but that the wise should use their skills in the art of reasoning and speaking—dialectic and rhetoric. Their adversaries quoted tradition against them, while they on the other hand employed eloquence and intellect.

When we find that the great Sophists were not only governors but also discussed institutions, we doubt the justice of his old social laws and other principles. As we know from his mind, Plato put these remarkable words in the mouth of a Sophist. All you who have heard, regard as related to each

other. Nature is full of laws and many occasions for dispute. But to suppose that law and custom was to attack the ancient political system, its foundation. In vain did the Athenians banish Protagoras and burn his writings. The blow had been struck. The result of the teaching of the Sophists had been immense.

Through the influence of the Sophists, the moral and political system of the Greeks was shaken and the public squares.

Socrates, while proving the abuse which the Sophists made of the right to doubt, was still of the school. Like them, he rejected the empire of tradition, and believed that the rules of conduct were given in the human conscience.

He differed from them only in this: he studied on conscience, religiously, and with a firm desire to find there an obligation to be just and to do good. He ranked truth above custom, and justice above the law. He separated taboos from religion before him; he even though he had duty except a command of the ancient gods. He showed that the principle of duty is in the human mind. In all this, whether he wished it or not, he made war upon the city worship, in vain it too, pained to be present at all the festivals, a doer in the sacrifice, he believed in his words on contradictory conduct. He founded a new religion, which was the opposite of the city religion. He was justly accused of not adoring the gods whom the state adored. Men put him to death for having attacked the custom and the belief of the ancestors, or, as they expressed it, for having corrupted the present generation. The unpopularity of Socrates and the violence of the citizens are explained if we think of the religious habits of the Athenian society, where there were so many priests and

when the priests were full that taken up within him. Socrates did not stop by the death of the old man. Greek society was enfranchised and more daily from the empire of old beliefs and old institutions.

After him philosophy freely discusses the principles and rules of human

association. The new Code of Laws proposed by Plato is not the result of a great problem of the organization of a state of authority and obedience of obligations and rights, very present to all minds.

Doubtless he should not easily free itself from the bonds which habit

in a tradition. Plato himself is not free in point to the empire of old ideas. He contains more than five thousand members of his government still regulated on ancient principles, he is sunk in it; the object which the legislator proposes to himself is the perfection of man, rather than the security and gran-

dour of the association. The final law is the law of the gods. The state is free if the state alone has will only the state has religion and belief and whoever does not believe with it must perish. And yet in the midst of all this the new ideas appear. Plato proclaims with Socrates and the Sophists that

reason and logic should be laws, by the contrary of the nature of the human nature.

These ideas are still more precise in Aristotle. The law, he says, is reason. "He teaches that we are to seek not what conforms to the customs of the ancestors,

but what is good in itself. He adds that as time progresses, institutions should

benomified. Elepasides performs a search for the first ancestors of humankind, whether they came from the bosom of the earth or survived some deluge assembled, in all probability, those who today are the most degraded and the most ignorant among men, would be an evidence of absurdity clinging to the opinions of those men. Aristotle, like all the philosophers absolutely, regard the religious origin of human society. He does not speak of the pythagore, he does not admit that thebes or calvorship preform the foundation of the state. "The state," he says, "is nothing else but an association of people being seeking in common happiness and comfort for the existence of humankind. Philosophy rejects the old principle of society and seeks new foundation on which it may support social life and the idea of country."

TheCynicschose to farther deny the ties of country. Socrates boasted that he had the rights of a citizen nowhere, and Crates said that his country was a contempt for the opinions of others. The Cynics added this

truth the culture new what satisfy The of the diverse and pall is-
otism as a prejudice, excluded of the city from the moral sentiments.

From disgust and disdain philosophers avoided public affairs more and more. Socrates had fulfilled the duties of a citizen, and Plato had attempted

honest to the earth and to men. And that is the true offering of the mind.
studyThe Epicureans paid no attention to public affairs. Donot meddle
with them, said Epicurus, unless some higher power compels you. The
Cynic did not wish even to be citizens.

The Stoics set on the political Zeno the rule that the principles were removed from the old municipal politics. These are the terms in which one of the ancients speaks of the doctrine which their writing contained. Zeno, in his treatise on government, has undertaken to show that we are not the

inhabitants of a democracy what they would find more desirable. If we all belonged to the same democracy, we would be from this world and have advanced in the age of Socrates and thought himself to adore a far as he was able, the gods of the state. Even Plato did not plan

another government that has facilitated mass shootings and the narrow
of ancient ages has established. As he believed in a God of the universe, he

1 Aristotle *Politics* II.5, 1274b32–33; IV.5, 1289a32–33; VII.4 (VI.4), 1328a32–33.

2 Pseudo-Plutarch, *Fortuna of Alexander*.

had also the idea of a State to which the whole human race should enter.

But there is still here a principle of Stoicism in enlarging mass association, emancipation of the individual, its rejection of the religion of the city, its rejection of the servitude of the citizen, its no longer desiring that the individual man shall be sacrificed to the State, its distinguishing and separating as early as it can, its remaining free man and free, at least the conscience free, as if man had brought to himself himself, with himself, to find in himself duty, virtue, and reward. It does not forbid him to meddle with public affairs, even invites him to affairs of State, still warning him however that his principle should be to have for its object his individual improvement, and that whatever the government may be his conscience ought to remain free—great principle which the ancient city had always disregarded, which was destined to become one of the most sacred rules of politics.

Men now begin to understand that there are other duties besides those

of the State, and that the duties of the individual are not so far from being tyrannical. At present the State is the object of all his labors and of all his virtues. It has been his standard of the beautiful and the good, and except for that there was no heroism. But now Zeno teaches that man has a dignity,

other than his subordination to the State, and that he is not bound to do the State's bidding, but to be virtuous and to please the Deity. These were somewhat selfish virtues, which left national independence and liberty to fall, but they gave the individual more importance, and the public virtues went on declining, while

first the strong became more arrogant, more fortunate, and more despotic. But they became more of them in degree and time even, and became more powerful, which every government must take into account, and was of the first importance that the rules of politics should be modified so that a

release might be made for them to transform it. By little the municipal religion, the basis of the city, disappeared, and the municipal governments, such as the ancient ones had conceived them, were forced to fall with it. Insensibly men departed from those rigorous rules and from those narrow forms of

government, which had been the basis of the ancient city, and the ancient city disappeared. The fruits of these revolutions knowledge

1 The idea of the universality is expressed by Seneca in *Marcia*, *De Tranquillitate*, 14; by Plutarch in *Exilio*, by Marcus Aurelius in *Antoninus*, and by Comenius in *Country School*, "man the world."

born ever it is true very slow to mature, but we have been studying the Roman conquest, that even so, we have moved in the same direction with the least that, like them, they tend to the ruin of the old municipal system and that they prepared new modes of government.

CHAPTER I.

THE ROMAN CONQUEST.

At first it appears very surprising that in a month the hordes of Greece and Italy were found capable of subduing the other. Yet this great event is the result of Rome's study of the art of conquering, and the favorable circumstances that befell its way.

We can distinguish two periods in the work of the Roman conquest. One corresponds to the time when the old municipal spirit was still strong; it was

the old Roman spirit, when the old municipal spirit was much weaker; conquest became easy and was accomplished rapidly.

1 The Origin and Population of Rome.

The origin of Rome and the composition of its people are worthy of remark. They explain the particular character of its policy and the exceptional part that fell to it from the beginning of the history of other cities.

The Roman race was a strange mixture. The principal element was Latin and originally from Alba, but these Alban themselves according to traditions which no criticism authorizes to reject were composed of two associated, but not confounded populations. One was the aboriginal race, the Latins. The other was of foreign origin and was said to have come from Troy with Æneas, the priest-founder, who was so all appearance not numerous, but was

influential in the worship and the institutions which it had brought with it.

These Alban, a mixture of two races, founded Rome as a spot where an

¹ The Trojan origin of Rome was received opinion even before Rome was in regular communication with the East. A soothsayer's prediction which related to the second Punic war, applied to the Roman people the Trojan legend. Livy XXV.12.

other city had already been built—Pallantium, founded by the Greek. Now, the population of Pallantium remained in the new city and the rites of the Greek worship were preserved there. There was also where the Capitol afterwards stood, a city which was said to have been founded by Hercules, the families of which remained distinct from the rest of the Roman population during the entire continuance of the republic.

Thus at Rome all races were associated in a single city, the Latins, Trojans, and Greeks, the Sabines, and Etruscans. Of these several hills, the Palatine was the Latin city after having been the city of Evander. The Capitoline after having been the dwelling-place of the companions of Hercules, came to be the home of the Sabines. The Quirinal received its name from the Sabine Quirites, from the Sabine god Quirinus. The Caelian hill appears to have been inhabited from the beginning by Etruscans. Some did not seem to be a single city; it appeared like a confederation of several

tribes, the names of which the Latins, the Sabines, and the Etruscans bore.

Its first king was Latin, the second Sabine, the fifth was war, the sixth a Greek, the sixth was an Etruscan.

