INTERNATIONAAL INSTITUUT VOOR SOCIALE GESCHIEDENIS AMSTERDAM

THE ETHNOLOGICAL NOTEBOOKS OF KARL MARX

TRANSCRIBED AND EDITED, WITH AN INTRODUCTION BY L. KRADER

Among the most important of the materials left unpublished by Karl Marx is the body of his ethnological excerpts and commentaries compiled during the period 1880-1882. These include his notes taken from the works of Lewis Henry Morgan, Sir Henry Sumner Maine, Sir John Budd Phear and John Lubbock (Lord Avebury). Marx's comments on Morgan's *Ancient Society* have been known from the use made of them in the *Ursprung der Familie, des Privateigentums und des Staats* of Friedrich Engels; nevertheless, Engels applied but a small part of Marx's materials. The entire corpus of Marx's excerpts and notes is here brought out for the first time together with editorial, historical and bibliographic matters for their comprehension.

The materials contain some of the most explicit statements of Marx in regard to the primitive condition of mankind, the origin of class-divided society in connection with the transition to civilization, and the formation of the State.

Here are found Marx's polemics against the Historical School of Jurisprudence (Henry Maine) on the one side, and the Utilitarians (Jeremy Bentham and John Stuart Mill) on the other.

Further, the critique of the Analytical Theory of the State and Law (John Austin) is taken up by Marx in the development of his positions with regard to the state as a social institution and to its economic base.

The critique of man in the state of nature, and in the civilized condition, which had been the concern of the young Marx, is here taken up again in his last years. Yet, whereas his early formulations had proceeded from the abstractions of a philosophical anthropology, his late work takes up some problems from the viewpoint of the science of man in the modern sense, that is, the ethnological accounts of concrete societies given by Morgan, Maine, Phear and to a lesser extent, Lubbock.

The resultant work is thus a contribution to the study of the ideas of Marx, their internal development, and their relation to the writings and schools of the late nineteenth century. No less important is its contribution to the history of ethnology at a time when its empirical methods and objects were being formed and strengthened. On the one side Marx developed his position in regard to the theory of human evolution and in conjunction with this, to the theory of Darwin. On the other, Marx's work makes an end to the theory of man as a self-contained atom, a theory given in its modern form by Thomas Hobbes, the Utilitarians, and Herbert Spencer; that theory is replaced by Marx's conception of man as the ensemble of social relations, which had been previsioned in his Theses on Feuerbach, and is here given a concrete content in his critique of Maine.

THE ETHNOLOGICAL NOTEBOOKS OF KARL MARX

QUELLEN UND UNTERSUCHUNGEN ZUR GESCHICHTE
DER DEUTSCHEN UND ÖSTERREICHISCHEN ARBEITERBEWEGUNG

NEUE FOLGE

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herausgegeben von Helmut Hirsch

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herausgegeben von Karl Kautsky Jr.

III. THE ETHNOLOGICAL NOTEBOOKS OF KARL MARX
(Studies of Morgan, Phear, Maine, Lubbock)
Transcribed and edited, with an Introduction by Lawrence Krader

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(STUDIES OF MORGAN, PHEAR, MAINE, LUBBOCK)
TRANSCRIBED AND EDITED, WITH AN INTRODUCTION
BY

LAWRENCE KRADER

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Dedicated
to the Memory
of Karl Korsch

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Foreword

The conception of this book was first developed in discussion with Karl Korsch, in 1947-1953; it is to be regarded as an evolution therefrom. The International Institute of Social History, and its Director, Prof. Dr. Fr. de Jong Edz., were instrumental in carrying through the present work; without the initial support and continued cooperation of the Institute throughout its period of gestation it would not have been completed.* Those who have an idea of how a work of this nature is composed will justly appreciate the kinds and qualities of the individual contributions that are necessary to it. The substantive contributions of the members of the Institute, Mr. Ch. B. Timmer, Mr. H. P. Harstick, and Mr. Goetz Langkau, have been invaluable. Dr. Barbara Krader participated in the completion of the work, and, in its later phases, step by step. Many contributed their knowledge of particular fields; here I will mention that of Dr. Angel Palerm on Aztec history. Drs. Stanley Diamond and Dell Hymes criticized the Introduction. To all those mentioned and others beside go the acknowledgement of their contributions and the expression of my thanks.

February 1972. L. K.

The International Institute of Social History kindly made available the Notebooks of Marx containing his excerpts from Morgan, Lubbock, Maine and Phear. Mr. H. P. Harstick, of that Institute, has treated relevant portions of the Phear and Maine materials from the standpoint of comparative legal history in a work to appear in this series, *Untersuchungen zur Genesis des Marx-Engelsschen Geschichtsverständnisses* (I.: Marx und Engels und die historischen Wissenschaften; II.: Marx' und Engels' rechts- und verfassungsgeschichtliche Studien; III.: Historische Lektüre und Exzerpte - Verzeichnis des Lesefeldes von Marx und Engels im Bereich der Historie).

INTRODUCTION

The ethnological writings of Lewis Henry Morgan, John Budd Phear, Henry Sumner Maine, and John Lubbock (Lord Avebury) were excerpted and critically reviewed by Karl Marx in the period 1880-1881-1882. A sense of unity may be derived from the juxtaposition of the names of these writers on ethnology, as though they represented a common tradition; such a judgment would be contrary to fact, although they were all uncritical evolutionists in England and America, active in the 1870s. Marx studied a number of other works in ethnology and culture history in addition to these, in particular those of Georg L. Maurer and Maxim M. Kovalevsky. Morgan put together an account of the evolution of human society than which none was more coherent in its time; Maine was then the leading English figure in comparative and historical jurisprudence; Phear and Kovalevsky were both attracted to his doctrines, Phear on the Oriental side; Lubbock was one of the best-known Darwinians of that period.

Marx left his notes in the state in which they are published here, his work cut short by his death in 1883. Friedrich Engels took up Marx's notes on Morgan in connection with his own book, *Der Ursprung der Familie, des Privateigentums und des Staats.* This portion of the materials was then discussed by Karl Kautsky, Eduard Bernstein, and Heinrich Cunow, as those associated with the German Social Democracy at the end of the nineteenth century and beginning of the twentieth, particularly in its organ, *Die Neue Zeit.*

The body of Marx's excerpt notebooks containing his studies in ethnology of this time was not surveyed until the following generation. D. Ryazanov, the editor of the historical-critical edition of the collected works of Marx and Engels, gave a brief account of them, with the exception of the Phear materials, in a lecture before the Socialist Academy in Moscow, November 20, 1923, and published in the *Vestnik Sotsialisticheskoy Akademii,* in the same year; it was then brought out, under the editorship of Carl Grünberg, in the *Archiv für die Geschichte des Sozialismus* in 1925. A Russian version of the Morgan manuscript alone, with significant changes, was published in the *Arkhiv* of the Marx-Engels Institute 1941, on the basis of photocopies of the original made by Ryazanov. These excerpt notebooks were again surveyed, by E. Lucas in 1964, now including the Phear manuscript; the Morgan manuscript materials of

Marx were surveyed at this time on the basis of the Russian version of 1941.

Marx's notebooks, containing the ethnological manuscript excerpts together with further bibliographic indications, are deposited in the International Institute of Social History, Amsterdam.

We will refer to the contents of all these manuscript materials as relating comprehensively to the study of prehistory, proto-history and early history of mankind, and the ethnological study of living peoples. These studies were being developed in the form, and with the given subdivisions and nomenclature that they now have, during Marx's lifetime, a development which he followed closely. Further, the empirical study of mankind in all these disciplines and subdisciplines was at this time being separated from the philosophical tradition of anthropology, which preceded the empirical study historically, and whose substantive connection to the former will be examined; Marx himself participated in this transition.

The manner in which Marx took up these ethnological materials remains to be examined, likewise his relations to the ethnologists and the writings which he excerpted.

The ground held in common by Lubbock, Maine, Morgan, Phear, widely shared in the later Victorian period, is that man is the product of his own agency, which is subject to organic development. The growth of human manual and mental dexterity justified an optimism in regard to all problems of human society; although man created and has advanced himself by his own efforts, the growth of the human faculties of technical skill and reason is subject to natural, unconscious, undirected extra-human law. The opposite of a teleological, directed law of nature and man attracted Marx to the conceptions of Darwin.[1] Human society lies within the natural continuum, and was conceived by Auguste Comte, Herbert Spencer, Paul Lilienfeld, A. E. F. Schaeffle, Oskar Hertwig, Maine, and Morgan as an organism subject to the laws of nature; from this followed the notion of Spencer that the development of specialized function in nature, hence, the division of labor in society, as the mechanism of progress is thereby vindicated; Emile Durkheim shared this conviction. On the other hand, the actual separation of man from nature, and the potentiality of his reunification therewith, was proposed by Marx, in connection with and at once in opposition to Hegel's theory of alienation, first as a philosophical doctrine; it was then given an empirical direction by his ethnological researches, particularly in reference to the work of Darwin's followers, as well as that of Morgan, and of Maine.

At the same time, Marx opposed as a groundless utopianism the doctrine of general evolutionary progress then advanced by ethnologists. The positivist and utilitarian doctrines on the one side, the utopian on

the other, were deficient in critical perspectives as they were in social and economic analysis and ground for social and political action. Morgan came up to, but not into, the critical notion that man proceeds by particular, empirically observable mechanisms from lower to higher forms of social life; moreover he vouchsafed partly objective criteria for ascertainment of the relations of lower and higher, which were: the accumulation of property, settlement on a territory, dissolution of the kinship bond as the primary and dominant basis of social unity; Maine's theory of transition of society and law from status to contract belongs to this category. The criteria of higher and lower in Morgan (and in Maine) were in part biological: the inbreeding of a social group is unhealthy, and that of a small group less favorable than are large out-group breeding practices. In part the criteria were social and moral in Morgan: the status of women should be equal to that of men, whereas in some family systems it is not; the ancient gentes were celebrated by Morgan as democratic and fraternal. But in neither case did Marx's contemporaries proceed to the critique of the social institutions existing at that time, whose evolutionary etiology they laid bare. Morgan did not propose any means to overcome the limitations or distortions of the social institution of property; instead he proposed an act of faith in progress and optimism in man's capacity for development beyond his present limitation. Lubbock, as Maine, Morgan, and in the following generations J. G. Frazer and R. B. Onians, saw the savage or barbarian peeping through the clothing of civilized European man. This was taken by Marx as an index that modern man was not without an archaic communal component, which includes a democratic and equalitarian formation, in his social being. The comparison to man's past was a basis for critique of the present civilized condition for Marx. Morgan was critical of modern civilization in a utopian, that is, ambiguous because non-particularized way; for him as for the other ethnologists mentioned the comparison with the savage was taken as an index of how far civilized man had come from his rude past, hence was a ground for self-praise.

For Marx the civilized is the limited and oppositive human condition, whose critique is bound to the revolutionary praxis, which is the first step in overcoming the condition of limitation and opposition, internal as well as external. Yet that condition is the sole means we have for overcoming our internal limitation and social division. The ethnological materials provided evidence of the development and its timedepth, documenting its stages and general direction; the concomitant changes in man's physique and nature, and the human potentialities that were realized and made actual; the ethnological materials were weakest in laying bare the transition from one stage to the next in detail. Marx's interest in the evolutionary doctrine was advanced for its own sake, for the scientific base that it provided for the determination of the deforma-

tions wrought in the capitalist epoch on mankind, and as a means to overcome the latter. With the exception of Morgan, whose limitations will be discussed below, none of the evolutionary school of that period wrote with any relevancy to the theme of the deformation of man's character by civilization, a theme later taken up by Sigmund Freud.

The Comtean positivists, in the generation before Darwin, made a cult of the progress of mankind, a doctrine which was not specifically sloughed off by the Darwinians despite Darwin's generally anti-teleological direction.[2] The conceptions of T. H. Huxley, Lubbock, Maine, Morgan, Phear, Kovalevsky, in this regard were limited in that they had no way to translate the mechanisms of selection for survival from the order of nature to the order of culture. Marx questioned the doctrine of the social organism because it was related to no particular and concrete body of scientific data, on the one hand, and as the basis for unguided progress, was related to no particular human act on the other. Progress is located outside the human sphere, according to this set of doctrines, not only because of the lack of scientific data and theories; the relation of progress to the human sphere was not worked out, in part because the place of culture in the order of nature was not developed by those writers. The distinction made between the workings of providence and of progress by J. B. Bury and others is superficially attractive because divine agency is asserted in the former case but not in the latter.[3] Progress as there conceived is, however, unrelated to anything that man does or knows: the general disposition to progress lies as much outside human control, as it is conceived by these thinkers in the twentieth century, as it did in the nineteenth, and as did the action of providence in the seventeenth. Progress is brought to the order of nature by man's abstract conception, just as providence is brought to it by his mystical conception; the abstraction is found in the mystical and the mystical in the abstract orders, neither progress nor providence being directly connected with the actual processes of nature.

Marx developed a series of positions in philosophical anthropology during the years 1841-1846. Those having particular relevance to the ethnological notebooks are in regard to the interrelations of the family, civil society and the State (in the *Critique of the Hegelian Philosophy of Right*); the alienation of man in society and in nature (in the *Economic-Philosophical Manuscripts*); the doctrine of man producing himself by his labor and by his relations in society (in the *German Ideology* and the *Holy Family*); and the opposition of the concretion to the abstraction of man (in the *Theses on Feuerbach*).[4] The increasingly concrete problems taken up in his work, his revolutionary activities during the 1848 period and his conclusion that the anatomy of civil society is to be sought in political economy[5] transformed his treatment of anthropology from a philosophical to an empirical subject. His research at the British Museum then

undertook the wholly empirical study of man, to which he constantly returned during the 1850s, 1860s, and 1870s, and intensively during 1879-1882. His relations to philosophical and empirical anthropology form part of the debate over the continuity and discontinuity of his thought; the thesis of discontinuity has been averred by Auguste Cornu, that of continuity by Georg Lukács and Jean Hyppolite. Karl Korsch has written that the break in continuity is indicated by his *Critique of the Hegelian Philosophy of Right*, but since that work was written in 1843, hence several years before Marx began his economic studies on the basis of his anatomy of civil society, it is actually an argument for continuity while seemingly one for discontinuity.[6]

Marx took up the development of economy and society among primitive peoples in the *Grundrisse der Kritik der Politischen Ökonomie*,[7] devoting two passages of this work, which remained in draft form during his lifetime, to the primitive condition of man, returning to the theme briefly in the *Critique of Political Economy*, 1859. His exposition of primitive as opposed to capitalist production was set forth in the chapter on the social division of labor in *Capital*.[8] The problems dealt with in 1841-1846 remained substantially the same during the period 1857-1867, when the *Grundrisse* and the volumes of *Capital* were composed; these problems continued into the period of his more systematic ethnological researches, 1879-1882. The method became increasingly concrete: it was concerned with the evolution of civil society, with the interests of economic classes and their opposition, the evolution of peasant collective institutions, the relations of the family and civilized society, the State and society, the division of social labor in relation to its nonspecialization.[9] In the *Grundrisse* and in *Capital*, primitive man is taken up as a category, the abstraction of the primitive condition as a means and in opposition to the concretion of the capitalist economy, without reference to particular primitive peoples. India, China, Greece, Rome, and countries of modern Europe and America were specified therein; the further concretion of the particular primitive peoples in terms of the identified social institutions was then developed by Marx in the notebooks of the period 1879-1882.

Marx's studies of ethnology were connected with those on the rural community, the land and the peasant question, at once as historical and as current political issues, and again with the question of applications of science and technology in agriculture; Marx had written on the Danubian principalities, etc., and on Oriental questions, in particular India and China, during the 1850s and 1860s. His researches into Slavic, Germanic, Irish and South Asian peasant communities and history, and comparative ethnological data from authors of classical antiquity were cited in the *Grundrisse*, the *Critique* of 1859, and *Capital*, but more extensively in the notebooks of the 1870s and 1880s. Marx's correspondence with Vera

Zasulich[10] introduced the concrete side of his interest: the historical problem of the Russian peasant commune and the social relations within it, which had great vitality, was known to him, its like still surviving in his native district of Trier in his day; the peasant community was collective in its undertakings, wherein accumulation of private property was not the primary social end; the interrelation of social morality and collective-communal ethics and the non-separation of the public and the private spheres were characteristic of these communities. Slavic and other peoples with significant peasant community composition and institutions did not face the prospect of the necessary development of capitalism; this is expounded by Marx in opposition to the doctrine of historical fatalism, and is further to be directed against historicism in general and against particular historical determinisms. His ethnological studies during the period 1879-1882 related to the ancient States and the communities and tribes both ancient and modern. Morgan's category of gentile societies was understood by Marx as a development of a concrete institution, and as an evolutionary progress in its abstract relation. Together with the related studies of the peasant communities, it provided Marx with a model of what that society which was not concentrated on the pursuit of personal and private wealth, but which developed instead collective institutions of ownership, could be. On the other hand, it provided a material base for the doctrine of impermanence of property in its particular form as private property, of the monogamous family and the State, already expounded in the *Communist Manifesto* and the *Grundrisse*, and the possibility of separate development of peoples to which he returned in the letters to Zasulich and against Mikhailovsky and *Otechestvennye Zapiski*. (See below, Addendum 1 and note 160.) The ethnological manuscripts therefore complement the positions of the *Grundrisse* and *Capital*; they are also developments of Marx's position of the period 1843-1845.

1. MARX'S EXCERPTS FROM MORGAN, *ANCIENT SOCIETY*[11]

Engels made known Marx's study of Morgan's work: "...Marx had set himself the task of presenting the results of Morgan's researches in connection with the conclusions of his own – within certain limits I may say our – materialist investigations of history, and thereby to make clear their full significance."[12] The nature of the presentation that Marx had in view remains, however, to be examined.

Marx had received Morgan's work from M. M. Kovalevsky, who had brought the book back from a trip to the United States,[13] Marx having had it perhaps only temporarily from Kovalevsky, for Engels did not find it in Marx's library.[14] Marx took extensive notes from Morgan's work, coupling it with his studies of Phear, Sohm, Maine, and somewhat

later, of Lubbock.[15] The sets of excerpts taken from Morgan, Phear, Maine and Lubbock will form the domain of our inquiry, considering also that Kovalevsky's work on Communal Landownership, which Marx excerpted in 1879, is also apposite both in its contents and in its close chronological relation to the later materials.[16] The excerpts taken from Morgan, Phear and Maine, together with those from Money, Sohm and Hospitalier, form the contents of one notebook (see note 15); the Lubbock excerpts are found in a second. The relations of the contents of these notebooks both to each other and to Marx's other works will be discussed in the following pages; a special addendum on the chronology of the notebooks will be found at the end of this Introduction.

In view of Marx's extensive and ongoing work on the ethnological literature at that time we infer that if he had intended to present the results of his researches, of which those on Morgan were the most influential, then it was in connection with this and other ethnographic and historical matter from those authors mentioned, as well as from Bancroft, Tylor, Bachofen, Niebuhr, Grote, Mommsen, and such others as were cited in the notebooks.[17] (On the juxtaposition of these materials to those on colonial questions and on technology of agriculture, see the paragraph following and note 15.) How Marx had intended to present his work, whether as a book on an ethnological subject, or as a part of a work on another subject is unclear; his work cannot be said to have taken a particular form, it was rather in the process of gestation. As to content, on the other hand, his views on Morgan, Maine, and other contemporary authors, on the current state of ethnology, on social evolution, prehistory and history of antiquity, on historical and evolutionary fatalism and necessitarianism, have been known until now only in outline from his correspondence and from citations drawn from the excerpt notebook on Morgan and incorporated in Engels' *Origin of the Family*. We now have the context of those citations, together with other comments by Marx, and the materials from the remaining authors.

The notebook containing the excerpts from the books of Morgan, Phear and Maine also contains excerpts from Money's book on Java as a colony (see n. 15); the Lubbock excerpt is followed directly by notes taken from an article on Egyptian finance; the brief excerpt from Hospitalier may be connected with an interest as early as April-May 1851 in the application of electricity to increasing the fertility of the soil, an idea he had taken from the *Economist* of London.[18] The notebooks are not to be regarded as fortuitous agglomerations; they stand as nodal points in which ideas related to each other were explored in various studies, perhaps not as lines of association in general, but in particular. Starting from the study of primitive society, they lead to the evolution of society and, to judge by their juxtaposition, to the problems of colonialism and technological progress in agriculture. While the focus of

this present work is on the ethnological side, we note the conjunction of these lines of thought, at the same time the relation to the philosophical problems and to problems of praxis. Morgan's writings will be discussed below in relation to kinship (and peasant-communal) institutions.

Morgan's theory of social progress was a simple material one: the great epochs of human progress are identified with successive enlargements of sources of subsistence, up to the beginnings of field agriculture. Morgan's concept of ancient society refers to mankind in the states of savagery and barbarism; while in the states of savagery and lower barbarism man was without cultural and regional difference in his attainments of fishing, fire, the bow and arrow, then separately proceeding from the lower to the middle status of barbarism by two lines of progress: in the New World, by the invention of maize cultivation with irrigation and (garden) plants; in the Old World man progressed to the Middle Status of Barbarism by the invention of domestication of animals and the use of iron; in the Old World man progressed through the Upper Status of Barbarism to civilization, from the social plan of government in which personal and consanguineal bonds were the dominant ones to the civil plan, *civitas*, or the political state, based on territory and property. The progress along the various lines is at varying rates in their different chronological segments; the social life of the peoples is heterogeneous in its internal composition; the family changes more rapidly than the systems of consanguinity; the latter are therefore a fossil record of mankind. The family is moreover the active element effecting change in the organization of the life of a people, the kinship system is passive, changing according to the change in the form of the family. The organicist conception of parts interrelated in the whole was further noted and commented by Engels.[19]

On the one hand, the whole according to Morgan determines the part, the entire social system directing the development of the family; on the other, Morgan conceived that the form of the family had a determining influence on the system of consanguinity. The social life of the people was conceived by Morgan to be variable both as to relations between peoples, the external relation of society, and internally as to the relations between the parts of the society. The culture of mankind was not conceived to be so variable by him, for it is conceived in the singular, and as the total product of an ethnical period, not as the means of cultivation of the human biological organism or of a particular society (see note 16).

The general hypothesis or suggestion of Morgan is that mankind had a common origin in Asia. The peoples of Africa and Australia separated from the common stem when society still was organized on the basis of sex, and the family was punaluan. The migration to Polynesia occurred later, but without change in social form, that to America occurred later

still, after the institution of gentes; this sequence is vital to the comprehension of Ancient Society. L. White has criticized Morgan for having, despite information then available to him, put Polynesia too low on the social scale. Morgan was forming, but had not fully developed, an idea that the several families of peoples, each with a common origin, history, society, culture and language had peopled the continents or island worlds. The idea was worked out only for America: the evidence of the unity of origin of the American Indians, or the Ganowanian family, was proved beyond reasonable doubt to him; the Eskimos were excluded from this origin. The Turanian family of peoples of Asia is referred to in the same terms by Morgan as the Ganowanian, but without further specification as to its composition. This culture geography and culture history was considered apart from the systems of consanguinity and affinity, although the one was applied as a characterizing feature in the nomenclature of general identification of the inhabitants of continents.

Morgan's materialism on the one side and his relations to Darwinism on the other have been much discussed. The general periodization applied by Morgan was, in its conception, material or technological to be sure; yet he conceived that the social institutions evolved out of the germs of thought of the human species, which is the opposite of any sense of materialism. On the other hand, he wrote of the succession of increasingly higher organizations as the result of 'great social movements worked out unconsciously through natural selection.' Morgan had not worked out in his own mind a system of natural philosophy, but the various elements of one are there to be found, propounded with a deep conviction.[20]

According to Morgan, government in primitive societies is personal and founded upon relations that are personal. Marx, on the other hand, implicitly controverted this in his Maine manuscript. Maine had written that property in land has a twofold origin, partly from the disentanglement of the individual rights of the kinsmen or tribesmen from the collective rights of the body of kin – Maine had written Family here – or tribe; and partly from the growth and transmutation of the sovereignty of the chief. Marx responded to this: "Also nicht 2 fold origin; sondern nur 2 ramifications of the same source; the tribal property und tribal collectivity which includes the tribal chief." (See Maine excerpts, p. 164 and n. 15 there.) It follows from this response of Marx that the relations of property and government in primitive society are neither personal nor impersonal, but collective. Maine had criticized John Austin for positing the existence of the State a priori, but, Marx wrote, Maine himself, in making this critique had failed to distinguish between the institution of the State and the person of the Prince: "Der unglückliche Maine selbst hat keine Ahnung davon, dass da wo Staaten existiren (after the primitive Communities, etc.) i.e. eine politisch organisirte Gesellschaft, der Staat keineswegs der Prinz ist; er scheint nur so." (Maine excerpts, p. 191.)

The impersonal relation of the State has the appearance of the personal relation of the prince in political organized society. The existence of the State is established in time after that of the primitive communities, and develops with its establishment the difference of appearance and reality. (See below, section 3 on Maine in this Introduction.) Both commentaries of Marx in regard to Maine bear equally upon the thesis of Morgan, for they are strictures against any theory of primitive government conceived as a personal relation. The individuality is expressed and developed in the collective life of primitive society, the person exists as such, albeit not in actual opposition to the social institution. On the one hand, the differentiation of the personal and the institutional relation is potentially that which is developed into an opposition in politically organized society. On the other, the personal and the institutional relations are actually differentiated in either society, primitive or civilized; it is an inconsistency to think that because the number of people in a primitive society is small, for which reason the members may relate to the chief personally, the governmental, or judiciary or other relations are personal. Personal acquaintance or other relations of that sort and institutional relations in both primitive and civilized societies are differentiated even where personal acquaintance, etc., is itself institutionalized. The individual, or personal, relation exists between rulers of States and their citizens, or subjects, as well, but the relation of ruler to subject is not changed by virtue of the personal relation; on the other hand, judgments of the tribal chief or of the ruler of the State may be equally influenced by the personal relation, or want of the same. The development of oppositive interests of social classes does not eradicate the personal relation, but imposes the distinction between its reality and the appearance of it.

The system that Marx developed in this matter is the following: The political relation is the negation of the collective primitive relation, the collective relation bearing within itself both the personal and the impersonal relations in a more or less undifferentiated form. The differentiation between the personal and the impersonal relations in the primitive collectivity becomes the greater as the amount of tribal property is increased, and, in keeping with this, as the office of chief becomes more clearly delineated and less undifferentiated. It is therefore meaningless to think of the differentiation of personal and impersonal relations in extremely primitive societies, where the amount of property is low and any such distinctive office as that of the chief is barely perceptible, if at all. The distinction between the personal and the impersonal or objective, institutional relations becomes increasingly important as the amount of production and ownership of property increases, and offices as that of the chief become more sharply defined. At this point there is still no sharp differentiation between collective and individual property owner-

ship; Marx attributed the development of this differentiation to the period of transition to the politically organized society, as the basis for the development of the latter.

Ancient Society is divided into four parts: I, Growth of Intelligence through Inventions and Discoveries; II, Growth of the Idea of Government; III, Growth of the Idea of the Family; IV, Growth of the Idea of Property. Marx changed Morgan's sequence by treating of Part II, Government, last, thus replacing Property in the order of his manuscript. By doing so he brought the subject matter of the second part directly into conjunction with that of property, whereas it had been separated by Morgan through the lengthy discourse on the family. In this way, Morgan's peroration on the distorting effect of property upon mankind and the condition of its eventual disappearance was excerpted in order, but without special attention, in Marx's manuscript notes on p. 29. Proportionately, Marx reduced Part I to half the space that Morgan gave to it, chiefly by omitting chapter 3, Ratio of Human Progress, in which a time-scale of human evolution is proposed; proportionately, Marx devoted less space than Morgan to Part III: Morgan's summaries of his past work given in the tables of kin terms and the note appended to this Part, in which McLennan's work is controverted, were omitted by Marx, as well as Morgan's Preface. Aside from these omissions, Marx excluded little of significance from Morgan; this last is true, in the degree that will be seen, of the excerpts from Phear and Maine; it is not all relevant to those from Lubbock.[21]

Marx was generally favorable to Morgan's work; he did not reach Engels' verdict that *Ancient Society* is an epoch-making work, and that Morgan's 'rediscovery of the precedence of the matriarchal over the patriarchal gens has the same significance for prehistory that Darwin's theory of evolution has for biology and Marx's theory of surplus value has for political economy'.[22] Yet Morgan's doctrine became for Marx the basis for judgment of related matter in the writings of Niebuhr, Grote, Mommsen, in classical studies; he contrasted Morgan's republicanism to the aristocratic inclination of Grote and Mommsen's quest for princes;[23] Morgan showed to Marx the limits of their understanding of the institutions of the gens, phratry, basileus, and those of the writings of Maine and Lubbock in ethnology. Marx accepted Morgan's authority on the ethnology of the American Indian and other contemporary primitive peoples, as did Bachofen,[24] hence added little to the evidence for Morgan's theses from extra-European sources. Morgan, however, based his argument equally on texts from classical antiquity, particularly of Greece and Rome, to a minor extent of the Old Testament. Marx verified certain references to Greek and Latin authors in Morgan and at the end of his notes set down a number of further quotations, in particular on tribal lays as historical annals;[25] he added Greek etymologies

(e.g. syndyasmian, excerpts, p. 3), and Latin (e.g. hortus, excerpts, p. 2), and searched out English ethnological terms as moccasin, squash (l.c.)

Marx copied out or summarized Morgan's work; he intruded himself but little into the excerptions, as compared, for example, with the method applied in his Maine manuscript. In the following table, a list of what may be considered his principal comments or additions is given. Some of these comments are already known from the use that Engels made of them in the *Ursprung der Familie*. For the sake of fuller comparison, a similar list showing in outline the utilization made by Engels of Marx's excerpts from Morgan is given (see below, Table VII). With reference to the Maine excerpts, however, a different practice is followed (see below, Table V). (The Maine excerpts contain a proportionately and absolutely larger amount of material introduced by Marx, which is difficult to tabulate. The reader is therefore directed to the excerpts themselves, as he is most urgently in all cases.)

TABLE I. Comments by Marx in the Excerpts from Morgan's *Ancient Society*

Excerpts p.	Key words
1[26]	Italian tribes in Upper Status of Barbarism (!)
2	Absolute control (?!) over nature
6	(Mindestens officiell!)
10	Ebenso verhält... politische Systeme, etc.
13	Südslawen, Russian communes (2 references)
14	Was oft anwendbar (referring to Old Britons)
16	References to Fourier; to South Slavs; to Goddesses on Olympus
21	Fire-making – chief invention (contra Morgan)
24[27]	Nicht der Fall bei Celts
26[28]	Fencing does not prove private ownership of land; error in Iliad citation by Morgan; [Achille] Loria and passion for property.[a]
28	Testamentary dispositions established by Solon?
37	Changed form of blood-vengeance!
38	*If! it is supposed!*
41	Organized colonization!
48	Erblichmachen der Wahl
57	Eingeborene casuistry
58	Caste formation; gens petrified in caste [b]
67	Mögen Spanier.... Er hätte sagen sollen...; Stamm, phyle
68	Savage peeps through.
69	Klassische Schülergelehrsamkeit; Herrn Grote ferner zu bemerken... [c]
70	Schulgelehrter Philister;
71	Germanice fleischlich;[c] lernten sie dies...; Das lumpige religiöse Element remains in the degree that real cooperation disappears...; Schulgelehrter...; Verkettung-Phantasiebild.
73-4	Mr. Gladstone...
74	Schoemann on Greek voting; Sorte militairischer demokratie [d]
75	Ancient Germanic justice.

76	Böckh on population of Attica; Schoemann on principalities; Theseus a real person; Phantasie des Plutarch.
76-7	Interessenconflict
77	Germ of county?
78	Bekamen entscheidende Macht; Plutarch falsch; Settlers Griechen
79	Eigenthumsdifferenz; Schoemann contra Morgan regarding topic phyles
80	Attic tribes
81	Schoemann reference
84	Clan-Geschlechter in Mommsen. Analogy!
87	Tribun = tribal chief. Conjectur
89	Contra Livy (Kerl vergisst...); Superlativ dies.
90	Clients as plebs: Niebuhr right as against Morgan
91	Bürger des Romulus (Plutarch on Numa)
94	Mutterzunge – Fatherland. Reference to Curtius, quoted in Morgan
95	Bachofen: spurious (!) children; lawless (!) union; unilateres in male line (cf. Morgan, p. 360). great family = Geschlechtsfamilie = gens.
96	Bachofen on lawlessness

[a] Perhaps: Achille Loria, *La rendita fondiaria e la sua elisone naturale.* Milano, 1880.

[b] See below, Morgan excerpts, note 160.

[c] Reference to George Grote. On Grote's relations to Bentham, J. S. Mill and the utilitarians, cf. Elie Halévy, *The Growth of Philosophical Radicalism* (1928) 1955.

[d] See below, Section 7, Relation of Engels to Marx and Morgan.

Marx differed from Morgan chiefly over details (excerpts, pp. 1, 2, 20, 21, 24, 26, 77, 84, 90); basic matters (excerpts, pp. 26, 38, 48, 76-79) as private ownership in Homer, hereditary transmission of chieftainships, the questions of conflict of interests in the dissolution of the gens, and property differences in the same condition, on the other hand, were developed rather as Marx's own expressions.

Marx completed the excerpts and notetaking at Pt. II, ch. XV of Morgan. After covering the beginning of that chapter, he copied out passages from Tacitus, Germania and Caesar, Gallic War, there given, added the further passages from classical authors, including the references from the Lipsius ed. of Tacitus (excerpts, pp. 96-98), and brought the Morgan notes to an end.

Marx called into question Morgan's statement, "Mankind are the only beings who may be said to have gained an absolute (?!) control over the production of food...." (Marx's interpolation, excerpts, p. 2).[29] According to Morgan, cultivation of cereals preceded the migration of the Aryan peoples from the grass plains of high Asia to the forest of West Asia and Europe, and this culture was forced upon them by the necessities of the domesticated animals now incorporated into their plan of life. Marx (excerpts, p. 24) suggested that this was not the case among the Celts.[27] Morgan, on the authority of the Iliad, noted there the reference to fences, and on this evidence attributed private land ownership to

Homeric Greece, an interpretation which Marx did not accept (Marx excerpts, p. 26): "Morgan irrt sich wenn er glaubt, das blosse fencing beweise Privatgrundeigenthum".[28]

Marx sought the origin of civilized society and the State in the dissolution of the primitive group. The form of this group was identified as the gens of Morgan's description, as opposed to the joint family of Maine's. Moreover, Marx applied Morgan's view that in the ancient collectivities there existed the characteristics of society which man must reconstitute if he is to overcome the distortions of his character in the civilized condition. Marx made it clear, as Morgan did not, that this process of reconstitution will take place on another level than the old, that it is a human effort, of man for and by himself, that the antagonisms of civilization are not static or passive, but are comprised of social interests which are ranged for and against the outcome of the reconstitution, and this will be determined in an active and dynamic way.

Further in reference to the relation of the institutions of ancient society to those of the era of civilization Marx noted that the Tribune of the Roman people who in the historic period defended the plebeians against the patricians was originally the leader of the tribe (Morgan excerpts, p. 87). The fraternity of the ancient gentes has been changed in its terms of reference and in its meaning, after the establishment of the social relations of civilization; it can neither be reconstituted nor reconceived in its ancient form. The outlines of the liberty and equality of ancient society were discussed by Marx passim:

1. Morgan considered that the increasing freedom and higher social position of women are a measure of the progress of the family: Just as the future of mankind, once it has overcome the distortion of the career of property, will restore the liberty and equality of the ancient gentes, so the position of women will be restored to its earlier, higher place. Marx wrote in this regard (excerpts, p. 16), "Aber das Verhältnis der Göttinnen im Olymp zeigt Rückerinnerung an frühere freiere und einflussreichere Position der Weiber." The recollection of a prior state of greater freedom and influence in the position of women accounts for half of the mythology of Juno and Minerva. The other half of the account is that the projection into heaven of the ancient freedom and equality of the women is the inversion of their actual position in Greek society; it is also the justification in the mythology of their constraint in that low position, and the expression of the hopeful fantasy of its betterment in another world.

2. The question of the gens in relation to the destruction of equality, the formation of social ranks, further, of castes, social stratification, and complex, oppositive society was raised by Marx in connection with the Kutchins, an Athapaskan people of northwestern Canada (Morgan excerpts, p. 58). According to G. Gibbs, a correspondent of Morgan, the Kutchins had three exogamic groups of common descent, and there-

with the question of caste was raised. Marx's comment was a hypothetical query: can the gentes give rise to the formation of castes, particularly if conquest is added to the gens principle? This concerns the manner in which the one is added to the other. The gentes were of different rank among the Kutchin; this differentiation arose out of a factor which is not external to the gens principle; the principle of the gens has the caste as its opposite. Thus, the abstract principle of the gens has as its opposition a concrete social organization, caste, on the one side, and conquest on the other. In its transition the gens, by difference in social rank, can petrify into its opposite, caste. The concretion, difference in social rank, is in conflict with the abstraction, the gens principle; the concrete gens is at the same time petrified in its opposite, the concrete caste. The bond of kinship within the gentile principle, by its existence, permits no perfected aristocracy to arise; the sentiment of fraternity continues in the gens so long as the aristocracy does not come into existence. The form of fraternity, however, can exist in a society with an aristocracy developed.

2.a. This is the most explicitly dialectical of all of Marx's formulations, in the Morgan notebook, of the transition from the primitive to the civilized condition of mankind, wherein the opposition between an abstraction, the principle of the gens, and a series of concretions, conquest, caste, and differentiation in social rank is posited. The transition from the abstraction of the gens is at the same time opposed to the concrete caste; thus the two transitions, from abstraction to concretion, and from one concretion to the next, take place at the same time; they are preceded by the transition of the concrete gens to its abstraction. The concretion of conquest is added to the abstraction of the gens as it is to a principle of the latter; the concretion of social rank differentiation is in conflict with the abstract gens principle. But can the concrete gens by difference in social rank concretely petrify as its opposite, the concrete caste? Caste is opposed to a further formation arising out of the dissolution of gentile society, the aristocracy; for the concretions, caste, fraternity, gentile organization, and the bond of kinship, in their petrification, stand opposed to the development of the latter. Here a social relation external to the gens principle must be introduced: It is not caste as such, nor conquest as such, nor differentiation in rank, that destroys the bond of kinship and of fraternity; the gens and gentile principle pass into civilization, antagonistic society, and an aristocracy, subject to another opposition than that which is delineated here; equality, fraternity, the gens, conquest, the bond of kinship and differentiation in rank exist together while property is not unevenly accumulated and privately sequestered, distributed and transmitted, but for inequality in relation to property to come about, there must have been a quantitative increase in the amount of social property in the first place, the factor external to the

gentile principle, already introduced by Morgan, that is operative in the transition from *societas* to *civitas*.