Its language was composed of the most diverse elements. The Latin pre-

dominated the Sabine, the Etruscan, and the Greek. It is not known what language it belonged to. According to some, it was a Trojan word, according to others a Greek word. There are reasons for believing it to be Latin, but some of the ancients thought it to be Etruscan.

The names of the founders of the city, the families, and the signs of the series of the ancestors, survived in the companions of Eneas. Others claimed to be descendants of the Arcadians, and from time immemorial the men of the families wore the shoes, and distinct signs, small silver

were called the Potipian. Distinct families were descended from the hereditary worship of that god. The Fulvii, Quinctii, and Servilii came from Alba after the conquest of that city. Many families joined to the names, surnames, which recalled their foreign origin. There were thus the Sulpicii, Gam-

1 Livy I. 5. Virgil III. Ovid *Fast.* I. 579. Plutarch *Rom. Ques.* 56. Strabo I. p. 230.

2 Dionysius 85. Varro *L. L.* V. 42. Virgil III. 358.

3 Of the three names of the primitive tribes, the ancients always believed that one was Latin, another Sabine, and the third Etruscan.

4 Dionysius 85.

5 Plutarch *Rom. Ques.* 76.

er in the Comina, Aruncthe Sicin, Sabinthe Claud, Regillenses, and the Aquillifusci. The Nautia family was Trojan, the Aurellii Sabine, the Cæciliae from Præneste, and the Octavii were originally from Velitræ.

The effect of this mixing of the most diverse nations was that from the beginning Rome was related to all the people that it knew. It could call itself Latin with the Latin, Sabine with the Sabine, Etruscan with the Etruscans, and Greek with the Greeks.

Its national worship was also an assemblage of several quite different worships, each one of which attached to one of the nation. It had the Greek worship of Evander and Hercules, and boasted of possessing the Trojan Palladium. Its Penates were in the Latinity of Lavinium, and it adopted from the beginning the Sabine worship of the god Consus, another Sabine god Quirinus was so firmly established at Rome that he was associated with Romulus, its founder, that his gods of the Etruscans, and the festivals and their

augurs and even his sacred rights took part in the religious festivals of a nation in which he belonged by birth to that nation. The Roman had this incomparable advantage of being able to take part in the Latin holidays, the Sabine festivals, the Etruscan festivals, and the Olympic games. Now religion

was preserved by the Romans with the greatest care, and the result was that each in the ancient times men knew of no other nation that had which religion established Rome, therefore preserved with greater care whatever could serve as evidence of this precious relationship to the nation. So the

Latin preserved the tradition of Evander, the Sabine the gods preserved in honor of Evander, the hymns which Romans no longer understood, but which they persisted in singing. They also preserved the recollection of Æneas with the greatest care, for if they could claim relationship to the

Roman people, they could find the way to the great gods, and so more noral having had Æneas as a founder, being colonies of cities founded by him—all having consequently common worship with Rome. We can see in the wars which they waged in Sicily against Carthage and in Greece against

Phœnicians, that the gods of the nation were so closely connected with the worship was an assemblage of several worships, and its national heart an association

1 Pausanias 2.32.4, Com. Livy XXIX. 12, XXXVII. 37.

2 Pausanias III. 14.3, Strabo, p. 232.

3 Servius ad Æn., III, 12.

of several hearths. It was almost the only city whose municipal religion was not isolated from all other. It was related to all Italy and all Greece. There was hardly a people that could not admit to its hearth.

2. First Aggrandizement (B.C. 753-350).

During the period when the municipal religion was everywhere powerful, it governed the policy of Rome.

We are told that the first act of the new city was to seize some Sabine women—a legend which appears very improbable, but which reflects the sanctity of marriage in the ancients. But we have seen above that the municipal religion forbade marriage between persons of different cities unless the two cities had common origin or a common worship. The first Romans had the right of intermarriage with Alba from which they originally came, but not with the other neighbors, the Sabines. What Romulus wished to obtain first of all was not a few women; it was the right of intermarriage—that is, that the right of contracting regular relations with the Sabine population. For this purpose religion had to be established between them; he therefore adopted the worship of the Sabine god Consus and celebrated this festival. Tradition adds that during this festival he carried off the women if he had done this the marriage would have been celebrated according to the rites, since the first and most necessary of the marriage was the *traditio manum* ["the hand over," i.e., delivery into the hand"]—that is to say the giving

of the hand of the bride to the bridegroom. This act of religious sanctity, and his participation in the sacrifice established between the two nations a bond such that the *connubium* marriage could no longer be refused. There was no need of a seizure; the right of intermarriage was a natural con-

sequence of the festival. So the historian Dionysius has not selected out the most solemn rites which confirm it. Plutarch and Cicero are worthy of remark for the result of the first effort of the Roman was to throw down the barriers which the municipal religion had placed between two neighbor-

ing peoples. No similar legend related to Etruria has come down to us. But with Latium and the Sabines the Romans therefore had the address to unite themselves by worship and by blood with all the nations around them. They

1 Dionysius, 4, 30.

took care to have the *connubium* with all the cities and to have proved that they well understood the importance of this bond so that they would not permit other cities to be subjects to have it among themselves.

Rome then entered upon the long series of its wars. The first was against the Sabines of Tatiust, was terminated by a religious and political alliance between the two little nations. It next made war upon Alba. The historians say that the Romans are to be attacked this city though they were a colony from it. It was precisely because they were a colony from Alba that they judged necessary to destroy that city. Indeed every metropolis exercised religious supremacy over its colonies and religion had so great an influence that while Alba remained standing Rome could be only a dependent city and her progress would be forever arrested.

After the destruction of Alba Rome was no longer content to remain a colony but claimed to take the rank of a metropolis by inheriting the rights

and the religious prerogatives that it claimed to have inherited from the presidency of the sacrifice, the *hereditatio* of the Latian festival. This was a means of acquiring the single kind of superiority, *dominium*, which was understood at that time.

Thus by the time that the great Dionysian festival had been made a habit of the two nations to share with them under the presidency of the festival the prayers and the sacrifices of the victim. Rome thus united them under her religious supremacy.

Rome was thus made its capital and its law. When the great Dionysian festival was annexed all that they conquered they brought home the inhabitants captured cities and gradually had Romans of them. At the same time they sent colonists to the conquered countries, and in this manner

responded to the new policy of the colonies to the formation of distinct cities, colonies and this was enough to complete the colonies subordinate policy to that of Rome to obey her and to aid her in all her wars.

One of the remarkable peculiarities of the policy of Rome was that she set as the law of her empire the law of the colonies. She had her colonies, Juno from Lanuvium, Venus from the Samnites, and many others that were

1 Livy IX. 43 XXIII 4.

2 Livy I. 45 Dionysius I. 48/49.

not know." For it was the custom of the Romans, says one of the ancients, "to take home the religion of the conquered cities; sometimes they distributed them among the gentes and sometimes they gave them a place in their national religion. Montesquieu praises the Romans for a refinement of skill-ful policy in not having imposed their gods on the conquered nations. But that would have been contrary to their ideas and to those of all the ancients. Rome conquered the gods of the vanquished and did not give them hers. She kept her protectors to herself and endeavored to increase their number. She tried to possess more worship and more tutelary gods than any other city.

As more of these worships and gods were for them so partake from the conquered Rome was placed by them in religious communion with all the surrounding nations. The ties of a common right in the possession of the *connubium*, that of the presidency of the *feriae Latinae*, that of the vanquished gods, the right which they pretended to have of sacrifice at Olympia and

at Delphi, were the ones that made the Roman religion the pride of her patriotism. But she was the only city which made her religion serve for her aggrandizement. While the other cities were isolated by their religion, Rome had the address to turn the good fortune to employ it to draw everything to herself,

and to dominate over all.

3 How Rome Acquired Empire (B.C. 350-140).

While Rome grew thus slowly by the means which religion and ideas of that age placed at her disposal, a series of social and political changes was taking place in all the cities and in Rome itself, transforming at the same time the government, the manner and the ways of thinking. We have already traced this revolution. What is important to remark here is that it coincides with the great development of the Roman power.

These two results, which took place at the same time, were not without influence on each other. If the conquests of Rome would not have been so easy if the old municipal spirit had not been everywhere extinct, and we may also believe that the municipal system would not have fallen so soon if the Roman conquest had not dealt it the final blow.

Religion is said to have given birth to the institutions of man, and this is one of the events which contributed most to the great progress of Rome.

1 Livy V. 21-22 VI. 29 Ovid *Fasti* III. 83-74 Plutarch *Parallel of Greek and Roman Hist.* 75.

2 Cincius cited by Arnobius *Adv. Gent.* III. 38.

We have described this sentiment as it was in the first ages of the city. It was a part of religion; men loved their country because they loved its protecting gods; because they there found a prytaneum, a holy fire, festivals, prayers, and hymns; and because beyond its border they no longer found the gods or a worship. This patriotism was faith and piety. But when the domination had been withdrawn from the sacerdotal state, this sort of patriotism disappeared with the old religion. Love of the city still survived, but it took a new form.