2.b. The ancient caste is a petrification of the internal gentile differentiation. (Marx here examined the process of formation of caste, whereas in the letter to Annenkov and in volume I of *Kapital* he regarded the end-result. See below, Morgan excerpts, note 160.) The aristocracy in its finished form is the opposite of the caste, just as its formation is the opposite of petrification. The formation of the caste, on the other hand, is achieved not out of the concretion of the gens, but out of its abstraction. The petrification of the gens as caste is not the eradication of the gens as a formal community, but it is deprived of the sentiment of equality, just as it is in the case of the formation of an aristocracy. In the latter case, however, both the form and the content of the bond of kinship are destroyed. Rank differentiation is nevertheless compatible with the formal gentile principle, not with the sentiment of equality, however. The rise of the aristocracy is a non-cyclical revolution, for no return to substantial equality and to blood-fraternity or community in its ancient form is possible in the given society, once it has arisen. V. Gordon Childe, who conceived of revolution in the archaeological period of the neolithic settlements in the earliest agricultural communities, considered revolution only in this sense. The sense of a cyclical and recycling revolution, as in astronomy, was already taken up by Giambattista Vico; it has been taken up again of late by Jean-Paul Sartre who has advanced the notion of the recurrence in history of the perpetual factors of the human condition, as scarcity.

3. Marx noted (excerpts, p. 33) that Morgan had composed a jus gentilicium in regard to the Iroquois; Morgan did the same in regard to the Greeks and Romans (Part II, chapters II, VIII and XI of *Ancient Society* take up this theme). A jus gentilicium is an anachronism; it can only be written after a gentile system has come to an end; this was the case in ancient Rome, where a jus gentilicium was in fact conceived, but only after the establishment of the political society and the decline of the gens. From another point of view, the jus gentilicium is a contradiction in terms. Finally, it is a possible enterprise for the ethnologist, the outsider, but he is no longer composing the jus gentilicium for a particular society, as the Romans did for theirs; the ethnologist is writing a universal jus gentilicium, for the gens as an abstraction, and the gentile society as a general phenomenon. This was Morgan's task, and his success stands or falls as the particular jus gentilicium is related to the generality in a concrete way, yet this side of Morgan's work has not been systematically pursued. He began this task himself quasi dialectically to begin with, not in regard to the gens, but its opposite, the family, which is taken up as an active principle (Marx, Morgan excerpts, p. 10) and as a passivity (see this Introduction, note 16, end), but he did not bring

these two opposing sides together, nor did he develop the conception there implied with respect to the gens. Yet the relation of the gens as an active and as a passive principle to the gens as a concrete institution, both passive and active, is central to the transition to civilization. Moreover, the dissolution of the gens in regard to these processes and relations cannot be set aside.

Marx introduced the differences from a doctrine of unilinear evolutionism in his Morgan excerpts, in accord with the latter. The references to the several lines of development in the two hemispheres brought out by Morgan were noted by Marx; the quest for equivalences between the two as well. Moreover, Morgan introduced the factor of borrowing or diffusion between peoples who were at different stages of development in his system. Marx noted this both in regard to the ancient Britons (excerpts, p. 14)[30] and as a general phenomenon (excerpts, p. 22).[31] Morgan regarded the patriarchal family of the Hebrews and Romans as an exceptional case in the evolution of society and the family, hence as a non-unilinearity. Marx (excerpts, p. 4) noted this view; he then modified it to his own schema, but did not controvert it. Engels adopted the notion that the patriarchal family is the principal form from which the modern family evolved. The Oriental family according to Engels, was a unilinear evolution of the ancient (Hebrew and Roman) patriarchal family.[32] The unilinear doctrine in Morgan and his contemporaries overshadows all else; the variations are to be understood as subordinate to that doctrine; the dialectical interrelation of the one and the many lines of human development was not taken up at that time.

Morgan had proposed that paternal authority developed as the family took on a monogamous character, whereby increase in the amount of property and the desire for its retention within the family caused descent to be changed from the female to the male line, hence a real foundation for that power was laid.[33] (The Roman family gave the father an exceptional authority over the son, as Gaius had shown; Morgan regarded the ancient Roman family, insofar as it was a patriarchy, to be an exception.) Further, Morgan rested on Tacitus for evidence that the ancient Germans developed toward a monogamous family (Tacitus is not clear on this): "It seems probable...that [the family] of the ancient Germans was too weak an organization to face alone the hardships of life; and... sheltered itself in a communal household [Marx, Morgan excerpts, p. 16, interpolated: as the south Slavs] composed of related families. When slavery became an institution, these households would disappear."[34] To this Marx added (l.c.): "In fact, the monogamous family rests everywhere, in order to have an independent isolated existence, upon a domestic class which originally was everywhere direct slaves." Morgan considered that

the family did not carry society along, but society the family: "German society was not far enough advanced at this time for the appearance of a high type of monogamian family." This position is to be taken together with the relation of the family to the system of consanguinity (Marx, Morgan excerpts, p. 10).[35]

That the Greek, Roman, Hebrew families were of patriarchal type and were related to agricultural (and pastoral) services, to slavery and in the Roman case potentially to serfdom is an indication that the patriarchal family form was exceptional in human experience; the development of western civilization in general is exceptional, as opposed to the Oriental. Civilization arose in connection with the rise of the patriarchal family in the West, but neither wholly nor solely in connection with it, and with the monogamous family; it follows that civilization is itself an extraordinary development. This is a line of thought opened up by Fourier which has its root in Gaius, and which Marx further explored (Morgan excerpts, p. 16): "Fourier characterizes the Epoch of Civilization by Monogamy and Private Property in Land. The Modern family contains the germ not only of servitus (slavery) but also serfdom, since it contains from the beginning a relation to services for agriculture. It contains in miniature all the antagonisms within itself which are later broadly developed in society and its State." Engels then put the comment on Fourier into a note at the end of the *Origin of the Family*,[36] and the remainder of Marx's thought into his passage about the development of the ancient family.[37]

The family of classical antiquity is the miniature of the society, but rests, in its monogamous form, upon social institutions which are external to the private group of kin: slaves, domestics, (in large courts, retainers and clients), later, serfs, etc.; therefore, the antagonisms which the family contains in miniature are not generated by the family in the way that they are generated in society, but by the society and then borne into the family. The family as it is here conceived is part of a society either on the verge of development into civilization or already in that status. These relations of family and society and the family as the miniature of the society are fundamentally different from those e.g. of the traditional Hawaiian family and society. Morgan wrote: "It is not probable that the actual family, among the Hawaiians, was a large as the group united in the marriage relation. Necessity would compel its subdivision into smaller groups for the procurement of subsistence, and for mutual protection; but each smaller family would be a miniature of the group."[38] Morgan did not specify whether he meant that the family would be a miniature of the larger group united in the marriage relation or the smaller group within the larger, united for subsistence and defense. The context points to the latter, that the smaller family was the miniature of the smaller group in Hawaii. Marx reproduced Morgan's wording

without comment (excerpts, p. 8). The problem in this connection is that the word 'miniature' on p. 16 of Marx's excerpts refers to a wholly different family and society, and the use of the same word with reference to the Hawaiian case has been misleading to some. The family in the Roman society was not a miniature of any larger social institution; the antagonisms within it were the miniature of the antagonisms without, also those of modern civilized society, with certain relations changed. Neither the Roman nor the modern family of civilized society bears the same relation to its social context that the traditional Hawaiian family did to the primitive social group in which it was situated.

The State and Civilized Society

The question of the formation of the State is raised in these passages: the State is an institution of society, hence it is neither extrasocial nor supra-social. It is an institution of internally divided and opposed society, hence it is not universal in human society, since some are primitive and more homogeneous. The State is not to be typologically separated into the Roman State, the modern capitalist State, etc.; it is a general institutional category of the type of society indicated here. The State in relation to society will be taken up below in connection with Marx's note on Maine; it is raised in the excerpt notes from Morgan in connection with the transition from barbarism to civilization:

Morgan attributed the transition of Greek society from the gentile to the civil (political) organization to the period between the first Olympiad (776 B.C.) and the time of the legislation of Cleisthenes (508 B.C.).[39] Marx (excerpts, p. 67) commented: "He should have said that political here has the meaning in Aristotle = urban, and political animal = citizen." Aristotle's definition of man is that he is by nature, *physei*, a political animal, a creature of the polis.[40] Marx commented on Aristotle's definition in the Introduction to the *Grundrisse*: "Man is in the most literal sense a *zoon politikon*, not only a gregarious animal but one that can become an individual only in society."[41] He returned to the question in *Capital*: "...Man is by nature if not a political animal as Aristotle thinks, in any case a social animal." To this he noted: "Aristotle's definition is actually that man is by nature a town-citizen. This definition is as characteristic for classical antiquity as Franklin's definition that man is by nature a tool-making animal is for Yankeedom."[42] The definition of man given by Aristotle follows his discussion of social life in the family, the village, a collectivity of villages, and leads up to the discussion of the city-state; in this connection the Greek and barbarian governmental forms are compared.[43] That man does not, in Aristotle's conception, live everywhere in cities is clear. Therefore, the political life, the life in the city and the city-state that Aristotle attributed to the nature of man is not an aspect of his actual nature, for it touched and still touches only

a small proportion of the total of humanity; it is a potentiality of man, his final end, his ultimate or best nature, furthest removed from the life of animals and of barbarians. According to Aristotle it is the life of human nature to which the barbarians as known to him had not yet attained, but to which all men aspire. Marx differentiated between man as a social animal in general and a political animal in particular, noting that the life in the polis or in civil society was characteristic of men in that era, in a concrete society. The idea was formulated more abstractly by Marx in 1857-1858, whereby the generality of sociability was opposed to individuation, passing dialectically into its opposite only in society, the latter remaining here without particular concretion. In the formulation in *Capital*, the condition of man in society passes dialectically from its abstraction to a concretion in particular societies, ancient Greek in one case, and eighteenth century America in another. It does not pass from one particularity to another, but rests in each as separate concretions, without their historical connection. There is therefore no historical determination of the passage from one concretion to the other. Man is therefore in a dual relation, on the one hand to man in a particular, concrete society, and on the other to nature by the intermediation of tools; the positing of the problem is on the one hand the transition of a concrete to an abstract relation, on the other from the actual to the potential state of man, passing thereby from the intermediation of social relations to the intermediation of work-tools in the definition of human nature. Each criterion is at once specific and concrete in its determination, and an abstraction in reference to the entire species. What is excluded is the holistic, gestaltist abstraction of the determination of man and of human nature on the one hand, and the Cartesian determination of man as the determination of mind, on the other.

The two societies are juxtaposed, but not as irreconcilable antinomies. They are at the same time exemplifications of two definitions of the human in Marx; they were selected as concrete expressions in their juxtaposition of how man becomes human: that is, by life in society and by the use of tools. Marx's sixth thesis on Feuerbach defines man as the ensemble of social relations; the isolated individual is an abstraction.[44] (We will take up this problem below, in reference to Marx's excerpts from Maine.) The Introduction to the *Grundrisse* further develops this idea, which was already adumbrated in the "Critique of the Historical School of Right" (1842) and in the *Critique of the Hegelian Philosophy of Right* (1843). The formulation in *Capital* expresses it concretely, as the praxis of particular societies. The intermediation of tools in the development of man was introduced in the *Economic-Philosophical Manuscripts* (1844): man relates to his generic being (Gattungswesen) by his work upon the objective world, it is man's generic life;[45] this was given further concretion in *The German Ideology*,[46] the *Communist Manifesto*, the

Grundrisse and in *Capital*.[47] The relation of man in society and the relation of man to nature are first, the interactive moments of a unified theory of man which is the opposite of an abstract theory of the human condition, of a human essence or nature. Man becomes human not only in society, but in a concrete society, not only by the intermediation of his tools, but by particular practical work upon nature by their means. The second dialectical moment is opposed to the first; it is that man is alienated a) from nature by his tools, and b) in society, as historical processes. The second moment was taken up in its abstraction in the *Economic-Philosophical Manuscripts* and with increasing concretion in the corpus of the successive writings; the position of the notebooks of 1880-1882 makes it possible to oppose the condition of primitive men in particular societies to the life of man in the divided, industrial, urban societies. Marx introduced the relations of the abstract and the concrete into what ought to have been said regarding the interpretation of the political state of Greek society, and thus stands opposed to Morgan's abstract formulation. Moreover, Marx's formulation posits the opposition of the objective and the subjective sides in this connection, while Morgan posited the abstract alone in its objectivity.

With reference to the transition of Greek society from gentile to political organization, Morgan considered Theseus not as an individual but as representing a period or series of events,[48] Marx, however, simply as the name of a period, etc. Morgan moreover referred to Theseus, or the rulers of the period, as being inclined toward the people. Marx wrote in this connection (excerpts, pp. 76-77):

> The expression of Plutarch that "the humble and poor readily followed the summons of Theseus" and the judgment of Aristotle that Theseus "was inclined toward the people" appear, however, despite Morgan, to indicate that the chiefs of the gentes etc., through wealth etc. had already reached a conflict of interest with the common people of the gentes, which is unavoidably connected through private property in houses, lands, herds with the monogamous family.

Marx returned to the question of the division developing within the Greek gentile society which was then in the process of dissolution and transformation in connection with Morgan's view that the unity of the old social system had become untenable through shifting locality:[49] "Aside from locality: property difference within the same gens had transformed the unity of their interests into antagonism of its members; in addition, beside land and cattle, money capital had become of decisive importance with the development of slavery!" (Marx, excerpts, p. 79). Morgan had introduced property and its accumulation along with territory as the criterion of transition from *societas* to *civitas*, or the political

organization, in the early part of his work,[50] but solely on the objective side, without the internalization as interest, collectivity of interest and conflict of interest of the collectivities according to the unequal distribution of property. Marx noted that the criterion of property fell away in Morgan's analysis of the dissolution of the gens and the formation of political society, and that moreover, the interrelation of the objective and the subjective sides as social interest was not taken up by Morgan, but is nevertheless an implicit part of the entire analysis.

The difference in the amount of property and its uneven distribution was further particularized by Marx as land and cattle, and, with the development of slavery, capital in money form. The interest is then internalized differentially among the collectivities as capital (in money form or in cattle) which is more readily alienable than land, and land itself is improved by labor upon it of slaves, with the help of cattle, instruments as mechanical devices, etc. These proceed through their history as being first organic, and then mechanical, as Marx had noted in his comment on Descartes.[51] The slaves are both the means of the unequal distribution of property, being themselves property, and the antagonistic interest in society against the property, being themselves human. The relation of master-slave, of unequal distribution of property, the individual ownership of property, whether land, cattle or slaves, the circulation of capital in money form and the antagonistic interest in society arose in the period of dissolution of the gens, and accomplished the transformation of gentile into political society. The relation of temporal juxtaposition of the events and participation of these in the process of transformation is then brought together in the formation of the subsequent form of social life, with predominance of private ownership of property, formation of antagonistic social classes, monopoly of political power by the one of these which has the greatest amount of property; it is at the same time the process of formation of social institutions of property, privative classes, and the State. The internalization of the social forms by the groups of individuals as collective interests was posited by Marx as the transformation of the unity of interests into the mutually antagonistic collectivities within the society.

The field of religion was the classical locus of development of the dialectic in the post-Hegelian schools of right and left, in which Bruno Bauer, Ludwig Feuerbach and others, such as S. Kierkegaard, played their parts, Marx and Engels having made great play with these conceptions in the *Holy Family* and the *German Ideology*. Marx applied the dialectic in this regard in the chapter on Commodity Fetishism in the first volume of *Capital*; and in the last chapters of the third volume Engels brought out the materials by Marx on the subject of reification (Verdinglichung) which further developed the same ideas. The religious field was then subjected to dialectical critique not because it afforded the

occasion for a performance of virtuosity wherein the converted spirit was reconverted into matter, but rather because, by the mystical formulations, a relation between men has been replaced by a relation between things, and a material interest has been substituted by its supernal representation, or by an abstraction. That interest is the interrelation of the subjective and objective sides of man in a particular social relation, but it has been externalized solely as a hypostasis, its ethereal form, in its religious representation. Both in the *Economic-Philosophical Manuscripts* and in *Capital* the relation of subjectivity-objectivity of man is shown to have undergone a onesided formulation, as its hypostatization on the one hand, and as its reification on the other; the critique was applied abstractly by Marx to man in general in the earlier work, and to a definite condition of man in western society in the latter. The continued concretization was applied by Marx, in a relatively few places to religion per se in primitive society, in the Morgan, rather more in the Lubbock excerpts; he brought out the religious element in the Morgan materials in regard to real cooperation and real possession of property in common, to the degree that gentile commonalty disappears the religious ceremonials of the gens increase in importance. What is understood is: to the extent that the gens survives (Morgan excerpts, p. 71).

The content of Marx's thought in the ethnological domain, its relation to anthropology, both empirical and philosophical, and to the practical aspects of political action can be approached from the formal side. The apparatus of his studies is constituted of his choice of books and themes, method of excerption, notes and comments, which are partly matters of content and partly matters of form; more purely formal procedures of the notebooks involve the relative amount of space and detail devoted to a given topic, the sequence of the topics, and the degree to which they correspond to those of the book being studied. A wholly formal and external approach to the content of the note-taker's thought lies in the underlinings and lines and marks on the margin that he made. (These observations relate to the objective side of the sequence of Marx's thought. The internal relations that he bore to his earlier writings on these and related themes are both subjective and objective.) The formal, technical apparatus which he applied in the ethnological notebooks of 1880-1882 is at once the same as and different from that which he applied in the *Critique of the Hegelian Philosophy of Right*, and the *Economic-Philosophical Manuscripts*. The earlier technique was intensive, the latter extensive. They have certain characteristics in common in the matter of content; together with the critique of Proudhon in Marx's *Poverty of Philosophy*: by the critique of the individual writings and of the individuals to come to the positing of a social critique, and by the social critique to come to the critique of the individual and the individual text; in his later notebooks it is most fully exemplified in the Maine excerpts. Further in

regard to content, the problem of the social interests of estates or classes, as the landowning class, was taken up in the *Critique of the Hegelian Philosophy of Right*, and the problem was examined in the writings at the end of his life. The position on the historical school of law was likewise an early and a late theme, as was that of Greek social and historical philosophy. The formal side of the early studies was the method at once historical, logical and philological, applied intensively to Hegel, the same method being applied extensively in the last studies to the subjective and the objective sides of man in the opposition of the social interests of the collectivities. This dialectical opposition was shown in the period of dissolution of the ancient gentes.

We will proceed from the formal side to the content of Marx's thought: to proceed conversely would be mere speculation, since the form that we have has no internally determinate relation to the content, relating only to the works of others. The form is useful as an index of significance and of relative weight of the different materials excerpted, occasionally illuminated by comments of Marx. We have already observed the interrelation of Marx's work with and upon the Morgan material and will take up separately that of Engels with both Morgan and Marx. This interrelation provides a possible frame of reference for the comprehension of Marx, and another perspective to Engels' work; by following the sequence of Marx's notes and excerpts a wholly objective and external use of the dialectic is applied. Such utilization is not wholly satisfactory, for it does not discover, but only weighs and measures that which has already been posited, the first step in the dialectic, which is a negative one.