Men no longer loved their country for its religion and its gods; they loved it only for its laws, for its institutions, and for the rights and security which it afforded its members. We see in the funeral oration which Thucydides puts into the mouth of Pericles what the reasons are that Athens valued; they are because this city "wished to be equal to the world;" because she gives men liberty, and opens the way of honour to all, because she maintains public

spectacles, festivals, and games, that men may be able to live and die for her. And the orator closes by saying, "This is why your warriors have died heroically, rather than allow their country to be torn from them; this is why those who survive are all ready to suffer and devote themselves for it." Man therefore still bewe-

lled only with his love of his country, but from the gods and from the sacred divinity and the heart of his father, he is to defend the institutions which he enjoys and the advantages which he procures for himself.

Now this new patriotism had not exactly the same effects as that of the

ancients. Its basis was no longer the prytaneum, the laws—and more over, the latter in the state of instability which all the cities then found themselves engaged frequently—patriotism was variable and inconsistent, a sentiment which depended on circumstances.

It was a sentiment which was not directed towards the government, but only towards the moment and the men who found its laws; it had no longer anything to attach itself to.

Municipal patriotism thus became weakened in the minds of men.

Every man's notion of his country was now confined to his own city, to his own office. Each one, if he did not find in his own city the institutions which he loved, began to prefer some other city where he saw the institutions established. Men then began to emigrate more freely and feared less. What

did it matter if they were excluded from the prytaneum and the *asty*?

They thought little now of the protecting gods and were easily accustomed to live away from their country.

From this to taking part against it was not a greater step. Men joined in hostility to make the party victorious in their own. Of two Argives one preferred a aristocratic government, the other preferred Sparta. Argos the other preferred democracy, preferred Athens. Neither are a great deal for the independence of his own city and was not much averse to becoming the subject of another, but they provided that it sustained his faction. Argos is clear, from Thucydides and Xenophon that was his disposition. Men's minds that brought on and sustained the Peloponnesian war. At Plataea the rich were of the Theban and Lacedæmonian party, the democrats were in favor of Athens. At Corcyra the popular faction was for Athens and the aristocracy for Sparta. Athens had allies in all the cities of Peloponnesus and Sparta had them in all the Ionian cities. Thucydides and Xenophon agree in saying that

the men in the aristocratic cities of the Peloponnesus were favorable to the effort which the Greeks made to establish everywhere a single constitution with the hegemony of a city, but a part desired a aristocracy and the protection of Sparta, while the other favored a democracy with the support of Athens. It

was the main matter of dispute between the two parties, and the issue was decided, but the sentiments remained the same. The popular party accepted the empire of Macedon and all who were in favor of the aristocracy joined the Achæan league. Thus the wishes and the affections of men no longer had the city as

the object, but were directed to the institutions which they preferred.

As to honest and scrupulous men, the perpetual dissensions which they saw disgusted them with the municipal system. They could not love a form of society where it was necessary to fight every day where the rich and the

poor were always at war and where the worst men were the most powerful. After having produced a grand empire, no longer producing anything but suffering and hatred, they began to feel the necessity of abandoning the municipal system and of arriving at some other form of government than the city. Many

with the new world before them, had the cities of the Peloponnesus in their eyes as little societies to be despised. It was thus that Phocion a good citizen, advised

1 Thucydides II, 65-70; V, 29-76.

2 Thucydides III, 47; Xenophon II, VI, 3.

his compatriots to accept the authority of Philip and promise them at this price concord and security.

In Italy affairs were in much the same condition as in Greece. The cities of Latium, the Sabines, and of Etruria were distracted by the same revolutions and the same struggles, and of the city disappeared. As in Greece every man was ready to join a foreign city in order to make his opinions and interests prevail in his own.

The disposition of mind made the fortune of the Roman. They everywhere supported the aristocracy everywhere the aristocracy were their allies. Let us take a few examples. The Claudians came from the Sabine because Roman institutions pleased them better than those of their own country. At the same epoch many Latin families migrated to Rome because they did not like the democratic government of Latium and the Romans had just established the reign of the patricians. At Ardea the aristocracy and the plebe-

ians were united by the ruin of the city. The Claudians had just been expelled and the aristocracy overthrown. The aristocracy of the Roman attacked the city and the Etruscans, to whom the sacerdotal aristocracy held sway, refused to aid the Veientines. The degenerate state in this war the Romans arrested.

When Veientines proposed to help the Etruscans, the Etruscans refused to deliver the city to the Romans?

Later when Capua revolted against Rome it was remarked that the knights—this is to say the aristocracy—too took part in the insurrection.³

Even in the cities of Assisi and Perugia, when the Veientines were defeated, a coalition against Rome was because popular governments had been established on them. A single city—that of Arretium—refused to enter this coalition and this was because the aristocracy prevailed at Arretium.

When the people of the Volturnus cities negotiated with Rome for the people of the Carthaginians.

The manner in which Rome was governed explained this constant preference which the aristocracy entertained. The series of revolutions con-

tinued in other cities but more slowly. In 509 when the Latin cities already

1 Dionysius VI. 2.

2 Livy IV. 9, 10.

3 Livy VIII. 11.

4 Livy IX. 24, 25 X. 1.

5 Livy XIII. 13, 4, 39 XXIV. 2, 3.

had tyrants as patricians in action and succeeded at Rome. The democracy
afterwards gradually, and with much moderation and self-restraint, the
Roman government was therefore for a long time aristocratic, than any other
and was on the hope of the aristocracy.

ThedemocracysistruefinallycarriedthedayinRomebuteven then the proceedings were abominable: all the artifices of the government maintained itsocratic character; the committee that had the votes redistributed according to property was not altogether different from the committee before: legally a distinction of wealth was admitted even in the poor class, being included in the four city tribes had four votes; opposed to their thirty-one of the class of proprietors besides things more quietly ordinarily, than the assemblies spoke there excepted the president to someone whom he called upon Orator to read the laws and then the vaillid discussion of general affairs wasimplanted before the senate and council

the process of distribution is a very complicated one and all the democratic titles of Greece are for life and very nearly recruits itself was really an oligarchy.

The manners of the Romans were still more aristocratic than the institu-

times. The archpriest of the new cathedral had been one of the great family. Scipio was not sixteen years old when he already commanded a squadron.

The rule of the rich class was kept longer at Rome than in any other city.

This was the first event of the kind that had already happened, and the conquerors, possibly, then, they seized upon the commerce of the conquered countries, and joined with the benefit derived from the collection of duties and the administration of the provinces. These families bus

increasingly more with power compared to the poor. The number of
 was that the Roman, even the poor, had a minimum respect for wealth. Long
 after a client's ship had disappeared, it was in a certain sense resuscitated
 under the form of a homagium of great fortunes and it became a custom

for the poor to govern the nation as the struggle between rich and poor was not seen at Rome as well as in other cities. It commenced only in the time of the Gracchi—that is, say after the conquest as almost all agree. Besides, this struggle never had at Rome that character of violence which it assumed

everywhere. The lower orders of Rome never ardently coveted riches.

They aided the Gracchi in a lukewarm manner; they refused to believe that these reformers were working for them and abandoned them at the decisive moment. The agrarian laws, so often presented as the rich class menaces, always left the people quite indifferent and agitated them only on the surface. It is clear that they were not over eager to possess lands for if they were offered real shares in the public lands—that is to say in the domain of the state—they least never had thought of despoiling the rich of their property. Partly from inveterate respect and partly from a habit of doing nothing they voted olive by the side of the rich and sat in their shadow.

The rich class had the wisdom to admit to its circle the most considerable families of the subject and allied cities. All who were rich in Italy came gradually to form the rich class of Rome. This body continued to increase in importance and became the mast of the state. The rich alone filled the magistracies, because these cost a great sum to purchase. They alone composed

the senate, the fact that this privilege long remained to be seen in the sequel, and that the people, who were all-powerful, suffered this nobility to take rank above them and never made any real opposition to it.

Rome therefore from the third to the second century before our era was

by the most consistent of all systems, which Italy, as a whole, had no other home question; it was absolute master of as far as concerned foreign affairs. It was the senate that received the ambassadors, concluded alliances, distributed the provinces and the legions that ratified the acts of the generals,

by the same body and the people, so that Rome regarded all relations with Rome had therefore nothing to do with the people. The senate alone spoke and the people was held out that the people had no power. This was the opinion which a Greek expressed. Flaminius, "In your country," said he,

"rich and poor men and the whole submits to it; for none of their eyes towards Rome counted; point, looked to it for protection and followed its fortunes. This seemed much the more natural as Rome was foreign to nobody; Sabine, Latin and Etruscan, as with a Sabine, Latin or Etruscan city and

the Greek, as in the Greek city, and the Greek aristocracy rendered to them. Hardly anybody thought that they were choosing between independence and subjection, for almost the question was only between

1 Livy XXXIV.31.

aristocracy and the popular party. In all the cities she later was for Philip, Antiochus, Perseus, and the former for Rome. We may see in Polybius and Livy that when Argos opened her gates in B. C. 198 to the Macedonian people, had she waited that the next year it was the party of the rich that gave up Opuntia to the Romans; that among the Acarnanians the aristocracy made a treaty of alliance with Rome, and that in the following year this treaty was broken because in the interval the people had recovered their ascendancy; that Thebes was allied with Philip so long as the popular party had the power, and sided with Rome when the aristocracy came to the masters; that at Athens, at Demetrius, and at Phocæ the popular party was hostile to the Romans, that Nabish the democratic tyrant made a vow upon them, that the Achæan league so long as it was governed by the aristocracy was favorable to them, that merlike Philopoemen and Polybius desired national independence, but preferred Roman rule to democracy in the Achæan league.

It is from the league, and the triumph of Rome, that the Scipios and the Fabians were at the same time the chiefs of the popular faction and the generals of the league against the Romans, and that they fought bravely at Scarphædæ, at Leucopetæ, perhaps for the independence of Greece, and for the triumph

of Scipio. It is now clearly enough how Rome, without any very great efforts, obtained the empire. The municipal spirit gradually appeared, and of independence became a very rare sentiment, and all hearts were entirely enlisted in the interests and passions of parties insensible for the city. The

historical reports of the previous ages indicated how the aristocracy had every one for its friend, and the small Italy and small Greece only two groups of men were distinguished, one as a senatorial class, and the other as a popular party. One party labored for the supremacy of Rome, the other

opposed it. The aristocracy grew victorious, and Rome acquired the empire.

4. Rome Everywhere Destroys the Municipal System.

The institutions of the ancient city had been weakened, and almost ex-

hausted by the complete destruction of the aristocracy, and the Roman rule of them. This was caused by observing the conditions to which the nation fell as they became subject to Rome.

We must first banish from our minds all the customs of modern politics, and not picture to ourselves the nation entering the Roman state, and af-

ter another, as in our day provinces are annexed to a kingdom, which receiving these new members extends its boundaries. The Roman state (*civitas Romana*) was not enlarged by conquests, never included any families except those that figured in the religious ceremony of the census. The Roman territory (*ager Romanus*) never increased, remained enclosed within the immutable limits which the kings had traced for it, and which the ceremony of the *Ambarva* sanctified every year. What increased with the very conquest was the dominion of Rome (*imperium Romanum*).

So long as the republic lasted, it never entered the mind of any one that the Romans and the other people should form a single nation. Rome might, indeed, deceive a few of the conquered, allow them to live within her walls, and transform them in the course of time into Romans; but she could not assimilate whole foreign people to her people, or entire territory to her territory. Still this was not peculiar to the policy of Rome, but a principle that

held throughout antiquity. The city of Rome, which did not intend to absorb herself, whenever a foreign people was conquered, did not enter the Roman state; it entered only the Roman dominion. It was not united to Rome, as provinces are today united to a capital, but between the nation and itself

Rome, that it would be a common point of union, and have subsisted among the conquered, and that the world must have been an assemblage of cities distinct from each other, and having of their head a ruling city. But it was nothing of the kind. The effect of the Roman conquest was to work in every

city a complete transformation. The *editio* ["surrendered person or war"], or those who having pronounced the formula of the *editio* ["surrender"], had delivered to the Roman people their persons, their walls, their lands, their waters, their houses, their temples, and their gods."

They had the reform enough to make their municipal government, and their private law. From that moment, the men no longer formed a political body among themselves, but that they go to make a regular society remained to them. Their city (*urbis*) might remain standing, but the state (*civitas*) had changed. The Roman law had acquired the people, without the city.

It had been said that the Roman law had acquired the people, without the city. It is by Rome maintained in order among them. On the other hand

1 Livy l. 38 v. 11. 31 l. IX. 20; XXVI. 16; XXVIII. 34. Cicero *De Leg. Agr.* l. 6; II. 32 Festus, v. *Præfecturæ*.

were allies *federati* confederates *socii* allies. They were less cruelly treated than on which they entered the Roman dominion it had been stipulated that they should preserve their municipal government, and should remain organized cities. They therefore continued to have every city constitution, magistracies, senate, *prætor*, laws, and judges. The city was supposed to be independent, and seemed to have no other relations with Rome than those of an ally with ally. Still in the terms of the treaty which had been drawn up at the time of the conquest, Rome had been careful to insert the words *Majestas populi Romani* *conservetur* "may you courteously preserve the sovereignty of the Roman people." The terms established the dependence of the allied city upon the metropolis, and as they were very vague, it happened that the measure of this dependence was always according to the will of the stronger of these cities, which were called free, received orders from Rome, obeyed proconsuls, and paid taxes to

the emperor. The new law is the great step towards the independence, such was the nature of the municipal system in the ancient world that needed complete independence, not ceased to exist. Between the maintenance of the institutions of the city and his subordination to foreign power there

was no middle ground. The ancient world was not a world of the liberty and the government of Rome were a reconcilable. The first could be only an appearance, and the second a mere calculation of the minds of men. Each of these cities sent almost every year a deputation to Rome, and

in the same way, the emperor's deputation to the cities. They elected by themselves, but the emperor no longer had any other duty than to inscribe his name in the register for the purpose of marking the year and the strategy of the empire, the chief of the army and of the state, who had no

other duty than to keep the peace and to keep the markets. They were called allies as well as among those that bore the name of subjects, there was only this difference, that the first preserved their exterior forms. Indeed, the city as an antiquity had understood it was no longer seen anywhere, except

with the people of Rome, while everywhere the municipal system, substituted things in its place. To the people whose institutions they took

1 Cicero *Pro Balbo* 16.

2 Livy XLV.18 Cicero *ad Attic* VI.12 Appian *Civil Wars* I.102 Tacitus XV.45.

3 Philostratus *Lives of the Sophists* I.23 Boeckh *Corp. Inscr.* passim.

away, they did not give the law, instead the Roman senate, though it created new institutions for them, yet they never made a constitution for the people of the empire, and did not understand how to establish fixed rules for the government. Even the authority which Rome exercised over the cities had no regularity, as they made no part of the state, nor of the city, and no legal power over them. Her subjects were strangers to her—reason why she exercised no regular and limited power, which ancient municipal law allowed citizens to exercise toward foreigners and enemies, was on this principle that the Roman administration, as long as it was regulated, did this in the manner in which it was carried on.

Rome sent no other citizen into a country, she made that country the province of this man—that is to say, his charge, his own care, his personal affair; this was the sense of the word *provincia*. At the same time she conferred upon this citizen the *imperium*, this signified that she gave up in his favor

all that she had in the province, all his subjects, all that right which the public, and by this means he was an absolute master. He fixed the amount of taxes; he exercised military power and administered justice. His relations with the subjects, with the allies, were limited by no constitution. When he sat in his

judgment, his subjects were not his slaves; he was not a Roman, with the Roman laws she passed judgments on provincial matters, there was law between him and those that he governed, he had to make them himself, for he alone could bind himself here, for the *imperium* with which he was clothed, the

right of legislation was not his, he had no right to change or promulgate the code of laws, which they called the *Edict*, and which they morally promised to conform to. But as the governors were changed annually, these codes changed every year, for the reason that the law had its source only in the will

of the governor, for he had no vested right in his office, this principle of government had not been entirely executed at the time of his departure from the province, the arrival of his successor completely nullified his judgment, and the proceedings were recommenced.

Such was the manner in which she ruled her vast empire, and the provinces could do this unless they could find a Roman citizen who would

1 Gaius IV. 103 05.

remained intact preserving institutions and its laws, while all the rest—that is to say more than a hundred millions of souls—either had no kind of laws or had such as were not recognized by the ruling city. The world then was not precisely a state of chaos, but of an arbitrary rule and convention, in default of law and principles on which sustained society.

Such was the effect of the Roman conquest: the nation that successively became the prey of the city, everything went to ruin: religion first, then the government, and finally private law. All the municipal institutions ready for a long time shaken, were finally overthrown and destroyed, but no regular society, no system of government replaced one which had disappeared. There was a period of stagnation between the moment when men saw the municipal government dissolved and that in which another form of society appeared. The nation did not at once succeed in creating for the Roman empire in its wisest resemblance a nation. It was a confused multitude, where there was

no order, no unity, no principle, and the only principle was force. The conquests succeeded in establishing themselves as an organized body only by conquering their rights and institutions which Rome was inclined to keep for itself in order to do this they had to enter the Roman

also made it possible for these to be preserved by the state, this was a difficult task.

5. The Conquest of the Nation Successive by the Roman City.

We have seen how deplorable was the condition of the Roman subject and how the condition of the citizen was to be envied. Not vanity alone, but the most real and clearest interests had to suffer. Whoever was not a Roman citizen was not reputed to be either a husband or a father; legally he could be neither a proprietor nor heir. Such was the value of the title of Roman citizen, that without it one was outside the law and with it he entered a regular society. It happened therefore that this title became the object of the most lively desires of men. The Latin, the Italian, the Greek and later the Spaniard and the Gaul aspired to be Roman citizens—the single means of having rights

and of being regarded as a citizen. In the first century B.C. the city and, after long efforts succeeded in its slow introduction into the Roman state, this was the last act in the long history of the social transformation of the ancients. To observe this great event in all its successive phases we must examine its

commencement in the fourth century before our era.