The Morgan excerpts were systematically reviewed by Marx, with frequent underlinings and marginal lines; on the other hand, there are relatively few interpolations in the text, as compared with the excerpt notes on Maine. Morgan's organization of the parts and chapters was carefully noted down, but few page references were indicated. The technique was changed in regard to Maine where there are comparatively many interpolations in the text, little attention was paid to the organization by chapters or lectures, and page references were frequently noted down. Marx introduced his own doctrines and positions in the notes from Phear and Lubbock to a lesser degree than in those from Maine, whether externally or by interpolations; these notes serve rather to extend and develop the positions of the Morgan and Maine notes.

Marx's Marginalia in the Morgan Excerpts

Such passages noted down from Morgan as are singled out by lines drawn beside them are as a separate universe of discourse. A similar task may be performed on other matters of form: the phrases underlined, the proportionate length of the notes taken, etc.; this is left for the time. Marx

signalized by means of the marginal lines some 130 passages from his excerpts and notes from Morgan, of which 25 relate to comments of his own (the total is rounded because some marginalia cover both his own interpolations and materials other than his own). Some of these have been made known by Engels. Their interest is manifold: they are, first, the passages singled out by Marx for their exceptional importance; second, they appear to be applied to raise certain points (against Achille Loria, J. G. Bachofen, etc.). If they are examined carefully from the viewpoint of their content, context, sequence, etc., they may provide some insight into the nature and form of Marx's intention for his own work in this substantive field. But this is to be left for future discussion, in which others will participate, and here we will limit ourselves to the sole task of presenting the evidence and outlining the problem. A listing of these passages follows:

TABLE II. *Marginal lines drawn beside*

Excerpts p.	Morgan excerpts	Marx's own comments
3	Tillage, inclosed gardens	
4	Lucretius, reference to cultivation. Promiscuity and horde life	
9	Herodotus on Massagetae. Common housing in Venezuelan tribes	
10	The same in Brazil (bohios)	
13	Communism of consanguine and punaluan families, syndyasmian; Communal households; Wright on long-houses; common property	South Slavs, Russians (2 references)
14	Old Britons	
15	Patriarchal authority over property	Fourier, the family and the State [a]
16	Monogamous family; Gaius. Germanic household	South Slavs; family and slavery
19	Family and social system; sex equality	
20	Hetaerism	
21*	Communal property of savages; x Inheritance More advanced tribes lifted those below. Tribal lands in Common. Property.	
22-23*	Increase in amounts of property	
23	Metals first for ornament. Calendar for measuring time	
24*	Accumulation of property. Communal property. Blankets and yarn	
25*	Plutarch on Solon; State and individual property. Lands in common	
26*	Homeric trade. Joint and individual property	Loria and passion for property [b]

Excerpts p.	Morgan excerpts	Marx's own comments
27	Individual property unknown	
29	Marriage Community of men and women	
32	Group marriage. Male descent and property	
33	Joint housing of Iroquois; communism in living	
34	Movable and non-movable property	
35	Immovable property. Community-built houses	
39	Gambling	
40	Funeral of Sachem. Phratry military force.	
41	Outflow of people. Population factor. Missouri tribes.	
42	Ojibwa stem tribe. Indian pottery. Outflow of tribes – geographic factor. Language and territory. 3 natural Indian centers – geographic factors.	
43	Discovery of maize agriculture in Central America, transmitted to American Southwest, to northern South America, to Incas. Iroquois gentes and government.	
44	Council of Sachems and Chiefs	
45	Women's role in Iroquois government	
46*	Low population of native North America etc. because of precarious existence and warfare	
47	Unanimity in Council of Iroquois	
49*	Onondaga government	
49*	Iroquois Council Ceremony (3 references)	
50	Unanimity of vote in Council	
51	Democracy in Lower and Middle Barbarism. Unity of language and government	
55	Growth of property, inheritance practices	
57	Gente subdivided. Naming of gentes.	
58*	Kutchin intermarriage	Gens, caste and conquest Caste formation
59	Moqui origin myth	
60	Laguna land in common	
61	Aztec moneyless economy; Communal land tenure; geographic factor in Aztec land settlement	
63	Size of Aztec settlement	
64	Aztec organization; land tenure by gentes	

Excerpts p.	Morgan excerpts	Marx's own comments
65		Aztec government organization
67-68*		Greek tribal organization
68	Greek communal property	
69	Promiscuous group and gens	
70	Solon and reform of inheritance	
73	Achilles in Homer	
73-74	Yankee republican and Gladstone	The same
74		Schoemann on Homeric democracy
75	Germanic judicial functions. Barbarian settlement and fortification	
76*		Attic population
	Plutarch on Theseus	Phantasy of Plutarch
77		Contra Morgan; Conflict of Interest
77-78*	Plutarch on Solon's reforms. Language and settlement	Ancient weights and measures. Criticism of Plutarch.
79		Difference in ownership; Schoemann on deme.
80-81*	Greek tribal names, soldiery Kleisthenes, Pericles	Schoemann; Pericles
81	Mommsen - Rome	
84*	Common property of Greeks	
85	Communism in household; tribal names	
87	Institutions, not man, in history	Roman chronology
88	Romulan division of Rome	
89	Security and slavery; Greek division. Pueblo joint tenement; Aztec	
90	Roman division of society by property	
91*	Senators and gentes. Plutarch on Numa	Contra Plutarch
93	Property and democracy; private property	
94	Female descent; common lands	
95	Gens is great family	Geschlechtsfamilie
96-97*	Tacitus, Germany Lipsius - Jordanes, etc. Tacitus on German agriculture	Contra Bachofen's lawlessness
98	Caesar on Germans	

* Long passages.

[a] See Marx Engels *Werke*, v. 2, pp. 207-208, v. 3, pp. 498 et seq., and note 148, below.

[b] See Table I, note a.

The marginalia, few in the first pages, increase in frequency and length through Marx's excerpts. Of these, 28 are found beside passages treating of government in the periods of savagery and barbarism, its organization, legislation and reform, including six that deal with primitive democracy, unanimity of the vote in council and the role of women in primitive

government. (Morgan devoted more than half his book to the topic of government.) There are 27 passages referring to communal property, housing and land tenure in these periods marked by such lines. Next in numerical importance is the topic of property in other connections than its communal ownership or possession, of which 19 passages are marked out by marginal lines; these have reference to its accumulation in the later stages of barbarism, inheritance and ownership by individuals in the transition to civilization, and gambling. There are 10 passages with marginal lines referring to the primitive family, to the fallacy of hetaerism and to primordial promiscuity; nine such passages refer to the outflow of people from a given place in connection with the formation of new tribes, etc., because of population pressure, of food and other scarcities. There are six passages referring to forms and development of cultivation; four such passages refer to primitive technology (yarn, pottery, the calendar, and metals), while Marx gives another Morgan excerpt, that pertaining to the use of fire, (Morgan excerpts, p. 21), a different interpretation from that given by Morgan.

Marx signalized in this way three of his own interpolations referring to the South Slavic and Russian peasant communes; seven passages of this type refer to his own comments on ancient governmental organization and reforms; three refer to his additions of factual matter: on ancient weights and measures, Roman historical and mytho-historical chronology, and the population of Attica. The reference to Loria (Morgan excerpts, p. 26) is an anti-psychologism; the reference to Bachofen (Morgan excerpts, p. 96) is an attack on the cultural boundedness of European observers, taken up again in the mss. devoted to Phear and Lubbock.

Communal property in ancient society had as its antithesis the dissolution of the primitive gentes and their property; the evolvement of mutually antagonistic social classes; the accumulation of property by means of inventions and discoveries and by the application of these through social labor; the appropriation of the property by private individuals, whereby the private sphere is separated from the public, and the social whole is separated from both; the unequal distribution of property in society in the course of this appropriation. Together with the separation of the private from the public spheres and the unequal distribution of property in private hands is the unequal distribution of public power. These developments take place and are institutionalized, perhaps more than once, even in the same society, just as the settlement upon a given territory may take place more than once. Morgan paid insufficient attention to territory prior to the formation of political society, or the State; we shall return to this question (see note 102 of this Introduction, and section 6, on Community, Collectivism and Individualism below).

Marx's emphasis on the collective institutions of the modern peasant communities of the South Slavs and the Russians was taken up again

within the contexts of Phear and Maine regarding the oriental communities. These points were made more explicit, in the ms. notes on Maine; they appear likewise in the Introduction to the *Grundrisse*, *Capital*, the correspondence with Zasulich, and the Introduction of 1882 to the Russian translation of the *Communist Manifesto*.

The universal measure of equality and democracy by which Morgan judged the progress of the family and the distorting effect of property accumulation is not an actuality but a potentiality of the history of the society to which it is applied. The fact that it is not an actuality is developed by Marx on the one side in his positing of the alternatives open to the Indian and Russian rural collective institutions; this opposition was abstractly developed by Marx in the *Economic-Philosophical Manuscripts*, concretely in the Introduction to the *Grundrisse*, and in his ms. notes on Morgan and Maine. The matter is adumbrated in the Introduction to the Russian edition of the *Communist Manifesto*.

In the depiction of the causes of the outflow of tribes from particular places, Morgan developed a geographic or natural determinism which Marx assumed in turn, whereby the economic factor is reduced to the ecological or the direct imposition of the forces of nature upon primitive man. On the other hand, Marx posited in a general way the determination of the economic system relative to the juridical, political, etc., in the primitive as well as the civilized statuses of mankind. The two positions were brought out separately by Marx in his notes on Morgan; in the Maine excerpts he added some qualifications to the determination of the economic in relation to Maine's moral or traditionary factor in history; in effect, therefore, they were brought together.

Marx referred to the factor of diffusion of cultural traits in the Morgan excerpts. The diffusion to a given society and the borrowing by it are moments along the same path, opposed to each other by the vectors of the initiative in the movement; thus, diffusion is not a wholly external factor in a given social development. On the one hand, it is a relation to the social environment of the given people. As such it is in part a passive, in part an active relation to that environment, for within it a selectivity of diffusive traits takes place; the passivity is an indirect activity, imposing a qualitative canon of what kinds of traits may be received or diffused, and a quantitative canon of the degree or amount. These passive and active factors and the quality and quantity of the relations are an internalization of their externality, and the potentiality of the given society to realize these potentialities and make them its own. On the other hand, it is a relation of a superstructure to an infrastructure, as the capacity for the development by diffusion of the society which takes, the diffusion proceeding through its own dialectical process in this way. Thus it is but indirectly active upon the internal developmental relations of the society; nevertheless it cannot be relegated to the domain of mere accident.

While much has been written about military democracy as the transition from the gentile to the political society, Marx did not regard this transition as a formal historical, still less a dialectical, category. Morgan developed the idea of a military democracy first as an elucidation of a position of Aristotle, and in separating the functions of the civil from the military leadership of the gens and tribe. Marx supported Morgan in this connection and likewise against the application of the idea of the military commander to the notion of the ancient monarchy by George Grote. Marx wrote, "...basileia [the office of military commander] is, together with the council and the agora – a sort of military democracy. Basileia is applied by the Greek writers to the Homeric kingship because generalship is the chief feature of the king." (Marx, Morgan excerpts, p. 74).[52] The reference to the office of basileia in this way cannot be made into the basis of a definite stage or sub-stage of history. Engels, returning to Morgan's form of expression, eliminated the word "Sorte" from his formulation, which has encouraged later thinking of the issue in terms of a developmental stage, but does not report exactly Marx's conception.

Marx differed from Morgan likewise in regard to the method of election of the barbaric chief, basileus and rex. These were conceived by Morgan according to his idea of the Iroquois practices and functions; Marx considered that the Iroquois model had limitations, which will become clearer in connection with the ms. notes on Maine, in regard to the election of the chief. The scepticism of Marx relative to the use of the Iroquois data as a model for interpretation of other societies constitutes a further movement away from the fixity of categories, and carries the general loosening of the stages of evolution both forth and back in time. The model upon which Marx based his idea of the administration of barbaric justice, for instance, was that of the Germanic peoples (Morgan excerpts, p. 75); this is noted in passing.

There are several points in which Morgan did not make his own system clear. The first is in relation to the functions of the basileia, military and priestly, but not civil. Yet the basileus was at the same time a judge, the rex a magistrate.[53] Morgan's theory was that the kingship, magistracy, etc., arose out of the military leadership in the status of barbarism. Yet how the function of the judiciary in the magistracy was excluded from the civil institution was not explained by Morgan; this refers to the beginnings of the magistracy, not its subsequent forms. Again, Morgan described the Roman wife as a co-heiress, but at the same time held that the property of the deceased paterfamilias was kept within the gens.[54] Yet the wife came from another gens. He failed to add that the wife's right in the inheritance could not pass outside the husband's gens, but remained with his children and that she could not otherwise bequeath, devise or assign it, etc. This confusion is further expanded when Morgan described the Attican gens as 'a great family of kindred persons'.[55] Marx

not only accepted this, but rendered it into German, 'nenne es Geschlechtsfamilie' (excerpts, p. 95). It was neither a clan-, lineage- gens-family, nor any other sort of family, according to Morgan's system, for the family contained members of other gentes.

Morgan[56] had written that in all ages, the relation of mother and child was ascertainable, that of father and child, until the development of monogamy, was not. Marx questioned this (excerpts, p. 6) by differentiation between public and private relations, public ethic and private morality, official and unofficial ascertainment of fatherhood. The differentiation is posited by Hegel in his *System der Sittlichkeit* and in his *Rechtsphilosophie*, it is adumbrated in his *Phänomenologie des Geistes*, and outlined in his *Enzyklopädie*, Pt. III. The difference was not restricted by Marx to civilized society, but it can only be posited where the public and the private life are separate; it cannot be applied where they are not, as in a communal society, with its related family life and ethic.

Marx added the example of the Slavic village collectivity at several points (excerpts, pp. 13, 16) where Morgan mentioned the communal life of the savage (consanguine and punaluan) and the barbaric (Germanic) families. Here Marx developed a different thought from Morgan who made communism in living a relation of a given family organization in these contexts. This position was more fully worked out by Marx in his notes on Maine, for it presupposes that the family is separate from its communal village collectivity, seeking shelter within it, etc. This was true when the collectivity in the nineteenth century had radically changed its communal character, but would not apply to a social relation of the punaluan sort, as it was posited by Morgan. Marx was directing his critique of the commune of the nineteenth century in rural parts of eastern and southeastern Europe; here the differentiation of the public and the private or the official and unofficial, was already made while the form remained, at least in a degree, communal. This is relevant to his position on the mir and zadruga in the Introduction to the *Grundrisse* and in *Capital*, rather than to Morgan. It also represents a development from the position of the *Communist Manifesto*, in the body of the *Grundrisse*,[57] and the background to the letter to Zasulich.

2. MARX'S EXCERPTS FROM PHEAR, *THE ARYAN VILLAGE*[58]

Phear's work relates directly to Marx's interest in the oriental society, in particular to the oriental commune. (Marx in fact referred to Phear in his notes on Lubbock, excerpts, p. 4, as the author of the "Aryan Commune".) Phear provided descriptive material in the first chapters of the agricultural, village and family institutions of the East Bengal and Ceylonese peasantry in the mid-nineteenth century, and their relations to the landlords, money-lenders, the government tax and judicial systems. None

of Phear's studies is devoted to particular villages, all are generalized with respect to either of the two regions in question. His announced task was to describe to English readers a type specimen of an agricultural village in Bengal. It is not a specimen that he dealt with, but a type. Nevertheless Phear provided detailed accounts of household budgets, land accounts, tax schedules, lists of possessions which are quite concrete (see Phear excerpts, pp. 134, 143 and passim). The brevity of Marx's excerpts from the last chapter, on the Aryan village, in addition to his comments on it, indicate his impatience with such hypothetical reconstructions of the past. Phear was well informed on rural India during the nineteenth century particularly in regard to deltaic Bengal, but save for a few ancient documents which he had interpreted for him he was not well informed about India prior to the Muslim conquest; yet he attempted to reconstruct the 'Aryan' village from data which he gathered in Bengal and in Singhalese Ceylon, to which those from Mhairwarra and Ajmere were added. The contrast of the position of the peasant in the land tenure system of India and in Europe was the last thought that Marx took from Phear's book.

Phear held Maine in high esteem; Marx was generally objective toward Phear, noting data derived from him, with few objections. Substantive issues raised by Marx in opposition to Phear, beside the speculative reconstructions already mentioned, concern the relation between the family and society in the oriental village community, and the question of the oriental community and society in relation to feudalism. The problem of the relations of the family, village and society, in particular, whether the society is the village on a larger scale, was critically treated by Marx who rejected Phear's idea that gradations of 'respectability and employment'[59] in Phear's terms grew up within the village itself; a fortiori, therefore, the family could still less have been the ground for the development of social differences or economic relations. In this connection, Marx commented, "The asinus lets everything be founded by private families." (Marx, Phear excerpts, p. 153). The point had already been raised in regard to the Morgan excerpts (see also in reference to Maine excerpts, n. 144); here it is further developed by Marx in terms of the difference between urban and rural families; the urban-rural difference is independent of the industrial-agricultural difference, for the latter did not come into being in a significant way in the oriental society of the nineteenth century.

Phear was directed both toward and away from the idea of the oriental community as a social category unto itself. On the one hand he criticized a contemporary writer for having falsified the facts by phraseology borrowed from feudal Europe,[60] on the other he alluded to sub-infeudation in East Bengal;[61] further in this connection, Marx (Phear excerpts, p. 136) noted, "Dieser Esel Phear nennt die constitution des village feudal".[62] The application of the category of feudalism to the oriental

community by cultural and social historians, ethnologists, Marxists, so-called Marxists, etc., is a simplistic periodization and a simplistic typology without reference to a chronology implicit in the periodization of oriental society, feudalism, etc. It is an abstraction from history and an ethnocentrism, whether performed by Europeans or not, casting the history of the world in the European mold. Since Phear developed his ideas within the framework of Maine,[63] the question of the community, State and society will be taken up in the section devoted to the latter. At this point we will merely call attention to a judgment by Phear, "In the East, under the village system, the people practically governed themselves...."[64]

Marx singled out for his attention by marginal lines some 65 excerpts from Phear's book. Of these all but five deal with economic and agrotechnological matters, and these latter in about equal proportion. The remaining five deal with instruction lay and religious, religious taboo, clothing, polyandry. Marx denoted by an X) the joint or communal activity of Ceylonese villagers, the interest rates and methods of debt collection in Bengal, the absence of money and the manner of fleecing the ryots. Especially long passages marked out by marginal lines deal with Bengal household budgets, the village smithy, the village office and accounts, interest rates and collection practices, and the watering of plots in Ceylon.

Marx interspersed his own comments in five passages: the local agents of the Zamindar also act as his spies (Phear excerpts, p. 135); the idea of the ryot being the enemy of social reform is questioned, and the ryot's desire to keep his son at work in the field instead of at school is justified (Phear excerpts, p. 136); Phear's objection to government practice in famine control is supported (excerpts, p. 142). (The third essay in Phear's book is criticized on the grounds mentioned above.)