Latium had been conquered of the forty small peoples who inhabited it. Rome had exterminated its shades, spoiled some of the land, and had left to the rest little fallow. In B.C. 340 the latter perceived that the alliance was entirely to their detriment, that they were expected to do everything, and that they were required every year to lavish their blood and money for the sole benefit of Rome. They formed a coalition, their chief, Annius, thus stated their demand to the Roman senate: "Give us equality, let us have the same laws, let us form but a single state—*una civitas*, let us have but a single name, let us all alike be called Romans." Annius thus announced, in the year 340, the desire which all the nations of the empire, one after another, expressed, and which was to become completely realized only after five centuries and a half. Thus, such a thing was new and very unexpected. The Romans declared it monstrous and criminal. It was indeed contrary to the old religion and the old law of the cities. The consul Manlius replied that if such

an proposition should be adopted, it would be as if the gods themselves were to forsake the altar, he called forth the god to witness, saying, "Thou hast heard, O Jupiter, the impious words that have come from this man's mouth. Canst thou tolerate, O Jupiter, that a foreigner should come to sit in thy sacred temple?"

These passages in Livy and Manlius suggest that the religion of the Latins was religious, which prescribed that the foreigners should be detested, and the men because he was sure that the gods of the city appeared to him impossible that the Latins should be a senate because the place of meeting for the senate

was so plain, and the Roman gods could not suffer the presence of a foreigner. War followed, the Latins being conquered, and rendered—*that is*, say, they gave up to the Romans their cities, their worship, their laws, and their land. The position was true. A consul said in the senate that if they did not

will Rome to be a great city, he was ready to do so, and the Latins would be done if we are to trust him. The Latins obtained the right of Roman citizenship without including the political privilege, the right of suffrage, in the civil right of marriage. We may also note that the new citizens were not

excluded from the Roman citizenship, as the case of the Latins was, and the men who bore the obligations of citizenship without the rights of true citizenship have ever, in all times, revolted, and that this pretended citizenship might be withdrawn.

A century passed, and without any notice of the fact, we might easily dis-

cover the Roman had changed its policy. The condition of the Latin having the rights of citizens without suffrage and without *connubium* marriage¹, no longer existed. Rome had withdrawn from them the title of citizens, rather had done away with this falsehood and had decided to restore the different rights the municipal government, its laws and the magistracies.

But by a skillful device Rome opened a door which narrow as it was permitted subjects to enter the Roman city. It granted to every Latin who had been a magistrate this privilege, the right to become Romanized at the expiration of his term of office. This time the gift of this right was complete and without reserve. Magistrates, *summi magistratus*, private as well as public, were included. Rome resigned itself to share with the foreign nations its religion, its government, and its laws, only its favor was not individual and was addressed not to entire cities but to a few men in each of them. Rome admitted her

bothers into the city as she had done before. First the Latin was complete and secondly because it was a privilege. He sought a man figure in the comitia of the most powerful of Italy, he might become a commander of the legion. There was also the means of satisfying more modest

ambitions. He might become a member of the *comitia* of the *tribus* or there he might carry on trade in Rome which had already become one of the first commercial towns in the world. One might enter the company of farmers of the revenue—this is to say take a part in the enormous profits

which the great public works of the Empire had produced. As a tribe he was all protected and escaped the authority of the municipal magistracy and was sheltered from the caprice of the Roman magistracy himself. By being citizen of Rome, a man gained honor, wealth and security.

The Latin of the *Comitia* was not a simple citizen, he was a *tribus* and he found that twelve thousand men had obtained it through fraud.

Ordinary Rome had her eyes knowing that by this means the population increased and that the losses of war were thus repaired. But the Latinities

suffered. The cities of Italy, which had been free, were now *capitulum* and the citizens became more and more burdensome and the contingent of soldiers that had to be furnished Rome was every year more difficult to fill up. The larger

1 Appian, *Civil Wars* I. 26.

the number of those who obtained the Roman franchise, the harder was the lot of those who had not that right. There came a time when the Latin cities demanded that this franchise should be as to be a privilege of the Italian cities, which having been conquered two centuries before were in nearly the same condition as those of Latium and also saw their richest inhabitants and on them to become Romans and demand for themselves the Roman franchise. The fate of subjects and allies had become all the less supportable in this period from the fact that the Roman democracy was agitating the great question of the agrarian laws. Now the principle of all these laws was that neither subject nor ally could be a owner of the soil except by a formal act of the city, and that the greater part of the Italian lands belonged to the republic. One party demanded therefore that the lands which were nearly all occupied by Italians should be taken back by the state and distributed among the poor of Rome. Thus the Italians were menaced with general ruin. They felt keenly

the need of firm rights and they could only come to possession of these by

the path that followed was called the *societas*. The allies of Rome took up arms that they might no longer be allies but might become Roman. Rome, though victorious was still constrained to grant what was demanded and the

Italians were given the right to citizenship. But the few who were granted the Roman laws, their right to the soil was recognized and the Italian lands as well as Roman soil could be owned by them in fee simple. Then was established the *ius italicum* or Italian law.¹ This was the dawn to the Italian persons since

the Italian had become Roman and the Italian was susceptible

From that time all Italy formed single state. There still remained the provinces outside of the Roman unity.

We must make distinction between Greece and the provinces of the west.

In the east the Greek spirit which had for so long been a hindrance to the government of the people with the thinking impossible to govern them otherwise, or judging that in order to gradually assimilate them to the Italian nation it would be necessary to make them pass over the same route which the Italians

had followed. We see that the Roman republic was a republic of the cities. In the former Gaul each had its senators, aristocracy and its elective magistrates. Each had even its local worship, its *Genius* and its city-protecting

¹ Thenceforth it is called *mancipium* (a thing requiring the *mancipium*) of S. Ulpian.

divinity, after the manner of those in ancient Greece and ancient Italy. Now, this municipal system thus established did not prevent them from arriving at the Roman citizenship; on the contrary, they prepared themselves for it. A gradation, skilfully arranged among these cities marked the steps by which they were insensibly approaching Rome and finally to become assimilated with it. There were distinguished first the allies, who had government and laws of their own and no legal bond with Roman citizens; second the colonies, which enjoyed the civil rights of the Romans without having political rights; third, the cities of the Italian right—that is to say those to whom by the favor of Rome the complete right of property over their lands had been granted; if these lands had been in Italy; fourth the cities of the Latin right—that is to say those whose inhabitants could follow the custom formerly established in Latium to become Romanized after having held a municipal office. These distinctions were so deep that between persons of two different classes

there existed the greatest difference. But the emperor, to break the condition of subject allies to the Italian right from the Italian right to the Latin right. When a city had arrived at this point its principal families became Romans after another.

See Green's *Roman Empire*, ch. 11, § 1. The Roman people were not at the moment of the conquest of Greece, however, desirous to preserve its autonomy, and this was left to it long perhaps than it would have wished. At the end of a few generations it aspired to become Roman, and its ambition and interest

were directed towards Rome, which it usually bore towards its foreign masters. They admired it, they had a veneration for it; of their own accord they devoted worship to it, and built temples to its gods. Every city forgo its protecting divinity and worshipped its place the gods of Rome.

And the Roman people, in return for the homage of its subjects, gave them the right of citizenship. If the eyes of the cities were turned towards Rome, the model of the true country, the cry of the nations. The city where there was born seemed small interests no longer occupied

them. And the emperor, who had few enemies, was able to confer the citizenship on those who were his subjects. He no longer conferred political rights, but offered more solid advantages. A citizen was a man who was clothed with the same rights as the full right to hold property, the right to inherit, the right

to marry, the paternal authority, and all the private rights of Rome. The laws

which were found in each city were variable and without foundation they were merely tolerated. The Romans despised them and the Greeks had little respect for them in order to have fixed laws, recognized by all as truly sacred, it was necessary to have those of Rome.

We do not see that all Greece received a Greek city formally, but for this right of citizenship so much desired but never worked and individually acquire it, and Rome bestowed it with a good grace. Some obtained it through the favor of the emperor, others bought it. It was granted to those who had three children, or who served in certain divisions of the army. Sometimes a constructed merchant vessel of a certain tonnage, or to carry grain to Rome was sufficient to obtain it. A easy and prompt means of acquiring it was to sell one's self as a slave to a Roman citizen for the act of freeing him according to legal forms conferred the right of citizenship. One who had the title of Roman citizen no longer formed part of his native city, either in a civil or political

point of view. He was no longer a citizen of his native city, and he no longer supported its pecuniary burdens. This was a consequence of the old principle which did not permit a man to belong to two cities at the same time. It naturally happened that after several generations there were in every

Greek city quite a large number of Roman citizens. In a city which was the seat of a natural death, the municipal system there came a time when the city was a mere framework that contained nothing where the local law applied to hardly any person where the municipal law no longer had anything

to do. In a few short generations a large number of the Roman franchise, and all those who were of any account had obtained it, there appeared an imperial decree which granted it to all freemen without distinction.

What is remarkable is that no one at the date of this decree in the

annals of the empire has said a word of it. The emperor was not a man of great ability of views and this attributed to him as simply a fiscal measure. We meet in his history with few more important decrees than this. It abolished the distinction which had existed since the Roman conquest between the domination

and the subject people, it even caused to disappear the distinction,

1 Suetonius 24 Petronius 57 Ulpius 11 Gaius 1, 1617.

2 He became a man of great respect for his own family if it had not liked him, the right of citizenship he did not inherit properly. *Panegyric 37*.

3 Cicero *Pro Balbo* 28 *Pro Archia* 15 *Pro Caelio* 26 Cornelius Nepos *Atticus* 3 Greedong before had abandoned the principle but Rome held it fully.

which religion and law had made between them. Still the historians of that time took no note of it, and all we know of it we glean from two vague passages of the jurisconsults. In a short notice in Dion Cassius if this decree did not strike contemporaries as a new thing, it was not remarked by those who then wrote history, it is because the change which it was designed to express had been accomplished before. The inequality between citizens and subjects had been lessened every generation, and had been gradually effaced. The decree might pass unperceived, and the veil of fiscal ease upon it proclaimed and caused to pass into the domain of law what was already accomplished.

The title of citizen then began to fall into desuetude, if it was still employed, it was to designate the condition of a freeman as opposed to that of a slave. From that time all that made a part of Roman empire, from Spain to the Euphrate, formed really one people and a single state. The distinction between cities had disappeared, that between nations still appeared, but was

hardly felt. A Spaniard, an inhabitant of Gaul, an Egyptian were all but Roman, the Spaniard, the inhabitant of Thrace or of Syria, all the same. There was now but a single name, a single country, a single government, a single code of laws.

Weedy and the Roman world were now the same, the great social time had passed, there came the Latins, the Italians, and finally the provincials. The conquest had not sufficed to work this great change, the slow transformation of ideas, the prudent but unintermitted succession of the emperors,

and the growth of peace in the Roman world, had made these things felt.

1 "Antoninus *de iure Romanorum* civitatem in omnibus subiectionibus navit. Antoninus *de iure* granted the right of Roman citizenship to all subjects." Justinian *Novel* 38 ch. 5. "In orbem Romanum qui sunt constitutiones imperatoris Antonini *de iure Romanorum* effectum." Those in the Roman world have been made Romanized by order of the emperor Antoninus. "Ulpian in *Digest* tit. 5, 17 it is known more of the province of Spain than that Caracalla was called Antoninus official acts." Dion Cassius says that Caracalla had all the inhabitants of the empire in the Roman franchise in order to make general the impost of the new franchise and the succession of the distinction between the *peregrini* foreigners and the citizens. Ulpian did not entirely disappear, it is found in Ulpian and in the Code. Indeed it appeared that the franchise should not be immediately conferred on Roman citizens but should pass through all the old grades of separate service to citizenship. Ulpian judges from certain indications that the distinction between the Italian land and the provincial land still continued for a long time (Code VII. 25 VII. 31 X. 39 *Digest* tit. 1). Thus the city of Tyre in Phoenicia, except that Caracalla, enjoyed a privilege of *iustitiam* Italian law. *Digest* IV. 15. The continuance of this distinction is explained by the interest of the emperor who did not wish to be deprived of the tribute which the provincial land paid to the treasury.

transformed it into a union of a dozen great cities under a single master. Thus fell the municipal system.

It does not belong to our plan to tell by what system of government this was placed at its height. This change was at first more an advantage than an unfortunate. Then, however, we must stop at the moment when the old social form which antiquity had established was forever effaced.

CHAPTER II.

CHRISTIANITY CHANGES THE CONDITIONS OF GOVERNMENT.

THE victory of Christianity marks the end of ancient society. With the new religion this social transformation which was begun six or seven centuries earlier was completed.

To understand much the principles and the essentials of politics

we should understand how the social system which the ancients had protected exclusively in family and a single city and existed only for that. This was the time of the domestic god and the city-protecting deity. This religion had produced laws, the relations among men—property, inheritance,

legislation, the duties of the citizen, the rights of the foreigner, the rights of worship. It was this religion that had established government among men; that of the father in the family, that of the king or magistrate in the city. All had come from religion—that is to say, from the opinion that man had entertained of his religion.

And this religion, this religion, was the same in all respects, and

We have sought to place a clear light on this social system of the ancients, where religion was absolute master, not in public life, where the state was religious community, the king a pontiff, the magistrate a priest,

and the laws were sacred, not in private life, where each man was devoted to the state through his soul, his body, and his property, where the notions of law and of duty, of justice and of affection were bounded within the limits of the city, where human association was necessarily confined within a cer-

tain circumference, and prytaneum, and where man saw no possibility of

found in large societies. Such were the characteristic traits of the Greek and Italian cities during the first period of their history.

But little by little, as we see, society became modified. Changes took place in government and laws at the same time as in religious ideas. Already in the fifth century, the preceding Christianity, all nations as long as they were united in religion, thought and in a common politics, and the efforts to oppress the slaves, to overthrow the sacerdotal class, the labors of philosophers, the progress through had unsettled the ancient principles of human association. It had made incessant efforts to free themselves from the thralldom of this religion, in which they could no longer believe, and politics, as well as morals, in the course of time were freed from its fetters.

But this species divorc'd from the disappear'd of the ancient religion, flav'd and politid, begat a little more independentty, because men ceased to have religious beliefs, society was no longer governed reli-

gionit was specially gifted, intelligent, long lived and powerful. But here under the Christian form belief gained the empire over the soul. Were men not then destined to see the reappearance of the ancient confusion of government and the priesthood of faith and law?

sums of the human soul, of the great forces of nature, they now began to look upon God as really foreign, his essence from human nature, on the one hand, and from the world, on the other. The divine Being was

made good things supply in abundance. When premises were maintained and cities God now appeared as a unique immense universe being alone animating the world, alone able to supply the need of adoration that is in man. Religion instead of being as formerly by the nations of Greece and

But with the passage of time, the information that was handed on was no longer understood because the language had grown into a tradition which had been transmitted from age to age and which bore the sacred character of antiquity alone—it was a collection of doctrines and great

increased faith. It was no longer a matter of belief, but especially changed nature and the form of adoration. Man no longer offered God food and drink. Prayer was no longer a form of incantation, it was an act of faith and humble petition. The soul sustained other relations with the di-

vinity, the fear of the gods was replaced by the love of God.

Christianity introduced the new east was not the domestic religion of any family, the national religion of any city or province, but belonged neither to a caste nor to a corporation, from its first appearance, called to itself the whole human race. Christ said to his disciples, "Go ye into all the world, and preach the gospel to every creature."

This principle was extraordinary and unexpected. That the first disciples had a dramatic moment, even in the Acts of the Apostles, is a severe affront to the refusal of first propagation to new courts outside of nation with which it had originated. These disciples, though like the ancient Jews, that the God of the Jews would accept of adoration from foreigners like the Romans and the Greeks of ancient times, believed that every race had its god that propagated them and for this the god was given upon one's own good and special protection and thus such a work was contrary to the same good duty and interest. But Peter replied to the disciples, God

gathe the people like a flock, and he drove us. St Paul: "God opened the door of faith unto the gentiles! Is the God of the Jews only? Is he not also of the gentiles? Were all baptized into one body whether we be Jews or gentiles."

of mankind that was so peculiarly given to a chosen people, as the Jews, was one race. The Jews believed the God of the Jews, the Athenians the Athenian, the Romans Jupiter Capitolinus. The right to practice worship had been a privilege.

The foreigner then responded that man must be a light unto the world. The Athenian Pallas is just to say that in the five centuries which preceded Christianity, who thought were struggling against these narrow rules. Philosophy had often taught since Anaxagoras that the god of the universe

recruited the Jews of all provinces into their synagogues. Three of the Jews, Sapphira, and some others, had accepted, without distinction, worshippers from all nations. The Jews had begun to admit the foreigners to their religion. The Greeks and the Romans had admitted into their cities Christian converts.

all this progress, though, that institution presented a broad national
 membership of people, and a God who belonged to all, who had
 chosen people and who made no distinction on race, families, or states.

For this God there were no longer strange. The strange no longer profaned the temple, no longer tainted the sacrifice by his presence in the temple.

was open to all who believed in God. The priesthood ceased to be hereditary,

because religion was no longer a patrimony, the worship was no longer kept secret, the rites, the prayers, the dogmas were no longer concealed. On the contrary, there was henceforth religious instruction which was not only given but which was offered, which was carried to those who were the farthest away, and which though it then no longer differed in the spirit of propagandism replaced the law of exclusion.

From this great consequence flowed, as well for the relations between nations as for the government of states.

Between nations religion no longer commanded hatred. It no longer made it the citizen's duty to detest the foreigner's very essence. On the contrary, was to teach him that towards the stranger, towards the enemy, he owed the duties of justice and even of benevolence. The barrier between nations or races were thus thrown down. The *pomœrium* disappeared. Christ says the apostle that he broke down the middle wall of partition between us. "But

now God has joined together these many diversities of humanity in himself, in bond of peace but Christ all and all."