TABLE III. *Marginal lines by Marx in the Phear excerpts*

p.	
129	Rice growing. Names of crops by season.
130	Social respect. Village buildings. Plough construction. Mahajan.
131	Household budget. Food costs. Market. Instruction.
132	Brahmin teachers. Cowmen. Blacksmith; iron implements.
133	Iron from England out to India. Poor man's worship.
134	Rent according to soil and use.
135	Zemindari amla. Kachahri. Gumashta.
136	Mahajan. Interest rates and collection practices. **) Ryot fleeced.*)
137	Widow inheritance. Absurdly small plots.
138	Woman and sudra religious taboo. Joint family worship of deity.
139	Trade practice of monastic orders. Mandal versus Zemindar.
140	Zemindar not a landlord. Land tenure. Land law.
141	Comparison of English tenant rates.

142	Famine and scarcity practices. Mahajan and shopkeeper. Government measures. Vehicles.
145	Hiding valuables. Clothing. Food storage.
146	Boats. Hoes. Pools for irrigation in Ceylon.
147	Paddy tracts.
148	Rent in services more primitive. Village tenures. Joint labor for repairing fences and dams. Watering of plots.
149	Fencing, ploughing. Joint action of villagers. ***) Vegetable plots. Sharecropping, half share letting. No money rent. *) Village capitalist. Mutual assistance. Land labor.
150	Agricultural labor. Polyandry. Cooperative land cultivation.
151	Land as commodity.
152	Government taxes. Paddy as money. Ancient taxation. Grain levy for chief.
153	Ceylonese payment in services and kind. Money payment. Landownership in India.
154	Grain supply in ancient India. Land sale. Mortgages. Chief's dues.

TABLE IV. *Marx's interpolations in the Phear excerpts*

p.	
135	Gumashta and potwar as spies of zamindar.
136	Ryot would not be enemy (of bettering himself); Ryot's fear of losing son as field hand. Against Oriental feudalism.
142	Phear's plan against famine is right.
153	Phear ought not to speculate hypothetically. He has everything based on private families.

3. MARX'S EXCERPTS FROM MAINE, *LECTURES ON THE EARLY HISTORY OF INSTITUTIONS*[65]

Maine's book deals with law and society in Ireland as these matters are interpreted from the Irish lawbooks (Senchus Mor, The Great Book of Ancient Law, probably compiled in the eighth century, and the Book of Aicill).[66] The system was in force down to the time of the English conquest in the sixteenth-seventeenth centuries. To this Maine added materials known to him from his judicial experience and studies in India and a critique of the Bentham-Austin theory of the State and law from the viewpoint of the historical school of jurisprudence. Marx's organization of the Maine materials is precise with regard to page references, but passes over in virtual silence Maine's organization by chapters (lectures); the materials taken from Morgan are the opposite. As to content, Marx sharply criticized Maine: Maine's factual knowledge was weak (a point raised by Lubbock as well), his critique of the school of jurisprudence of John Austin and the utilitarians superficial; Morgan's theoretical constructions had already gone beyond those of Maine at that time.

In the organization of the Morgan excerpts and notes, Marx kept himself apart, as compared to his organization of the Maine material, making few comments in the former. His conceptions relative to Morgan are to

be interpreted ex silentio, by his choice of materials, etc. The Maine materials, on the contrary, contain over 100 interpolations of exclamations, questions, brief comments, and lengthy passages. Of the 38 manuscript pages devoted to Maine's *Lectures*, the equivalent of eight are filled passim with Marx's insertions of his own expressions or excerpts from other researches, which become a continuing polemic contra Maine. Marx's general relation to Morgan's theory of the gens and particular data which he took from Morgan were applied as counterpositions to Maine. Marx's general theory of the ancient community and its communal practices, the origin of the State and the role of property in its formation, the relation of primitive and civilized society and the role of property, social antagonisms and the State, the equality and communality of the primitive collectivity, and thereby the perspective upon the future of society were posited briefly but explicitly.

Instead of the juxtaposition of prehistoric and historic societies as it is set forth in the opening sentence of the *Communist Manifesto*, ("The history of all hitherto existing society is the history of class struggles") (see below, section 7, Relation of Engels to Marx and Morgan), an interaction is posited between the ancient and primitive commune and the modern peasant commune on the one side, and on the other, the communal and collective social plan arising out of the capitalist era and opposed to it.

Marx drew few marginal lines in the Maine manuscript, and such as there are chiefly demarcate the results of his researches into Irish history, into the meanings of Roman legal terms and into Indian marriage practices, parallel to the researches of Maine (excerpts, pp. 173, 174, 175, 181, 182, 187, 191). They include notes which, we infer, were taken from articles (actio, lex, sponsio, restipulatio) in the *Latin Dictionary* of Lewis and Short or its forerunner, Andrews-Freund, with accompanying references to Varro; two articles in Samuel Johnson's *English Dictionary* (gossipred and replevin), lengthy notes from the history "otherwise not worthy of mention" of M. Haverty, and T. Strange's *Hindu Law*.[67] Marx signalized by a marginal line his opposition (excerpts, p. 177) to Maine's idea of the family and the division of the inheritance; this is a lengthy note in which Maine is criticized for imposing the family and inheritance form of the urban, well-to-do family on the poor rural family. (This will be taken up below in section 7, dealing with Engels, particularly in reference to Fourier and the civilized family. Marx raised the same point in reference to Phear; see above.)

Of the score of passages with marginal lines in the Maine excerpts, one-third refer to Maine's words, two-thirds to Marx's own comments. Of his own comments marked out by marginal lines, the passages (excerpts, p. 177) opposing Maine's theory of the family and the division of

inheritance, and referring to the theoretical election of the chief, will be discussed below.

In the following table, the passages singled out by Marx for his special attention, from Maine's work, are listed side by side with Marx's own comments. The two listings are combined into the one tabular form here, because there is difficulty in separating them. The difference in method from that applied by Marx in the Morgan and Phear manuscripts, and the length and substantive force of Marx's own comments are to be noted.

TABLE V. *Marginal lines drawn beside*

p.	Maine excerpts	Marx's own comments
160	Spenser, Davies[a]	
169 (2)	Irish Rent in Kind. Rent	
172 (2)	Irish tenant question. Bias of Brehon tracts toward Chiefs	
173*		Haverty quoting Curry on Conquest of Ireland
174*		Leges Wallicae. Spenser. Gossipred [b]
		Stanihurst: fosterage
		Harris: ditto. Spenser
175		Plantation of Ulster. Chichester
177*		Contra Maine's theory of family and division of inheritance
		Theoretical election of chief
181		Actio, etc.; lex [c]
		Festus, Varro; sacra mentum
182		Sponsio, restipulatio, condico, etc.[c]
183		Replevin [c]
184*		Excessive technicality of law
	Distress as breach of peace	
186	Homesitting in Law of Alfred and Code Napoléon	
187		Strange: Hindu bride and marriage
191		State is institution, not person

* Long passage.

[a] Bibliographical only.
[b] Johnson's Dictionary.
[c] Cf. Lewis and Short, Latin Dictionary.

Approximately half of Marx's comments in the Maine excerpts express his objections to Maine's political character and scholarship; on the other hand, he noted certain of Maine's points with approval. The theory of the development of society from status to contract, formulated by Maine in *Ancient Law* (1861) was implicitly accepted by Marx (Maine

excerpts, p. 170), who cited as an example of this theory the conversion of personal service to slavery in Russia. The contractual obligation is a wholly externalized interest of both sides, of him who imposes and him who owes it. As external it is public, official, social; it is the final end of the communal and personal relation of service, which is that of status in Maine. A recurrent theme is Marx's systematic and uncompromising rejection of race, racism and biologism generally as a determinant without further qualification of social affairs (Maine excerpts, pp. 162, 164, 187, etc.).

Marx rejected Maine's reconstruction of the history of Irish land tenures in severalty (excerpts, p. 162), the latter's proposed relation of Roman and English property in land, and of Continental, English and American landowning practices (Maine excerpts, p. 164); likewise, he reduced Maine's theory of the twofold origin of landed property to one (l.c.), in connection with the separation of the chief and family head by Marx. Marx further noted his view of interests of social groups and individuals (Maine excerpts, pp. 166, 178, 191), which had been given in the Morgan excerpts; this is developed in the Maine excerpts in relation to the use of fictions.

Marx continued his systematic separation of the family from other institutions of primitive society, wherein he followed Morgan's initiative, applying the differentiation to the separation of patriarch/paterfamilias from gens/tribe chief, likewise to the relevant forms of property and its transmission. Private property in land is not to be directly derived in our theory from the collective property but came gradually to replace it in the transition to political society, just as control over the gens to the family; inheritance within the private family is opposed to the Tanaist rule of passage of the chiefry by election, usually to the brother and not the son (Maine excerpts, p. 178). At this point a public fiction is introduced which maintains the old rule of gentile succession as an anachronism. The opposition of public and private, of official and unofficial, which had been first expressed in the Morgan ms. notes, is here developed more fully in connection with the passage from barbarism to civilization, the formation of the State, and the dissolution of the archaic communal rules of inheritance and authority. The public fictions are applied then as the social interests become separate and antagonistic. But in Marx's conception the office of the chief had been opposed to the collectivity within it not only in the period of the dissolution of the gens and tribe, but before, since, contrary to Morgan, the chief was elected only in theory (Maine excerpts, p. 177); the election is therefore other than any modern conception of it, both in reference to current practice and in reference to naive ideas of primitive democracy. Practically the office of chief is transmittable (Maine excerpts, p. 175); here the context clearly indicates that the opposition in Ireland of election in practice and election in

theory, in Marx's view, did not relate to the period immediately preceding the English conquest, but was conceived as a condition of primitive society prior to the dissolution of the barbaric gentes. Hence it follows that Marx found the opposition of theory and practice in the ancient as well as modern society, in connection with the dissolution of the ancient society and the gentile institutions.

Again, however, given the theory of the election of the chief in gentile society, which had been advanced by Morgan, Marx noted that Maine disclosed the same practice in the Hindu joint family and in early medieval Europe.[68] Marx commented, "This is more normal than all else, since the chief remains theoretically elective, to be sure, within the gens or tribe as the case may be." Edmund Spenser had described the same practice in reference to the Irish of his day,[69] which Maine then cited; Marx held that Maine would have interpreted Spenser more accurately had he known Morgan's idea about the election of chiefs. (Marx, Maine excerpts, pp. 175, 177, 178.)

In reference to the relation of Oriental to Occidental society, Phear had argued in Maine's line:

> "In Europe, in contrast to the East, in place of the produce [in the form of] tribute [there] was substituted a dominion over the soil – the cultivators being turned out of their land and reduced to the condition of serfs or laborers.
>
> "In the East, under the village system, the people practically governed themselves, and the contest for power among the Chiefs of the noble class was mainly a struggle for command of the kachahri tabils" – the village accounts. (Marx, Phear excerpts, p. 155.)

This line was explored by Maine, but from above, the capacity of the ruler, not from that of the village, in his account of the eighteenth century Sikh monarch, Runjeet Singh. (Marx, Maine excerpts, pp. 194-196.) Maine here argued that the oriental despotism was limited to tax-taking; on the contrary, legislation other than that of tax and military levies was first introduced in the Roman empire on a scale beyond the village community level, and thus the western European development was set on a different course from that of the orient. Moreover, Maine held that the empires of the ancient Orient, the Assyrian, Babylonian, Median and Persian empires were of the type of the Sikhs under Runjeet Singh, and that the latter would serve as a basis for insight into the generality of the oriental empire or despotism past and present. Maine wrote, "Runjeet Singh never did or could (!) have dreamed of changing the civil rules under which his subjects lived."[70] (Interpolation of exclamation by Marx.) The fact that the oriental monarch did not alter local custom was accepted by Marx; according to Maine, the despot did little but maintain his court and wage war. Marx exclaimed not against the fact of noninterference in the traditions of the village by the monarch,

but against Maine's extravagance ("never could"). It follows that in Marx's conception, which was in accord with Maine's on this point, the erection of great public works as palaces, temples, mausoleums, etc., played no important role in the political economy of traditional India, and that canals and other waterworks there were not the business of the central monarchy or of the State bureaucracy. In view of recent publication on the Oriental society and its form of government, the Asiatic mode of production, etc., the relation of Marx to the reports on India by Maine and Phear should be fully explored.[71]

In his last two chapters, Maine criticized the theory of the State and law of the Analytical School of Jurists (Jeremy Bentham, John Austin; Thomas Hobbes as their forerunner) as follows:

"An assertion, however, which the great Analytical Jurists cannot be charged with making, but which some of their disciples go very near to hazarding, that the Sovereign person or group actually wields the stored-up force of society by an uncontrolled exercise of will, is certainly never in accordance with fact.... The vast mass of influences, which we may call for shortness moral, [Marx's interpolation, Maine excerpts, p. 191: "this 'moral' shows how little Maine understands of the matter; as far as these influences (economical before everything else) possess (a) 'moral' modus of existence, this is always a derived, secondary modus and never the prius] perpetually shapes, limits, or forbids the actual direction of the forces of society by its Sovereign."[72]

The Austinian view of sovereignty is the result of abstraction, according to Maine. Marx tacitly accepted this, but added (l.c.):

> "Maine ignores the much deeper point: that the seeming supreme independent existence of the State is itself only seeming and that it is in all its forms an excrescence of society; just as its appearance itself arises only at a certain stage of social development, it disappears again as soon as society has reached a stage not yet attained. First the tearing of the individuality loose from the originally not despotic chains (as blockhead Maine understands it), but rather satisfying and agreeable bonds of the group, of the primitive community – and therewith the one-sided elaboration of the individuality."

Further, according to Marx, the individual has interests which are common to social groups and which characterize them, and therefore individuals are class individuals, individuals of social groups which have economic conditions underlying them, on which the State is built, presupposing the economic base. The economic factor is here presented as basic in the first place, and as interactive with other factors in the second. The discussion of the economic factor in the same terms was already set forth in relation to the direct impact of nature on primitive society versus the economic factor in that kind of society (see section 1

on Morgan above and Marx, excerpts from Morgan, pp. 41-42). In the Maine excerpts (p. 178), Marx wrote that "The predominance of the single family over the gens is connected with the development of private property in land." This is also to be taken together with the discussion of the family as a miniature of the society in the primitive and civilized conditions. (See section 1 on Morgan in Introduction, above, and Marx, Morgan excerpts, p. 8 and n. 38.)

The position of Marx is that Maine's conception of the private family, as being the basis out of which the sept and clan are developed, is completely wrong (Maine excerpts, p. 177). In this regard, Marx is on the side of Morgan. The clan and clan chief are different institutions from Hindu joint family and the Hindu father. Maine had the English private family in mind. The example taken from India holds rather for the cities than for the countryside, and among the owners of ground rent rather than actual working members of a village community. Thus Maine idealized and generalized a partial and privileged situation in India. He did not understand the opposition of interests in the Indian village community, nor the opposition between city and countryside. This is both a methodological and a substantive point and bears as much upon Fourier as upon Maine. (See below, section 7, Relation of Engels to Marx and Morgan, and note 146.) On p. 177 of the Maine excerpts, Marx posited the opposition between social classes in the Indian village community; this position of Marx is to be taken in conjunction with his criticism of Phear who sought to found economic functions in society and social differences in the village on the family (see Phear excerpts, p. 153).

The development of the conflicting interests as the society develops into groupings of individual interests is expressed in the opposition of public and private, rural and urban, rich and poor (Marx, Maine excerpts, pp. 164, 177), higher and lower estates (Stände) (Maine excerpts, p. 166). The church, in accordance with this theory of interests becomes separated from secular organizations of society and joins with these as a high contracting party in assertion of its own interest in common with and opposed to others. The society becomes divided into specializations of labor and profession, and is separated by conflicting collectivities within itself; these collectivities have internalized their relations to each other and to themselves, and to the society, as their interests, and are at the same time externalized as the expression of the same. Social property becomes that of the lesser collectivity, the social class, individually expressed as interests of particular human beings. In effect, the order is at the same time reversed, the social property being distributed among individuals, and providing at the same time the basis for the interest of a social class; thereby the opposition of the individual and the collectivity, that of the individual and the collective interests in the society, and be-

tween the social collectivities are brought about. Hegel's hypostatic formula, setting the State above civil society, destroys the dialectical opposition that he sought to create in the first place. Marx restored the opposition in its particularity, while opposing its empirical-positivist form as simple statement of fact, after the fashion of Hume. The unity of the primitive community and the chance of opposition made it difficult for Marx to accept Morgan's opposition of family and gens. The oppositive principles in the primitive community remained to be worked out. The theory of Engels is in two parts, a subjective and an objective factor.

The process of individuation is the articulation of the individual interest in the society and the dissolution of the community in the course of this; the individuation is one-sided, without a corresponding interchange in the interest of the society. Thereby the society ceases to be the final end of the means of satisfaction of the individual, and the unity of the society in the society belongs to the world of seeming. The interests are at once a content of the individuation and their externalization as characterizing forms; the interrelation of the oppositive contents and the external forms is the dissolution of the social unity, that of the individual unity and that of the unity of the individual and the society. Marx's mention (excerpts, p. 191) of Losreissung, as opposed to the satisfying, comfortable bonds of the primitive community, presupposes these disunities, which are given expression in the passage of *Capital* dealing with the dismemberment of man in the early period of capitalist manufacture.[73] (See below, Introduction, section 6, Community, Collectivism and Individualism.) That mention is opposed to the partly rightsounding phraseology of Maine which brings the social tradition to bear on the State sovereignty as the condition of its limitation (excerpts, p. 192). The latter enters into the superstructure of the society.

Sovereignty and the limitations of sovereignty are not conferred upon the person of the monarch but upon the office, a distinction either obscured or not fully comprehended by both Maine and Austin; both obscured the relation of society to the institution, in different ways:

Maine caused the moral sphere of reference "for shortness" to include the entire tradition of the society, therefore he argued by implication for the non-separation of science from politics or of statements of fact from those of morality.[74] It is opposed to the position shared by Hume, Bentham and Austin. Marx's difference with Maine in this regard was something else: Maine in his all-embracing moral category did not allow for the preponderance of the economic influences (excerpts, p. 191). Nevertheless, Maine introduced the economic factor in his ideas on caste formation;[75] this should be brought together with Marx's ideas about caste exogamy in connection with the transformation of gentile to political society (see above, section 1; and Marx, Morgan excerpts, p. 58 and n. 160, below).