The people were thus taught that they were all descended from the same common father. With the unity of God, the unity of the human race also ap-

peared. Thereafter, and it was henceforth, religion necessarily forbade

As to the government of the state, we cannot say that Christianity essentially altered that precisely because it did not occupy itself with the state in the ancient ages religion and the state had but one ever people adored its own

golden age, and religion and the state were people's gods, and religion on the government of the state and designated it chiefly by the voice of the otory by that of the auspices. The state in its turn interfered with the domain of the conscience and punished every infraction of the rite and the worship of the

city. In fact, the Christian government had no longer any of his needs. He now interfered as little as possible in the affairs of the state. "Render to Cæsar the things that are Cæsar's and to God the things that are God's." It is the first time that God and the state are so clearly distinguished. Cæsar

and religion parted. The government of the state was no longer a religious interpretation of belief. It held the worship and the dogma in its hands. Even his person was sacred and divine for it was a peculiarity of the policy of the emperors that wishing to recover the attributes of ancient royalty they were

careful not to forget the divine character which antiquity had attached to the

king-pontiff to the priest-found. But now Christ breaks the alliance which paganism and the empire wished to renew. He proclaims a religion in no longer the state, and that to obey Cæsar is no longer the same thing as to obey God.

Christianity completes the overthrow of the old worship, it extinguishes the pyrites and completely destroys the city-protecting divinity. It does more; it refuses to assume the empire which these worship had exercised over civil society. It professes that between the state and itself there is nothing in common; it separates what antiquity had confounded. We may remark, moreover, that during three centuries the new religion lived entirely beyond the action of the state; it knew how to dispense with state protection and even to struggle against it. These three centuries established a hiatus between the domain of the government and the domain of religion, and the recollection of this period should not be effaced; it follows that this distinction

between the two domains is the basis of the efforts of a part of the

This principle was fertile in great results. On one hand politics became definitively free from the strictures which the ancient religion had traced, and could govern men without having to bend to sacred usages without con-

sidering the responsibilities which it had to assume. On the other hand, the state was more completely at liberty to act, and its action was no longer limited. A complete reform had been effected in the control of Christianity, though that

and by the same time the state was bound to be bound by the duty of submitting to a citizen of a republic to give his life for it, but that, in what later his soul was free and was bound only to God.

Stoicism had already marked this separation, but had restored it to him-

self and the unity of the gods. But that which was more the unchangeable for succeeding generations was only the consolation of a few, it made the common good of humanity.

If, now, we recollect what has been said above of the omnipotence of the

states of the ancient world, we must admit that the new principle of the absolute empire—what is that this new principle is the source whence individual liberty flowed.

Then indeed the greatest difficulty was overcome and liberty was

compatible with social order.

Sentiments and manners as well as politics were then changed. The idea which men had of the duties of the citizen were modified. The first duty no longer consisted in giving one's time and one's strength to the state. Politics and war were no longer the whole of man; all the virtues were no longer comprised in patriotism. For the soul no longer had a country. Man felt that he had the obligation besides that of living and dying for the city. Christianity distinguished the private from the public virtue. By giving less on to the latter, it elevated the former to place God, the family, the human individual above country, the neighbor above the city.

Law was also changed in its nature. Among all ancient nations law had been subject to, and had received its rule from religion. Among the Persians, the Hindus, the Jews, the Greeks, the Italians, and the Gauls, the law had been contained in the sacred books or in religious traditions, and thus every religion had made a law of its own image. Christianity, the first religion that

did not have in the flesh a source of its laws, with the help of its spirit, the order of succession, no obligations, no legal proceedings, placed itself outside the law and outside all things purely terrestrial. Law was independent; it could draw its rule from nature, from the human conscience, from

the progress of the intellect, from the improvement of the mind, from the progress of morals, and could conform itself to the interests and social needs of every generation.

The happy influence of the new doctrine is easily seen in the history of Roman

law. During several centuries, the spirit of the law of the Romans approached natural equity, but it proceeded only by shift and device, which enervated and enfeebled its moral authority. The work of regeneration, legislation announced by the Stoic philosophers, was only the noble effort of Roman

jurisprudence, and the spirit of the law, independent of the sacred religion, allowed the law to become as Christianity laid ground that the Roman code admitted new rules no longer by subterfuge, but openly and without hesitation. The domestic tyrant having been overthrown, and the

sovereign having been established, the authority of the father had disappeared, lost the absolute authority which his priests had formerly given him, and preserved only that which nature itself had conferred upon him for the good of the child. The wife, who in the old religion placed in a position inferior to

the husband, became morally his equal. The laws of property were essentially

altered the sacred and marriage appeared in the field, the right of property no longer flowed from religion but from labor; its acquisition became easier and the formalities of the ancient law were definitively abolished.

Thus by the single fact that the family no longer had its domestic religion, its constitution and its laws were transformed; too, from the single fact that the state no longer had its official religion, the rule for the government of men were forever changed.

Our study must end at this limit which separates ancient from modern politics. We have written the history of a belief that was established, human society was constituted, it was modified, and society underwent a series of revolutions, it disappeared, and society changed its character. Such was the law of ancient times.

BIBLIOGRAPHY.

To fulfil the mandate of the traditional histories series, less attention has been paid to the edition of the work included in this bibliography. Where appropriate, editions available here should be noted as special, possibly and with a view to their being more widely known and progressive terms.

PRIMARY SOURCES.

As a approach, a historian is heavily weighted towards the use of primary sources. To fully appreciate the ancient city requires knowledge of these sources. The following is thus necessarily partial and includes the most important sources with which the reader should be familiar.

Homer, tr. W. C. Bryant, **Iliad**, (Perth: Imperium Press, 2019)

Homer, tr. W. C. Bryant, **Odyssey of Homer**, Vols I-II, (Boston: James R. Osgood & Co., 1873)

Virgil, tr. Theodor G. Williams, **Aeneid**, (Boston: Houghton Mifflin Co., 1910)

Hesiod, tr. Hugh G. Evelyn-White, **Hesiod, The Homeric Hymns and Homericica**, (Cambridge: Harvard University Press, 1914).

Ovid, tr. James George Brazer, **The Fasti of Ovid**, (London: Macmillan & Co. Ltd., 1929)

Livy, tr. B. O. Foster et al., **Livy in Fourteen Volumes**, (London and New

York: G. P. Putnam's Sons, 1919-1959)

Plutarch, tr. Bernadotte Perrin, **Plutarch's Lives in Ten Volumes**, (London and New York: Macmillan Co., 1914)

Plutarch, tr. Frank Cole Babbitt, **Moralia**, Volume IV, (Cambridge: Harvard

University Press, 1936)

Dionysius of Halicarnassus, trans. Earnest Cary, **The Roman Antiquities of Dionysius of Halicarnassus** Vols I-VII. (Cambridge: Harvard University Press, 1937-50)

Herodotus, trans. George Rawlinson, **The History of Herodotus** Vols I-IV.

(London: John Murray, 1858-60)

Cicero, trans. Francis Barham, **The Political Works of Marcus Tullius Cicero: Comprising his Treatise on the Commonwealth and his Treatise on the Laws** Vols I-II. (London: Edmund Spettigue, 1841-42).

Cicero, trans. Walter Miller, **On Duties**, Cambridge: Harvard University Press,

Cicero, trans. W. A. Falconer, **De Divinatione**, On Old Age, On Friendship, On Divination, (Cambridge: Harvard University Press, 1923)

Cicero, trans. C. D. Yonge, **On His House**, in The Orations of Marcus Tullius Cicero Vol. 3. (London: George Bell & Sons, 1916)

Plato, trans. Benjamin Jowett, **Laws**, In The Dialogues of Plato Vol IV. (New York: Macmillan & Co. Ltd., 1892)

Cato Varro, trans. W. D. Hooper, trans. Harrison Boyd Ash, **On Agriculture**, Cambridge: Harvard University Press, 1934)

Macrobius, trans. Robert A. Kaster, ed. Jr., **Saturnalia** Vols I-III. (Cambridge: Harvard University Press, 2011)

Thucydides, trans. Benjamin Jowett, **Thucydides** Vols I-II. (Oxford:

Clarendon Press, 1900)

Polybius, trans. W. R. Paton, **The Histories** Vols I-VI. (Cambridge: Harvard University Press, 1922-27).

Tacitus, trans. Alfred John Church and William Jackson Broderick, **Annals of**

Tacitus, London: Macmillan & Co. Ltd. 1876)

Tacitus, trans. Alfred John Church and William Jackson Broderick, **The History of Tacitus**, Cambridge: London: Macmillan & Co. Ltd., 1864)

Demosthenes, trans. Arthur Wallace Pickard, **The Public Orations of Demosthenes** Vol. I. (Oxford: Clarendon Press, 1912)

Xenophon, trans. E. C. Marchant and G. W. Bowersock, **Constitution of the Lacedaemonians**, Scripta Minora (Cambridge: Harvard University Press, 1925)

Aeschylus, trans. E. D. A. Morshe, **The House of Atreus**, 2nd ed. (London:

- Simpkins and Marshall (1889)
- Aeschylus, E. D. A. Morshe, ed. **The Plays of Aeschylus**. London: Macmillan & Co. Ltd. 1908.
- Sophocles, Lewis Campbell, ed. **The Seven Plays translated into English Verse**. Oxford: Oxford University Press, 1906.
- Euripides, Arthur S. Way, ed. **The Tragedies of Euripides in English Verse. Vols. I-III**. (London: Macmillan & Co. Ltd. 1894-1898)
- Aristophanes, Benjamin Pickles, ed. **Aristophanes II**. (London: William Heinemann Ltd. 1930)
- Plautus, Henry Thomas Riley, ed. **"Aulularia" and "Captivi"**. In *The Comedies of Plautus* Vol. I. (London: George Bell & Sons 1880)
- Plautus, Henry Thomas Riley, ed. **"Mostellaria"**. In *The Comedies of Plautus*. Vol. II. (London: George Bell & Sons 1895)
- Varron, Lloyd Storr-Bell, ed. **Varron on Farming**. London: George Bell & Sons, 1912)
- Maurus Servius Honoratus, Georg Thilo, Hermann Hagen, eds. **In Vergilii carminum commenta. Servii Grammatici qui feruntur in Vergili carmina commenta. Consueverunt**. (Leipzig: G. Teubner 1881)
- Festus, Carol Odofred Mueller, ed. **De verborum significatiqnesu-persunt in Pauli epitome**. (Latin) Rome: Libreria Weidmanniana 1839)

DOMESTIC CULT.

- Martin P. Nilsson, ed. **The House and the Family**. In *Greek Folk Religion*. (New York: Harper & Brothers 1961)
- Marja-Leen Hanninen, ed. **Domestic Cult and the Construction of an Ideal Roman House as a Family**. In *Acta Instituti Romanici Fennici* 41, 2013.
- David Gerald Orr, "Roman Domestic Religion". M. A. thesis, University of Maryland 1969.
- David Gerald Orr, "Roman domestic religion: a study of the Roman household deity and his shrine at Pompeii and Herculaneum". D. thesis, University of Maryland 1972.
- L. R. Farnell, ed. **The Cult of Ancestors**. In *Greek Hero Cults and Ideas of*

Immortality (Oxford: Clarendon Press, 1921).

Claude Lecouteux, **The Tradition of Household Spirits and Ancestors: Lore and Practice** (Rochester: The Tradition, 2013).

John Bode and M. Olyan, eds, **Household and Family Religion in Antiquity** (Hoboken: Blackwell Publishing, 2008).

Carl M. Antonaccio, **An Archaeology of Ancestors: Tomb Cult and Hero Cult in Early Greece** (Lanham: Rowman & Littlefield Publishers, 1994).

Jane M. Morgan, **The Classic Greek House** (Exeter: Exeter University Press, 2010).

M. P. Nilsson, **Roman and Greek Domestic Cult**. In *Opuscula Romana*. Vol. I, 1954.

H. J. Rose, **The Religion of the Greek Household** (Euphrosyne, 1957).

FAMILY.

Aristotle, E. S. Forster, **Oeconomica** (Oxford: Clarendon Press, 1920).

Richard H. Saller, **Roman Kinship, Structure and Sentiment**. The Roman Family in Italy: Status, Sentiment, Space. Bery Rawson and Paul Richard Carey Weaver, eds (Oxford: Clarendon Press, 1997).

W. K. Lacey, **The Family in Classical Greece** (Ithaca: Cornell University Press, 1968).

Jan F. Gardner and Thomas J. Wiedemann, eds, **The Roman Household: A Sourcebook** (London: Routledge, 1991).

Ashley Gurnall, **Early Roman Traditions: Roman Education in Cicero's *De Officiis*** (Oxford: Oxford University Press, 2006).

Paul Monroe, **Sourcebook of the History of Education in the Greek and Roman Period** (London: Macmillan & Co. Ltd., 1902).

Maureen Carroll, **Family and Household: Spirits of the Dead Roman Funerals and Commemoration in Western Europe** (Oxford: Oxford University Press, 2006).

Xenophon, H. G. Dakyns, **The Economist**. The Works of Xenophon. Vol. 3 pt. I. (London: Macmillan & Co. Ltd., 1897).

RELIGION GENERAL.

Martin P. Nilsson, *Greek Popular Religion* (New York: Columbia University Press, 1940)

W. Ward Fowler, *The Religious Experience of the Roman People from the Earliest Times to the Age of Augustus* (London: Macmillan & Co. Ltd., 1911)

Walter Burkert, *Greek Religion* (Cambridge: Harvard University Press, 1985)

Georges Dumézil, *Archaic Roman Religion* (Baltimore: Johns Hopkins University Press, 1996)

Jess Benedicarte, *The Religion of Num and Other Essays on the Religion of Ancient Rome* (London: Macmillan & Co. Ltd., 1906)

John Scheer, *Roman animal sacrifice and the system of being*. In *Greek and Roman Animal Sacrifice: Ancient Victims, Modern Observers*, Christophe A. Faraon, E. S. Naide, eds. (Cambridge: Cambridge University Press, 2012)

R. M. Ogilvie, *The Romans and Their Gods in the Age of Augustus* (New York: W. W. Norton & Company, 1970)

Georg Wissowa, *Religion und Kultus der Römer* (German) (Munich: C. H. Beck, 1902)

INDO-EUROPEAN ROOTS.

W. E. Hearn, *The Arya Households: Structure and Development, An Introduction to Comparative Jurisprudence* (Melbourne: Sydney and Adelaide: George Robertson, 1979)

Émile Benveniste, *Book II: The Vocabulary of Kinship* (Dictionary of Indo-European Concepts and Society) (Chicago: Hau Books, 2016)

Roger D. Woodard, *Indo-European Sacred Space: Vedic and Roman Cult*. (Champaign: University of Illinois Press, 2006)

J. P. Mallory, Douglas A. Adams, *Death Beliefs, Hearths, and Social Organization* (Encyclopedia of Indo-European Culture) (London: Fitzroy Dearborn Publishers, 1997)

- Gregory Nagy, **Parth: The Hellenization of Indo-European Myth and Ritual in Greek Mythology and Poetics** (Ithaca: Cornell University Press, 1992).
- Angel Bell-Volpe, **From the Heart to the Creation of Boundaries: A Study of Indo-European Studies** Vol. 18 No. 1-2.
- J.B. Hales and C. Blegen, **The Coming of the Greeks**, *American Journal of Archaeology* Vol. 32 No. 2, 1928.
- Jean Haudry, **Religion and Character in Indo-European Religions**, *The Indo-European* (Washington: Scott-Townsend Publishers, 1999).

HISTORY.

- R.H. Barrow, **The Romans** (Harmondsworth: Penguin Books, 1949).
- Edward Gibbon, **The Decline and Fall of the Roman Empire**, **Vols. I-VII** (New York: AMS Press, 1974).
- Howard H. Scullard, **A History of the Roman World from 75 to 14 B.C.** (London: Methuen, 1959).
- F.F. Abbott, **A History and Description of Roman Political Institutions**, (Boston: Ginn & Co., 1901).
- Baron de Montesquieu, **Vol. I** (London: Dent, 1904).
- Jérôme Carcopin, **Daily Life in Ancient Rome: The People and the City at the Height of the Empire**, (New Haven: Yale University Press, 1941).
- Theodor Mommsen, **The History of Rome**, **Vols. I-V**, (London: Macmillan & Co., 1901-08).
- Jacob Burckhardt, **The Civilization of the Renaissance in Italy**, (New York: St. Martin's Press, 1999).
- Martin Nilsson, **The Age of the Greek Tyrants**, (Belfast: Queen's University of Belfast, 1936).

LAW.

- Henry Sumner Maine **Ancient Law Its Connection with the Early History of Society and its Relation to Modern Ideas**, 2nd ed. (London: John Murray, 1888)
- Hans Julius Wolff **Roman Law An Historical Introduction** (Norman: University of Oklahoma Press, 1951)
- H. F. Jolowicz **Historical Introduction to the Study of Roman Law** (Cambridge: Cambridge University Press, 1952)
- Aristotle, Frederick C. Kenyon **Aristotle on the Athenian Constitution** (London: George Bell & Sons, 1912)
- Diogenes Laertius, R. D. Hicks **Solon**, in *Lives of the Eminent Philosophers*, Vol. I. (Cambridge: Harvard University Press, 1925)
- John Crook "Patric Potestas," *Classical Quarterly* Vol. 17, Issue 1, (Oxford: Oxford University Press, 1967)
- W. Ward Fowler **Confarreatio**, in *Studies in Patrician Law*, (The Journal of Roman Studies Vol. 6, (Cambridge: Cambridge University Press, 1916)
- Andre W. Bierkactal, "Marriage in Roman Law," in *The Yale Law Journal* Vol. 16, No. 5, (New Haven: Yale University Press, 1907)
- William Warwick Buckland **Ritual Acts and Words in Roman Law**, in *Festschrift für Pau Koschaker*, (Weimar: Böhlau, 1939)
- Gordon William S. **Some Aspects of Roman Marriage Ceremonies and Ideals**, in *The Journal of Roman Studies* Vol. 48, No. 1-2, (Cambridge: Cambridge University Press, 1958)

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