Civilized society is artificial, being pervaded with fictions, practices not found in primitive communities. The joint family has a secondary character and is separated from the primitive commune where there is no opposition of town and countryside or of rich and poor (excerpts, p. 164). Maine wrote[76] that the power of distribution of the inheritance comes to resemble 'mere administrative authority' in the degree that 'the Joint Family, Sept or Clan becomes more artificial.' Marx commented: "The matter is just the reverse. For Maine, who cannot get the English private family out of his head after all, this quite natural function of the Chief of the gens, further of the tribe, natural because he is its chief, (and is theoretically always "elected") appears as "artificial" and "mere administrative authority", whereas the arbitrariness of the modern paterfamilias is just as "artificial" as the private family itself from the archaic standpoint." The artificiality, according to Maine, is by comparison with, or nonsuitability to, the modern situation of the family, its position in modern society with respect to inheritance of the estate; according to Marx the artificiality is by comparison to the archaic condition. In his argument against Maine's reversal, Marx separated out, along Morgan's line, the condition of the gens and tribe, and the chief of each, from the family and its head, in opposition to Maine who placed the joint family, sept, and clan on equal footing in the same social category. Likewise, Marx entered reservations against Morgan's idea of election of the chief of gens or tribe, clan or sept, which office is only elective in theory, but transmissible in practice, as we have seen. Maine's criterion for artificiality is that of anachronistic survival, Marx's that of the social divisions and antagonisms of the civilized condition as such, wherein artificiality arises from the alienated condition of civilized man, exploited, dismembered, set against his fellows and against himself, by comparison with the archaic condition of community, satisfying, nondespotic and equal. In the *Economic-Philosophical Manuscripts* of 1844, Marx had analyzed the human condition into its active components: the condition of man as alienated is that of the selfalienation of man, the alienation of man from thing.[77] The process of Aufhebung or sublation of the selfalienation follows the same path as the selfalienation (Private Property and Communism).[78] In the *Holy Family* this is further analyzed, in such a way that the possessing class and the proletariat present the same human selfalienation; it is their relation to the social alienation which differs from one class to the other.[79]

Marx has pointed to the beginnings of the separation of theory from practice in the excerpts from Maine, continuing the mode of analysis that was noted in the Morgan excerpts, wherein the official and the unofficial were separated and the public from the private, in the transition from barbarism to civilization.

Marx (Maine excerpts, p. 191) opposed the oldfashioned (positivist)

conception of science as classification and definition, and consequently Hume's separation and juxtaposition of statements of fact and of moral judgments. Thereby Marx opposed the separation and juxtaposition of science and politics, noting that both Maine and Austin separated themselves thereby from Hobbes: Maine was oldfashioned, but not oldfashioned enough, for Hobbes had not made the separation of science from politics as his followers in the eighteenth and nineteenth centuries were to do. The positions of the English empiricist and the Continental Kantian and positivist schools were opposed by the tradition that regarded politics and science in their interrelation: beside Hobbes, Marx mentioned Machiavelli and Linguet (l.c.).[80]

Morgan criticized Maine with reference to the joint family and the gens on two counts. 1, the joint family and the gens are not the same kind of social institution; the gens is a unilineal descent group, while the family, joint or other, is composed of members of more than one line. 2, the patriarchal family is an exceptional, not a normal development.[81] Maine answered Morgan, but did not meet the latter's argument.[82] [The contradiction noted both in Morgan and Marx regarding the relation of the family and the gens (see above, section 1, on Morgan, and note 55) is again propounded by Marx (Maine excerpts, p. 187): here Marx wrote that the family is encased (eingehüllt) in the gens, in which he followed Niebuhr. According to Morgan's idea the family is never fully encased in the particular gens, for one of its members belongs to another gens.]

4. MARX'S EXCERPT NOTES FROM LUBBOCK, *THE ORIGIN OF CIVILISATION*[83]

The brief notes from Lubbock were set down separately and later than the others,[84] involving the work of McLennan whom Lubbock followed with minor reservations. Lubbock still included lists of curious practices and remarkable customs, but belongs to an ethnological tradition which recounted the story of man as a historism, entirely earthly, which had been given its impetus in the eighteenth century; it became transformed into an evolutionary account of human development in the light of Darwin's discovery of environmental adaptation and natural selection, and of Alfred Wallace, Huxley, Spencer, Ernst Haeckel, and the resultant literature of Dawkins, Lubbock, Tylor and Morgan. Lubbock accounted for religion on naturalistic grounds, and for the formation of the State in indigenous terms, without particular reference to exogenous factors in a particular society, as race, conquest, or the like. Lubbock was at the same time culture-bound, whereat Marx raised the issue of the subjective cultural bond in ethnological practice: Lubbock had noted,[85] "Among many of the lower races relationship through females is the prevalent custom..." hence – the interpolations are by Marx (excerpts from

Lubbock, p. 2) – "...the curious (!) practice that a man's heirs [but then they are not the man's heirs; these civilized asses cannot free themselves of their own conventionalities] are not his own, but his sister's children." Marx's notes on Lubbock include a long extract from Cervantes, Don Quixote, where a point is made about delivering the great from need as (Marx's parallel) in India the divinity is ransomed from his chains (excerpts, p. 4.)[86]

Marx's notes on Lubbock presuppose his having read Morgan, Maine, and Phear: thus, McLennan and Bachofen began their development of marriage and the family with a stage of hetaerism or communal marriage; to which Marx comments, "And Lubbock says, p. 70, that he believes this nonsense, i.e., therefore identifies communal marriage and hetaerism; whereas clearly hetaerism is a form which presupposes prostitution (and this exists only in opposition to marriage, whether communal, etc., or monogamic. This therefore hysteron proteron." (Marx, Lubbock excerpts, p. 1). Engels, following Morgan, brought in hetaerism only after the introduction of monogamy.[87] McLennan had considered that marriage by capture arose out of tribal exogamy. Lubbock: "I believe that exogamy arose from marriage by capture...."[88] Marx commented (l.c.): "Lubb. knows nothing of the basis – the gens."

5. GENERAL CONSIDERATIONS OF THE HISTORICAL PLACEMENT OF THESE WORKS

The place in the history of ethnology of the authors and works treated here and Marx's relation both to them and to the ethnological field through them, may be examined within the tradition of the empirical study of living peoples and of peoples of the past. Ethnography was then being established by the initiation of reports by observers who set aside long periods of residence among the ethnographic subjects, and who had no obvious axe to grind in the way of demonstrating the superiority, innate or achieved, of race, of one mode of life, or of one religious belief over another. In part for this reason, the ethnographer at that time took on the viewpoint of an objective, distanced natural scientist, describing men as though his relation to them were other than that of man to man, which is the formicological viewpoint of Hippolyte Taine. The sciences of man had co-opted the field of ethnology and anthropology from the philosophical study of the same undertaken by Kant, Hegel, Fichte, Feuerbach, a tradition out of which Marx emerged, which had figured in his doctoral dissertation and in his *Economic-Philosophical Manuscripts* of 1844.

The work of Phear approaches the methods of modern ethnography, in part is identical with it, in part falls away by its representation of an abstract type specimen of the agricultural village of East Bengal. It

approaches the modern ethnography by the infrequency of the intrusion of the ethnographer, the accumulation of detail about a particular subject, e.g., the household accounts and the listings of the household furnishings, the enumerations of the types of landholdings and the dues levied on each, and by its spatio-temporal specificity, contradicted in turn by his asseveration of the type. Morgan's work includes four chapters of description of the Iroquois gens, phratry, tribe and confederacy, and compendious descriptions of Greek and Roman institutions of the same scope. Maine applied the Brehon tracts to an insight into the Irish antiquities. All these ethnographies, after the fashion of that time, provided a knowledge in detail of a particular people in a particular subject matter: material culture, household economy, social and political organization, kinship organization, legal customs, with insight into the mode of life of the peoples whose practices were described. These concrescences were joined in the cases of Morgan and Maine to general theories of development of political and kinship organization, or legal organization. The work of Lubbock, in contrast, belongs to the opposite tradition of scattered data unrelated to ethnographic particularity, of which Herbert Spencer was the coeval representative, and which has since fallen into disuse.

Morgan and Lubbock figure among the leading writers in ethnology of the late nineteenth century; Marx was no doubt well served in choosing them as the indicators of the state of development of the science. He had treated of Kovalevsky, Tylor, Maurer and Bastian in other contexts. (See Addendum 2 on Tylor and Bastian; see above on Maurer and Kovalevsky.)

The interrelation of the abstract and the concrete data was developed during the late nineteenth century in ethnology, yet the subjective and the objective sides of the nascent science were not well formulated. Marx in his correspondence and in his ethnological notes drew attention to the cultural limitations of the observer, in which the mode of social life of the observer formed his object-glass. There remains to be integrated into the field of ethnology the relation of the human actuality to the potentiality of man as subject in relation to the object, man the subject of the ethnography, on the one side. And on the other, there remains the actual disunity and opposition of man in relation to the potentiality of unity with himself, society and nature, positions which had been set forth by Marx four decades earlier.

Hegel comprehended civil society in its unity, Marx in its internal opposition; common to the two is the formation of civil society as the achievement of the civilized condition, as the condition of that condition, which is a process of general development on the one side, of the particular history on in the other, and the relation between the general and the particular. The achievement of civilized condition as the human agency

is at the same time Marx's comprehension of Hegel. The formation of mutually antagonistic collectivities, internalized as collective interests in their opposition to each other, is the difference between Hegel and Marx in their respective comprehensions of civil society. This difference is objective in itself, it is at the same time the difference between Hegel's subjectivity and Marx's objectivity, and is the positing of the relation of the subjective to the objective in society, which is wholly on the side of Marx. In the Morgan excerpts (pp. 76-77, 87 and passim) and in the Maine excerpts (pp. 191-192 and passim) Marx took up the question of the individual in relation to the collectivity under the condition of the dissolution of the archaic community and the formation of civilized society. Here Marx examined the interrelations of objective and subjective factors in the relation of the individual in society to his collectivity as interests. G. Lukács understood Marx's position in regard to society solely on the objective side, in opposition to Hegel. For this it is necessary to go not only to the product of the given historical process, such as Hegel and Marx envisaged, that is, modern bourgeois society, but to the onset of the process of its formation, which is to grasp it as a temporal phenomenon. Marx set forth the history of the individual interests in their conflicting relations to each other, resolved in the collective interest of the social class within itself; the resolution of the conflict is not whole, partly because the process of establishment of the new form of society is incomplete, in which the former communal relations are carried forward, albeit pro forma (cf. Morgan excerpts, p. 71, ref. Weihrauchsduft). Partly, however, the conflict is never resolved in the new form of society because the interest of the subject is not wholly subordinated to the objective interest; where property interest is at stake, man is as a shark to man, he knows no interest but his own, even when it is in his interest to subordinate it to the collective one. The interest of the subject is at the same time subjective and objective, the objective interest being in part internalized, and the subjectivity and the internalized objectivity being both externalized in the behavior, relations and production of the group in the society. Out of this internalization there is developed the partial, fragmentary comprehension of the individual in society as subject-object (v. Ernst Bloch) in mutual interrelation with the society. Yet the internalization itself comprises both the unity and the opposition of the individual in the civilized condition. The society is divided within itself, the individual is divided along two axes: by having internalized the social division whole, and by opposing the social division after having experienced the comforting bonds of the foregoing communal existence. Finally, man in the civilized condition is subdivided, as society is divided, in the social division of labor. We thus proceed from the social atom to the anatomized man in civil society, which was earlier laid bare by Marx's anatomy of civil society, and now by the diachrony of its formation.

Man in the civilized condition is formed as a divided individual, with opposing elements both within himself and to the collectivity which purportedly serves his interest and whose interest he purportedly serves. Man in all conditions, civilized or not, is at once subject and object in his relation in society, by his composition in that relation, and therefore to himself; it is by virtue of that relation that he is subject and object. The relation of subject and object in the individual is partial and fragmentary because it is not separated from its development, or its temporal relation. The consciousness of the relation is incomplete, for man is separated from nature, and from his own nature, the content of man's subjectivity ill fits, fits but does not fit well, the form of his objectivity. The externalization of wants and their internalization as satisfactions are social relations on the one side and human relations with nature on the other, the latter being intermediated by human work with tools, which were conceived after Hegel by Marx as the social instruments of labor.

The concept of culture in empirical anthropology has one of its roots in the Hegelian theory of mediation, given that the mediate relation of man to nature is at the same time the alienation of man from nature and the intermediation of man's work in the natural relation; hence the formation of the opposition culture-nature, however empirically it is determined, is incomplete because onesided. The conjoint relation (or doubly, relations, for both singular and plural, the one and the many relations between human society and nature are maintained) of intermediation and alienation is at the same time the dialectical passage of the linking of man to nature and the distancing of man from nature, by which we mean on both sides the intervention of culture. The concept is still abstract in Hegel's philosophical anthropology, and has been made only partially concrete in the empirical. There are to begin with two dialectical moments that are to be elaborated: The first is the passage from the concrete culture, from culture in the plural sense, the many, to the abstract, the actual many and the potential one, and the reverse. This has been already formulated in the empirical side of anthropology as the interrelation of the abstract relation by which man produces himself and his kind in general, and the concrete act of work, or the shaping of things of use to the given society. The second was expressed by Hegel, to whom culture meant the cultivation of the individual, or his life cycle of enculturation; in Marx it was constituted by the socialization of the individual by means of his particular relations in society, concretely in the collectivities that make up his social environment and form his social being. The abstract and the concrete labor are likewise separate in Marx, and joined as the abstract potentiality and the concrete actuality.

The Hegelian system is an organicism in the sense of the actualization of a potentiality, but as an organicism within a teleology; it is in this sense that Marx interpreted the Hegelian dialectic of anthropology and

history both explicitly and implicitly in his later writings (vide: Preface to second edition of *Capital*, volume I; *Capital* passim; references to Darwin in his Correspondence; Randglossen to the 'Lehrbuch der Politischen Ökonomie' of A. Wagner.)[89]

The Hegelian system as a whole was understood as an organicism by C. S. Peirce; according to this, the growth of living beings is not separate from the growth in nature as a whole of animate and inanimate matter; all nature is inseparable, in the same process. The notion has a root in the Stoic (Chrysippus, Stobaeus, Seneca), before that in the Heracleitian and hylozoist traditions, having been resumed in Aristotle's doctrine of teleological entelechy. The idea of organic growth underlies the evolution of man and of culture in the nineteenth century, particularly the evolutionary doctrine shared by Spencer, Tylor, Morgan, for it is not the human individual but the collective social life that undergoes the transformation from the primitive to the civilized state. The growth, as all of nature, is an undirected, internally unfolding, self-formative process. Morgan's conception, like that of Darwin, pointed to organic processes which were qualitative and systemically interrelated (as Morgan's idea of the change in the family form bringing in its trail the changes in the system of consanguinity). There was another part of Morgan's thought which was rather quantitative and mechanicist, as the settlement on a territory and the accumulation of property which accounted for the transformations from one mode of existence to another. This, the mechanicist part, only later came to be separated out from the organicist in human development. The organicist conceptions were wholly objective in Morgan, the subjective side being a projection of his desire to see the recrudescence of the ideals of the gens after the fall of the regime of property over mankind. The organicist and the mechanicist conceptions of Morgan were juxtaposed to each other, and were not interrelated; nevertheless, they were set forth with materials which were empirically concrete (Iroquois, certain Australian, Aztec, Greek, Roman, and Hebrew societies). Subsequent work on Morgan's schema has been on the objective and mechanicist side, presupposing the continuation of the organicist.

Morgan's organicism was implicit in his notions of growth, developmental stages, etc.; it was at the same time literal and explicit. He made reference to the organic series (gens-phratry-tribe),[90] to natural growth from gens to phratry,[91] to that growth as natural or organic processes,[92] to an organic social system,[93] to the organism of society,[94] to living organizations,[95] etc. This organic doctrine was conceived not as an analogy but as an analytic tool which enabled him to reconstruct a part of the social whole where direct evidence was lacking.[96] Engels followed Morgan in this matter;[97] Marx was critical of the same Cuvier whom Engels cited in support of his organicist reconstruction after Morgan; Marx expressed reservations regarding one of Morgan's reconstructions:

The latter[98] had inferred that the Mohawks and Oneidas had each lost at least one phratry and one gens of the remaining phratry. Marx (excerpts, p. 38) exclaimed at Morgan's words: "...*if* (!) *it is supposed* (!) that..." (Marx's underlining). Morgan's expertise in this matter was then recognized; the steps in reasoning are neither many nor do they defy the imagination. Yet Marx's exclamations imply a doubt which is to be registered a fortiori with regard to Morgan's more sweeping speculative reconstructions.

Opposed to Morgan's conception was that of Franz Boas, who influenced American anthropology in the direction of a mechanicism such that growth other than that of the individual biological organism and its organs was set down as antiscientific. This opposition was extended by R. H. Lowie further in the same direction of an objective, positivist, empirical mechanicism. On the other hand, A. L. Kroeber, together with W. M. Wheeler in biology, L. Mumford in the history of urbanism and technology, S. A. Alexander, A. N. Whitehead, C. Lloyd Morgan developed a conception of organicism without any relation to mechanicism. To the organicist doctrine were related Emile Durkheim's idea of mechanical and organic solidarity, H. S. Maine's of status and contract, and following him, F. Toennies' of community and society, in whose work Marx figures. The closest to the Hegelian conception of organicism in the history of law and society was Otto Gierke's *Genossenschaftsrecht*,[99] which we translate as law or right of *societas*, (= L. H. Morgan's *societas*). Joseph Needham has redefined mechanicism in relation to Whitehead's philosophy of organism, giving it the name of neomechanism; Needham thereby gives biological laws an 'interim' character insofar as they are different from mechanical laws, but are deprived of an entelechy,[100] in contrast to the entelechistic deism of Whitehead, Alexander, and Lloyd Morgan. Marx took up the organicist doctrine from Hegel, but in the light of Darwin, without Hegel's implicit pantheism. Aside from the specific ideas and data-interpretations that Marx took from L. H. Morgan and the other ethnologists, these general conceptions are not their common ground. Marx pointed out the way through Charles Fourier in regard to the negative critique of civilization, which in a different way was taken up by Sigmund Freud as well. On the other hand, L. H. Morgan was part of an American movement of thought that was still alive to the common egalitarian tradition out of which both the American and French revolutions arose. L. A. White did not find that L. H. Morgan sympathized with the working class and the socialist movements in American life in his own day; rather he was idealistic and utopian, anti-aristocratic and communitarian in his abstract opposition to property. Thus, Morgan never proposed concrete means to carry out the program of abolishing the thing which had aroused his distaste. On the contrary, Marx identified Morgan as serving in the opposed camp

to his own, hence providing an objective support of Marx's argument, without Morgan's will to do so, or have it done for him. In his letter to Zasulich, Marx cited Morgan in support of his idea that the present society would return to the archaic practice of common ownership of property. Marx pointed out that Morgan had been supported in his work by the American government (this refers to Morgan's *Systems of Consanguinity and Affinity*). Morgan did not conceive that the modern social system is in 'a crisis that will end only by its elimination'; yet Marx and Morgan in different ways called for the revival of the archaic commune with regard to property, equality and the organization of society. (See Addendum 1.)

R. H. Lowie criticized L. H. Morgan's conception of primitive society on the ground that it is atomistic[101]: Morgan did not take account of territorial and police-military associations, nor of political behavior and relations, of differentiation by stratification and ranking in primitive societies. Lowie's criticism of Morgan's *Ancient Society* has as its presupposition that Morgan's work is an abstraction from primitive society, a criticism that can be made of Maine's idea of status versus contract, of Durkheim's idea of collective representations and of mechanical solidarity, of Lucien Lévy-Bruhl's idea of the pre-logical savage thought, etc. W. N. Fenton, who has worked among the Iroquois, has written that Morgan omitted mention of their village community or local territorial organization.[102] On the other hand, Marx connected the gens and the village community as institutions of primitive, Greek, Roman, and oriental societies, but did not tax Morgan with having missed the connection. However, several of these criticisms when added to the general schema of Morgan help to reinforce the direction of Marx's ideas: differentiation of the social strata according to the amount of property owned by each contains in germ the organization of the differentiated and oppositive civil society, which is the civilized condition when developed; likewise the territorial, military, and other nonconsanguineal associations contain the germ of the institutions of political society (i.e., *not* the germ of political society as such). The idea of a germinal State as the later development out of these earlier institutions, in addition to those contained in Morgan's work (property, territorial settlement), is shared with him in writings of Lowie, White, M. H. Fried, M. Sahlins and the present writer. Boas, moreover, held that political organizations evolved from small to great in size over time. In the way that the evolutionary canon (if not the doctrine) was developed by this tradition in empirical anthropology, it is an organicism without teleology but it is a weak development of the technical-mechanicist side, as in Morgan, and without an interrelation of the different sides. Lowie's criticism of Morgan as an atomist misses the mark because it fails to take account of the overriding evolutionary organicism of Morgan.

The idea of R. M. MacIver and R. H. Lowie,[103] that association is counterposed to community, as the means whereby the individual is loosened from the bonds of the kin and territorial community, was anticipated by Marx in his notes on Maine, and in controversion of the latter. Gierke, however, retained the notion of Genossenschaft as the undifferentiated institution which on further development would then be articulated as the community on one side and, on the other, the association.[104]

Fortes has separated Morgan's evolutionism from his studies of kinship and social organization, and together with this, has separated the historicist from the synchronic reconstruction of society, and the speculative deduction of the past, e.g., Morgan's presupposition of an originally promiscuous family organization, from observation of the present.[105] Organicism as a concept, however, is not only applicable as a reconstruction of an organism, or of a social, historical system, etc., which is presumed to function like an organism, in the past; it is the presupposition of such an organism or its systematic analog at any time, past, present, or future. Opler[106] distinguished between historicism proper, that is, the determination of a phenomenon by an earlier invention or discovery, and that same invention or discovery as a mark or register of the degree of development of a society; Morgan, according to this view, is not to be taken as a historicist. Fortes did not go so far as to make Morgan into a determinist, but conceived him as a historicist in an extended sense, that is, historicism as the intellectual act of "...looking for explanations...in terms of sequences of antecedent actions and circumstances."[107] This is the opposite of historicism conceived as the determination of that which is objectively real, and which is the usual target of the critics of historical determinism in particular and of historicist organicism in general. In keeping with this redirection, Fortes made relative that which Morgan had stated without qualifications; Fortes, however, does not substantively alter Morgan's progressive sequence from *societas* to *civitas*, but rejects the diachronic aspect:

> Stripped of its historicist pretensions and restated in structural terms, [Morgan's] is the problem of how kinship and polity are interconnected in tribal society.... "*Civitas*" does not identify a specific "type" or "stage" of advanced society by contrast with a conjecturally "primitive" or historically antecedent form of society founded exclusively upon ties of "blood." "Status," in the sense of Maine's juristic equivalent for Morgan's "*societas*," does not characterize primitive or archaic forms or stages of society in contradistinction to the principle of "contract" which is supposed to be the hallmark of "progressive" societies.... These antinomies and others that have been linked with them do not identify different forms of social and politico-jural organization. They represent correlative

> and interdependent institutional complexes that work together in all social systems. Our paradigmatic specimens exemplify this over a wide range of phenotypically diverse societies.... Variations in demographic scale, economic complexity, and politico-jural differentiation regulate the ways in which these complexes are manifested and interlinked.... Where there is society, there is both kinship and polity, both status and contract. What is distinctive is their relative elaboration, their relative weight and scope in different sectors of social life.[108]

But if the relatively higher degree of political elaboration occurs later in time, and if there is a relatively lesser weight and scope of kinship as the relations of *civitas* are built up, then Morgan cannot be said to have argued differently. Fortes, save for a stylistic change, is close to the synchronic aspect of Morgan; V. G. Childe, while retaining Morgan's terminology, departed from the substance of Morgan's temporal sequence, thereby following out Engels' line of thought. L. A. White has proceeded more directly along Morgan's line, independently of these. The development and transformation of social institutions, among them the gentile, property and territorial, which were posited by Morgan, Genossenschaft by Gierke, status by Maine and F. Toennies, association and community by MacIver and Lowie accomplished the transition of man to the form of society having the State among its institutions. The common feature of the writers in this tradition is that the State is established primarily as a relation between men, secondarily as a relation between man and nature. Both sides have proceeded in their examination without seeking the interrelation between the social and the natural relations of man. The diachronic analysis of the given social institutions sets forth how the formation of the state is concretely determined as the means both to social integration and to social opposition. Alternatively, we fall back upon a subjective organicism of the Hegelian right wing as an interpretation of the origin of the State, wherein it is conceived as having grown without indicating how the growth has taken place, the subjectivity here being conceived wholly as an abstraction.

The stages of human progress were conceived in part by Morgan as benchmarks, and Opler has understood him in this way. Fortes for his own purposes has interpreted Morgan's diachrony solely as a mode of explanation. These are partial because onesided interpretations of Morgan who, at the same time posited an organic series from gens to tribe and from *societas* to *civitas* as objectively real, as the active means of human progress, proper and internal to it, and not merely as its external measure or explanation. Morgan thereby made explicit that which had been implicit in the writings of Vico and Ferguson. Morgan's theory of evolution was a part of the conception of ethnology as a natural science, which was widely held in his time, but foreign to most contemporary

ethnological thought. It is an anachronism to impose our current anti-naturalism upon the naturalism of the antecedent canon.

Lowie, Opler, and Fortes are not alone in having joined Marx to Engels inseparably relative to Morgan's work. It is now possible to reexamine that combination and to determine the degree and manner in which it is justified.

The characteristic question of the nineteenth century writers is that of the fantasy versus the reality of periodization of societies, the subjective arbitrariness versus the objective necessity of periodization, the determinate and unique versus the optional and many kinds of stages and periods. Marx was more critical than either Morgan or Engels of hypothetical reconstructions of the past based upon organicist assumptions in regard to the workings of society.

The question of periodization in Morgan's general account of the progress of mankind is connected with his theory of culture (in regard to which see note 16 below). Each period or stage of human development, according to this theory, has a characteristic mode of life, culture being neither the matter of all mankind on the one hand, nor of a particular people or social group on the other; it is the matter of an ethnical period which groups within itself a number of peoples in different parts of the world. Moreover, the laws that govern the movement of the cultures, or modes of life, from one period to the next are organic, being of the natural order, and independent of the action of individuals. Thus, the institution of political society among the Greeks was not the work of any one person, such as Theseus, who instead represented a period, or a series of events. The process of transition from one period to the next was in this sense impersonal, in Morgan's conception, therefore wholly objective. Morgan's theory of primitive society posited a governmental plan which was constituted of personal relations; he did not proceed to the integration of the impersonal process, in the case of the transition mental plan of the period which his representation overcame. The cultures themselves are wholly objective in their processes and constitution, and were conceived as objective categories by Morgan. The cultural matter in this conception is inert, but it is not a passivity, for it contains within itself, that is, within the given mode of life of each ethnical period, the germ of its own dissolution and transition to the next higher ethnical period. The various periods are marked by inventions and discoveries, as fire, the bow and arrow, domestication of plants and animals, iron, and writing. These inventions and discoveries, however, are not the work of individuals, the implication being, as the process is spelled out by Morgan in the case of Theseus, that they are independent of individuals; they would be invented by someone, regardless of whether the particular individual to whom they are accredited was in his place at the time or not, and whether he was active to the given end or not. The invention or discovery is a matter of the ripeness of the particular ethnical

period to bear that particular fruit or not, that which Aristotle called its entelechy was at cause, or the actualization of its potential. The question of the actual location of that potential in time and place, whether in the individual or in the social group, was not posited by Morgan. So difficult is the position of this problem that it was the subject of unsuccessful attempts by many other writers of that period, for it involves the question of the objective reality of the social group in independence of the individual, and of the same order of natural, material reality.

The problem of periodization, together with the criteria for classification of concrete and particular societies in such terms, the homogeneity or heterogeneity of the societies in the different categories, are today even more complex than in the last quarter of the nineteenth century. We have attained a limited agreement on such generalities as the social evolution from *societas* to *civitas*; but how much more can be said? Periodization of social evolution has been proposed as more than a device of classification of man's past; it has been connected with the doctrine of necessitarianism, iron laws, that is, solely with the objective and external side of man and his changing condition of social life. The question is this, how can the subjective side be related to the objective side in this connection? Periodization as a convenience and periodization as a predictive device are separable. The problem Morgan posited becomes that of the dialectical relation of the one and the many lines of evolution today, but in an altered form. Those categories of change take up only the passive, external, objective, undirected tendencies in evolution. They do not take into account the directive, active, conscious acts of man in social change on the political side, the factors of social and national revolutions, nor do they take into account the introduction of new scientific and technological changes, both in the sphere of inanimate matter and in the biological sphere. Thus far these interrelations exist only as abstraction and as possibility, the categories having been merely juxtaposed. But a dialectic of the science of man has not been developed thereby, for those who, as J. B. S. Haldane, have taken F. Engels' *Dialectics of Nature* as their starting point have brought out the objective side exclusively. The problem of involuntary evolution as objective, is in relation to the conscious control of the future as a subjectivity-objectivity.

Marx raised the question of the subjective and the objective aspects of man and society relative to the identity of interest of the individual within the collectivity, which is in turn connected to the identity of the individual and to the process of formation of the individual in society as a human being: man does not become a human being in general, but becomes human only in a particular way, within the particular collectivities. In the process of formation in complex society of antagonistic social interests, and in the process of formation of the state he becomes

an internally antagonistic creature, alienated within the collectivities from which he derives his particular social nature. The further question of the nature of human nature in the complex condition of society is thereby posited. Determinist periodization smuggles in a teleology by seeking to foretell the stage to which man must advance. That determinism does not differentiate between that which is brought about by the conscious intervention of man and that which takes place without the specifically human agency. Man is part of the kingdom of nature, and as such the natural processes take place upon and across his physical body; but this body has already been modified culturally. Therefore the natural processes in question take place in part mediately, in part immediately or directly upon the human organism and through it, by means of it. But the natural processes relate as such even less directly and hence both proportionately and absolutely more mediatively in respect of the concrete and particular human qualities, the characteristically human works and human social relations.

Marx distinguished between the human architect and the bee, thereby introducing the work of the head in the role of the hand. "At the end of the labor process a result comes forth that was already present at its onset in the conceptualization (Vorstellung) of the laborer. Not only does he bring about a change in form of the natural realm; he realizes at the same time in the realm of nature his end, which he knows, which determines the manner and mode of his action as a law, and to which he must subordinate his will."[109]

Unlike the bee, man has separated himself from nature, and has internalized this separation, albeit partially and incompletely, as an alienation. The non-internalized part of the separation is likewise an alienation, but it is an alienation in which we do not freely participate, for it is imposed upon us in our given human-infrahuman state. Man is conscious of both the internalized, voluntary alienation and the alienation which is not, but the role of the consciousness in either case is different. Man interposes, as Marx pointed out, the agencies of his labor between himself and nature in relation to an end which he has previously conceived and which he has carried through. Since man has at no time left the natural order the same forces continue to act upon him and through him as those which act upon and through the bee or the chimpanzee. At the same time, his brain and hand, which have set man aside within the natural order are interactive with the natural processes. Thus the same forces which have enlarged the brain and shaped the hand lie at once within and without the human being; they are not the sole forces at work upon man, but these natural, pre-human forces are part of the materials which man applies in the shaping of his peculiarly human work tools. These human processes are not determinate, nor can they be considered as part of any determinism in a precise way. First, they are subject in part to the social variations

devised by the human conceptualizations. The brain conceives in a way that is solely human and pan-human, but what it conceives and the materia that it has to work with varies from people to people. Both the universally and solely human culture and the particular cultural variations are at work in their interaction in the conceptualizations of the brain. Second, they are not determinate, still less are they deterministic, in the sense that our knowledge of the laws of nature and of natural workings, whether animate or inanimate, and of the human brain, is incomplete; thereby likewise a determinacy of human affairs is excluded.

A teleology on the other hand introduces the extra-human knowledge of man, his works, relations to other men and to nature; it has become associated by those who have recognized the inadequacy of man and the power of his brain in the face of these problems which are insuperable at the given state of development of our mental and material equipment, with an appeal to an extra-human source of knowledge: The knower outside our sphere is the deity who sees the direction in which we are going, in some versions can change the direction on appeal, in others is the do-nothing god. These fables for children have occupied great minds as well, and the empirical anthropologists have danced up to and away from these tacit or open admissions of our ignorance. A teleology is likewise presupposed in the talk of objective laws which move mankind from a lower to a higher stage of development of society. They are rather a basis for the social morale of given political States. But the periodization of human progress is at once like and unlike the natural teleology. The political relation was conceived by the theorists of the natural right and social contract as the human relation as such, that is, the relation in which man intervenes most closely and substantially in the control of his own fate. It was conceived by them as the human relation a fortiori because it attributes to man the power to subject his fate to his reason and will, which have been determined to be the particularly and peculiarly human faculties, shared with no other beings of the natural order. Thus they conceived the final human relation as the political relation in society, that toward which man tends, just as the technology which gives man control over nature is the end of man in the natural relation. This arbitrary divorce of society from nature is specious for it divorces man both from nature and from society, as we have already seen, making him independent of the one and prior to the other. It is a self-vaunting, moreover, because it presupposes a greater degree of knowledge of nature, society, and self, and control of these, than is in any sense the case. The political solution in this sense was carried forward into the twentieth century as an exaggerated act of self-confidence in the ability to control human destiny. It was criticized by Marx in relation to Bakunin, and by Karl Korsch in the twentieth century. It is necessary, as Marx showed in the *Economic-Philosophical Manuscripts*, to separate the

actuality of the relations of the science of nature and of human history from their potentiality; in this sense the periodization of human progress and the natural teleology are like, as potentially they are one, while actually different.

Anthropology as a discipline has become increasingly empirical and self-sufficient in the past century. It had successively freed itself of cultural bondage as a particularism, together with biological, geographic and cultural-abstract determinism. It has at the same time separated itself from its own past, each generation in turn disinheriting its forerunner; yet each forerunner has retained its partisans in the next. The relation of anthropology, not as a deterministic historicism, but as a historism, to wit, the recounting of the story of man which is at once an accounting for humanity in terms of a principle remains to be taken up; on the other hand, the interrelation between the actual and the potential condition of humanity is eschewed as a speculative fantasy. Teleology was exorcised as a doctrine by A. L. Kroeber's disavowal of the organicism of the superorganic; there is left only the positing of man in the kingdom of nature. Man is an animal as any other, but requires a special discipline of anthropology, separated from the others. The last remnant of Cartesianism remains to be exorcised, revived in its subjective side by Jean-Paul Sartre. Man is related in and to the kingdom of nature; the resolution of the subjective paradox of man's imagined privilege and of the objective teleology and teleological entelechy implied therein is a problem outside the dialectic.

The central figure of ethnology in these pages has been that of Morgan, as it was for Marx. Before all else it is needful to point to Morgan's commitment to the totality of his doctrine, just as Walter Kaufmann has recently brought out the same in regard to Hegel, and all have in regard to Marx. Marx, Engels, Bachofen, White recognized this character in Morgan, which influenced their approaches to ethnology. The doctrine of Morgan was an amalgamation of scientific method, a simple materialism, and utopianism; it brought together what is perhaps the most convincing representation of man's social development in its day. Morgan displayed originality and learning both in classical and contemporary ethnology, including reports of his own fieldwork; he argued with acuity, showing the royalist interest of his contemporaries as against his own republican interest, forming the amalgam of data and interpretation into an all-embracing doctrine which was particular to its time, hence cannot be directly translated into ours. At the same time it is part of the material of the present, a century later, since his issues are continuous from that time to ours, his methods are part of our instrumentation, his conceptions part of our own. A turnabout in the appraisal of Morgan has taken place in anthropology, beyond his continued, selective advocacy by White, Childe, the earlier Social Democrats and the modern Soviet

School. The rejection of Morgan by Boas and Lowie has been replaced with a partial acceptance by Fenton, and of his synchronic analysis alone by Fortes, following W. H. R. Rivers and A. C. Haddon. Morgan had little to say about the sufferings, actual genocide and ethnocide which the Indians of North America were undergoing at the time of his studies; this reason, when coupled with the notion that Marx found Morgan alone of the army of evolutionists of his day in the least critical of western civilization, makes his appraisal a complicated matter. This should be taken together with the consideration that Phear[110] associated himself with expressions of contempt for the intellectual and artistic attainments of the peasants of Bengal; Marx (Phear excerpts, p. 136) was critical of this side of Phear, as he was of Maine's unfeeling blandness regarding the fate of the Irish – save where their law was concerned. Marx likewise criticized Lubbock's ethnocentrism as he did that of Grote, Gladstone, and Bachofen.

6. COMMUNITY, COLLECTIVISM AND INDIVIDUALISM

Individualism in its extreme forms of laisser faire capitalism, anarchy, egoism, arose among the forerunners, partisans and followers of the French Revolution; it was a caricature of the doctrine of man and society of Thomas Hobbes' war of each against all, itself a caricature of itself. Gracchus Babeuf as an extreme of the Left of the French Revolution advocated nothing more radical than the allocation of small parcels of land to individual owners, hence the proliferation of proprietorships. Jean Jaurès denounced the program of Babeuf as 'communisme parcellaire', an oxymoron, a contradiction between adjective and substantive. The communism of private properties frightened the Directory. The opposition inherent in this doctrine is connected directly in action and thought to the conflict of capitalism and socialism, and in the first instance to the collectivization of agriculture of the USSR and the organization of the agricultural communes of the Chinese People's Republic. The issues both historical and actual, no less than the literature about them are vast. Conscious of their scope and complexity we will therefore review, in brief, one segment as it concerns the origins of property as private or collective, and of early society as individual or communal. Likewise, the doctrine of individualism as the absence of collective institutions of western society in the capitalist period being but a figment, we will allude to it only to set it aside while taking up some of its consequences as Social Darwinism.

The origin of civilization was sought during the nineteenth century in an antecedent form of society whose relations both to man and to nature were predominantly communal. It was shown that the civilized society was not a primordial condition of mankind, but a comparatively recent

introduction, and that the transition from the antecedent stage was an abrupt one, neither willed or planned, and in which neither reason nor consciousness directed the overall transition, as opposed to the transition of parts, in a significant way. Communal forms of property ownership were replaced by individual forms, and a collective or communal by an individual ethos.[111] Accounting for the origin of civilized society in this way presupposed the dependence of the individual on society and the non-separation of the individual interest from that of the community in the anterior state, in which the society was taken as a unity and the community in its integral relation in society. The breaking up of the unity, the formation of mutually antagonistic collectivities, their perpetutation in society, the opposition of bodies of individual interests, in connection with the loosening of the bond of the individual to the community, were related in etiology and occurrence. The newly formed social classes were developed as bodies of actually and potentially conflicting individual interests where there was the most sharply defined property interest, that is, where there was the greatest amount of property at stake, both in its accumulation and its transmittal. Within the bodies of collective interests, the internal oppositions of individual interests were further engendered, save that, where there was the least amount of property at stake, the communal interest was more likely to be continued into the state of civilization.

Rousseau had conceived the individual as the unity of which the society was composed, without the intervening social institutions; the individual confronted society directly in the social contract.[112] Maine presupposed, in opposition to this side of Rousseau's doctrine, a communal life, and the priority of society over the individual. Marx presupposed a primitive condition in which the individuality of man was not separated from society, nor opposed to it; he further conceived the opposition of the individual and the primitive community, but not the priority of the one over the other; this is a unilaterality, equally on the part of the individualists (Hume, Rousseau, Kant) and the collectivists (Maine, Morgan, Kovalevsky).

The onesided development of the individual in the state of civilization (cf. Marx, Maine excerpts, p. 191) is connected by Marx on the one side with the transition from communal to individual ownership; it is connected on the other with the actuality of the deprivation of the next man and at the same time with the potentiality of unity of the two. The onesidedness lies in the suppression of the potentiality of the development in the transition, as we shall see. The interests of the individual in the collectivity are opposed to each other, thus limiting by the opposition and its incomplete resolution within the collectivity the development of the individual. The interests of the collectivities are opposed to each other in the society, thus the development of the society is limited. The

collectivities are onesided in their development in that the oppositions of the individuals with greater accumulations of property are more highly elaborated than the oppositions of the individuals with lesser accumulations. The onesidedness is found on both sides insofar as the influence of the rural and communal relations in the determination of all the social relations subsequently gives place to the predominant influence of the private, propertied, urban, industrial relations over the rural, etc. Marx posited, in the positive sense, the interaction throughout of the individual and society; in the primitive condition the interaction was between the individual and the group or community, in the civilized condition it was between the individual and the community in certain peasant groups, as for example in India, Ceylon, Russia (the mir), South Slavs (zadruga). He drew attention at the same time to the difference between the community in gentile society and in peasant society in civilization. The relation of the individual and the peasant community in civilization was different, in his conception, from that of the individual in the civilized urban, rich, etc., conditions. Factors of social class to begin with, and then of other collectivities, in their interaction, shaped these relations once they had been introduced in civilization. In the negative sense, Marx posited the unfreedom in the primitive condition, in contradistinction to Rousseau, as the non-despotic bonds of the group. Rousseau's notion of the chains of civilization as opposed to the primitive state of freedom was reconceived by Marx as the chains of primitive bondage which were, rahter, satisfying and comforting. Despotic, dissatisfying, discomforting are the bonds of civilization.

The primitive community in Marx's comment on Maine was conceived both in continuity with and in opposition to the conceptions of Rousseau and Herder. According to Marx, the individual is already alienated from nature in the primtive condition; he is alienated both from nature and from his own society in the civilized state, whereby, in the working out of the individuality, the parturition is painful. It is the individuality and not civilized society that is formed by the parturition; this is the onesidedness in the elaboration of the transition to civilization from the primitive condition, and at the same time it is the onesidedness in the elaboration of the relation of the individual and society. The chains are the condition of civilized man, not the general human condition; this is the working out of Marx's critique, brought out in 1842, of the historical school of law; the opposition to the historical school of Maine is its continuation but on different grounds. In the earlier critique Marx described the fiction of the eighteenth century which regarded the natural condition of man as the true condition of human nature, creating natural men, Papagenos, whose naiveté stretched as far as their feathered skins. "In the last decades of that century they sensed the original wisdom of the primitive peoples, and from all sides we bird catchers heard the twittering

song styles of the Iroquois, Indians, etc.... The correct thought behind all these eccentricities was that the *crude* conditions are the naive Dutch pictures of the *true* conditions.... Herder's opinion, that the natural men are *poets* and the *holy* books of the primitives are poetical books, does not stand in our way, although [Gustav] Hugo speaks the most trivial, jejune prose, for just as each century has its own nature, so it produces its own primitives."[113] Each conception of primitive man is a product of its own era, just as each conception of man in general: we can speak, from the viewpoint of the twentieth century of the conceptions of the nineteenth, from that of the twenty-first, of the twentieth, and so forth. But at the same time, the social institutions and the corresponding interests are perceived and understood only as they become concrete; we can mark this progress ourselves in the progression of Marx's thought. The eighteenth century had the fiction of man which Marx caricatured, the Robinsonade, or man taken in isolation from society, whom the classical economists were able to posit, without preconditions, preconceptions or presuppositions. This man is divorced from all social relations, hence is inconceivable as human. Marx opposed this abstraction of man from society just as he opposed the abstraction of man in his generic being as Feuerbach had proposed it, in the nineteenth century, and the abstraction of man from the primitive condition, which permitted the vacuum to be filled by whatever prejudice is current; he then added to this the opposition to the abstraction of man from society as the alienation of man in society. In his comments on Maine, the primitive condition is not regarded as an end but as a critical weapon to be applied against the antagonisms built into and arising out of civilized society. The passage of the objective into the subjective side is set forth by Marx first as the relation of the individual to the group and the formation of smaller collectivities on an economic basis within the social whole. The dual passage, of the individual and the society into the restricted class collectivities, is thereby posited. The interrelation of the passages bears upon the theory of society, social classes, their formation together with that of other collectivities, the collective interests of individuals in society, of antagonisms, and the resolution, the moral derivation, and the actuality and potentiality of these.

According to Marx (Maine excerpts, pp. 191-192) the independent existence of the State is not real but seeming and the State is an institution of a given stage of social development on the one side, of a particular society on the other. The content of the individuality of man is shown in its onesided elaboration (Herausarbeitung) therefrom as internalization of objective interests. These interests have a formal side in relation to their content as the external relation between social groups of common or class interests of individuals, or class individualities. The class individuality is solely the objective and formal side of man, whereby the content

of his social relations is externalized. In the opposition of human form and content, man has undergone the separation of his public and private lives, the externalization of his relations to nature and to society, and the formation of classes of social interest which are mutually antagonistic. These interests are in the first place a wholly externalized and public formation of social relations; wants and needs then become expressed as group interests; the existence of classes of individuals in society is related to these interests as their expression on the one side, their determination on the other. They are the social means to meet the wants and needs and the modus of their satisfaction in the given society.

The study of the family, society and the State was taken up by Marx in his *Critique of the Hegelian Philosophy of Right*, written in the summer of 1843; here he set forth Hegel's account of the State as the higher authority over the family and civil society, of which they are the parts, and which presupposes them.[114] Marx did not directly oppose these ideas, but rather the pantheistic and mystical expression given to them by Hegel. However, Hegel in Para. 305 of the same work proposed that the family with property has as its base the natural ethic, hence is constituted for the political life, i.e., is capable of serving the State without selfserving. Marx held that this conception of Hegel's is the barbarity of private property against family life, the illusion of family life, the spiritless family life.[115] Thus, the family bears, according to Marx's conception at that time, a complex relation to society and the State in civilized society. In the *German Ideology*, Marx and Engels held that the family in the life of savages is the sole social relation, whereas in higher social development increased wants create new social relations.[116] This conception was further developed by Marx in relation to Morgan's theory of the gens, particularly in reference to the family in relation to the gens. The intermediation of increased wants at the same time is the subjectification of the subject-object relation, which was later replaced by a wholly social conception of man already initiated in the *Theses on Feuerbach* by Marx.

Hegel posited the relations of the subjective to the objective sides of man in his works (of the Jena period) from 1802 to 1806, the *System der Sittlichkeit*, the *Naturrecht*, the *Realphilosophie*, and in his *Phänomenologie des Geistes*, of 1807; positions were developed there in regard to labor and economics generally, to the system of human wants, to anthropology and psychology, and to the human institutions of right, law, ethics and morality. (See Georg Lukács, *Der junge Hegel*; the relation of Marx to these Hegelian positions is there raised.) The further development by Marx and Engels of these matters in the *Holy Family* and the *German Ideology* bears directly upon the issues raised in the ethnological notebooks, particularly in reference to the relations of primitive and civilized man to nature on the one side and to the family and society on the other; the family is taken out of its direct subsumption under the category of

nature by Marx, in contrast to Hegel. However, the matter is yet more complex. Bachofen, Maine, Lubbock, Morgan, McLennan, Engels, held in various ways that the earliest form of human life was in a promiscuous horde. This was modified under the term of hetairism by Lubbock and McLennan, which aroused Marx's sarcasm (see below, Marx, Lubbock excerpts, p. 1), a modification which did not change the issue substantially. Darwin (*Descent of Man*, ch. 20) on the other hand, attacked the concepts of primordial promiscuity and communal marriage. Marx at the beginning of his excerpts from Morgan's *Ancient Society*, Part III, The Growth of the Idea of the Family, introduced phrases of his own, not found in Morgan at that place, (Morgan excerpts, p. 4): "Oldest of all: horde organization with promiscuity; no family; only mother-right can have played any kind of role here." If this is so, then the horde is a form of organized society; however, family and society are indistinguishable under these circumstances. Taken as an abstraction, this prehistory of family and society is then developed by Marx (Morgan excerpts, p. 8) such that in the first ethnical period for which there is empirical evidence, the family in its consanguine form is not separated from society; i.e., in this sense it is "the first organized form of society". This position is then proffered without further development in the Morgan excerpts, pp. 19-20. The problem of incest has aroused anthropological discussion for many centuries, including the question whether the taboo of incest is a universal institution of the human family and society. Without going further than to adumbrate this issue, we will confine our comment to the question, raised by Marx, of the relation of family and society in the primitive condition, of the family in relation to nature in reference to the procreation of children, their rearing, etc., and the external in relation to the internal composita of man in the various social contexts, or cultures, that is, his objective and subjective sides.

With reference to the thematics of Marx, as developed in the writings of the early and middle 1840s, the positions that he took up in his ethnological studies continue them and in part change them. The relation of the family to society at the onset of the prehistoric process is interesting from this point of view only insofar as it is related abstractly to the question of the relation of the family and society in the period of gentile society and its transition to civilization; otherwise the question of the horde is entirely a conjectural matter. The comments introduced by Marx into the excerpts from Phear, Maine and Lubbock reveal the development of his thinking, and the direction that he took in the course of working them out: in the development of society from savagery to civilization, the family in its various forms was separated from society, and became one of the sets of relations maintained by its members. On the one side, the individual is developed as a human being first only in and through the social relation, the collective institutions, second, as he

is incorporated in them. On the other side, the social relation is variable accordingly as the society is simply or complexly organized. The collective institutions of the family, community, village, gens, and associations of primitive societies are rather unitary, that is, they are not deeply riven; the effect on the individual is that they are subjectively comforting, objectively they are not despotic, for this would implicate the existence of an institution of hegemony that would contradict the relative simplicity of primitive social organization. Above all, they are not liberating: they are rather not enchaining. Formally, most, if not all the intermediating social institutions of community and association can be found in primitive societies: the difference from civilized society is that in the former case their interrelation is either zero or not highly developed, nor is their mutual opposition. On the contrary, in civilized society, the relations of the collectivities to each other, and the individuals within them, are divisive on the one side, privative on the other and the interests of the collectivities are opposed to each other within the same society.

Hegel opposed the 'private spheres of the family and civil society to the State, wherein the public sphere is the superordinate power, and is an external necessity in relation to the spheres of private social life. The private interests are subordinate to the State, and are ultimately dependent on it.... The particular individuals have duties to the State insofar as they have rights against it.'[117] This series of statements by Hegel is the forerunner of the theory of contract and status formulated by Maine and implicit in Marx. In the status aspect of the theory there is no separation of the private and public spheres; in the community all is one in this regard; the external and internal necessities of social life, and the natural conditions of existence, are not opposed to each other, but are the subjects of the same modus of social activity. With the separation of social life into private and public spheres, the internal needs and the external means of their satisfaction are objectified, the former externalized and the others in consequence are to be internalized. The system of rights and obligations arises with the increasing articulation of the individual in society, the separation of the spheres, and the opposition of the external and internal social life. The opposition of rights and obligation in their formal, official and public aspects is thereby presupposed. (What has been omitted above is Hegel's passage from the separation of the public and private spheres to the State as their immanent end, wherein the State has its strength in the universality of the final end of the unity of the private spheres.) Hegel thereby assumed the State to be a category a priori, as did Austin, which is an anti-dialectical and hypostatical construction.

The State is an institution of society, but of a divided society; whereas Hegel conceived the State as a unity and the society within which it is

formed as the same, this is a subjective conception, according to Marx. Those who conceive of the State as having been developed in a divided society, but yet bridges over the division, must then recognize that the State cannot be successful in this because it is a unity pro forma. This follows from Hegel's notion that the public sphere is the external necessity of the private spheres. According to Hegel, the State is an immanent end of the latter, but the opposition of the actuality and the potentiality ought to have been developed at this point and in this connection; the State as the immanent end of the private spheres is their potentiality. But if the State is external to them, as their necessity, then it is not actually their immanent end; this externality must be first internalized in order to be immanent. Hegel did not state how this is to be done; his dialectic is defective because incomplete in this regard. Further, Hegel opposed civil to political society, or the State; systematic development of the doctrine of the life of man in civil society apart from his life in political society was set forth by Hegel; the economic institutions of society on the one side, the popular institutions as the nation on the other were separated from the State thereby.[118]

Because the State was not made the dependent of society by Hegel in this connection, he did not interpose the dialectic of contradiction of interest and counterposition of forces into the structure of society and the State; Hegel fell therefore into the contradiction of the non-actuality of the immanent, and the non-potentiality of the external. The contradiction is not overcome because no transition between them was indicated by Hegel.

Marx made the distinction between the private and public spheres on the basis of both his critique of Hegel's philosophy of law and the State (1843) and his analysis of Morgan; on the other hand, Morgan's identification of the relations between men in the condition prior to the development of *civitas*, or political society obscures two issues: social, including governmental, relations of the State, include the personal among others; the personal, the persona, as Marcel Mauss has shown, is solely a device of civilization. Maine's sequence from status to contract covers the same ground as the distinctions made by Hegel and Morgan, but Hegel counterposed the right to the obligation, in the separation of the private from the public spheres.

In developing the theory of the State in opposition to that of the Analytical School, Marx started from the premiss that there is an objective locus standi of society and of social institutions, which he had already asserted in opposition to Hegel: The interests of the individuals of the society are ranged, on one plane, either for or against that institution, but only in their public facies, whereas the State as such has no private interest, being wholly objective. The private interest, however, is at once subjective and objective, just as it is one and many. The

interest of the individual subjectivity is transformed into the objective interest of the collectivity, the social class, and is thereby transformed into a public interest, the society by this means being divided. The private sphere, again, is internally divided as the individual interest is transformed on the one hand into a public opposition of interests, for, the State being solely a public body, the subjective relations to it as interests must first be transformed into public and objective in order to interact with it, whether on its behalf or in opposition to it. On the other hand, the subjective and private interests continue as such, in their activity in society, in part in relation to the State, but in part on another plane. The State knows the individual only as a public and objective body, the individual knows the State both as a subjectivity and as an objectivity; thus, the relation of the individual to the State is reciprocal but it is not equivalent or balanced.

The collective interest of the particular individuals is the dual relation of the opposition of the individual interest versus the social whole on the one side, and the opposition of the interests of classes of individuals in the society, i.e., interests of the social collectivities, to each other, to the society and the State, to the individuals of the society, and between the individuals comprising the different collectivities on the other. The individual in the civilized condition has no social existence other than that as a member of one or another of these collectivities, save in marginal cases, or in the cases of those who consciously renounce that membership; the existence of the individual as a member of society is generally derived from the membership in the collectivity. The interest of the individual human being in the civilized condition is determined objectively by his relation to these collectivities, in their opposition to each other; the objective interests of the social class, and the individuals within it, are above all economically determined (Marx, Maine excerpts, p. 191). The subjective interest of the individual, and his composition as a subjectivity in relation to the objective determination, are matters calling for treatment in a context of their own.

Marx developed his theory of the formation of the State in connection with that of the collectivity of the individual interests in the social class. The transition from communal to civilized society is the period of accumulation of the total amount of property in society, as Morgan pointed out, and of its unequal distribution. Retention of property in private hands introduced a private interest as a dual separation: of right from obligation on the one side, and of the private from the public spheres on the other. The newly formed propertied class had a collective interest as a collective right and a disparate set of private interests separate from that of the collectivity of the class, hence an internally contradictory relation, which is resolved now on the side of the collectivity, now on the side of the individuality: this is the destruction of the collectivity. The

communal institutions, in the process of their dissolution, have given rise to the oppositions of private and public right on the one side, and private and collective interest on the other; together these oppositions have formed a set of conflicts in civilized society in its antagonistic internal composition, and its form of the State. The separation of private rights within one and the same social class thus calls for a dual activity of the State: the first is the subordination of all social classes to the organ of control of one, in which the political power is now formed and concentrated; at the same time, the State acts as the organ for the suppression of the opposed private rights and interests within the propertied class. The collectivity of that newly formed powerful class was caught in a double contradiction, the first of which is that the individuals can be opposed to each other in their rights, the second that their interests may be abstractly but are not necessarily the same as that of their social class concretely. Thus, that social class becomes the opposite of a collectivity, and the State, as its organ for the development of its rights and interests, becomes the opposite of a collective institution, rather it is a balance of conflicting forces which a leader such as Tarquinius Superbus, Cleisthenes or Ch'in Shih Huang Ti may achieve in the form of imposition from above.

The collectivity and the collective institutions of the newly formed propertied class evolved more rapidly than that of the immediate producers in the fields, peasantry and the like, in part because of the development of individual and oppositive interests which it contained. The communal institutions and interests of the past, both in the Orient and in the societies of classical antiquity, remained more closely bound to the social relations of the peasants, etc., than to the landowners, the urban rich, and other propertied segments of society. The newly formed collectivity of the large-scale property-owners was imperfect in the second place because it was dedicated to the principle that the defence of the private interest of the individual is his right, just as much as the defence of the private right is his interest. On the other hand, Hegel had conceived the political relation as the balance of right and obligation; in this matter, Marx had followed him. But the separation of the private right and interest from the public right and interest is a separation of the second order; it is predicated upon the primary separation of both the public and private from the communal. In the community the balance of right and obligation is a traditional development, whereas in the polity the balance must be redeveloped by appeal to force, to reason, to sentiment or disposition, and the like; in the latter case the balance becomes artificial, as a device of civilization. The public interest is a political fiction, the common interest is a fiction, by the same reason a fortiori.

The individual, under the political condition, has internalized his right

as his interest, partly together with the same internalization of the principle by the other members of the collectivity, and to this extent the given social class remains a collectivity; and partly against the other individuals and collectivities of the society, thus defeating that very collectivity which maintains his private right, and the public right of which, as the externalization of his own interest he, under the opposite conditions, maintains. The conflict of the internalized interest of the propertied class and its wholly external resolution in the form of the State is at once an objective and a subjective opposition of the individual in civilized society. The various moments of the dialectical process of State formation were posited in their separation and juxtaposition and in their subjectivity by Hegel in his *Philosophie des Rechts*, as had been pointed out by Marx in his *Critique* of 1843, and by Marx together with Engels in the *Heilige Familie* and the *Deutsche Ideologie*. In the latter, the thesis of the State as an independent formation and the mythical history of the State-community were criticized, and the relations between the real and the illusory interests broken down into their parts.[119] The newly introduced data and their systematization by Morgan gave Marx the occasion to return to the problem in the ethnological notebooks, to counterpose the objectivity to the subjectivity in their combination, which he made increasingly explicit in the excerpts from Morgan and in the reorganization of the Morgan materials; he then made his conception into an instrument in the notes and excerpts from Maine. Marx's reference to society and its State was made to elucidate the matter for its own sake, the exposition of the State as a social institution in the Maine excerpts was made both for its own sake and in order to refute the theory of the Analytical School. Engels brought in the objective side of the invention of the State as an institution of society through the introduction of the factor of accumulation of property; the subjective side was brought out by Engels as greed, the driving spirit of civilization.[120]

The State – early or late, it makes no difference – has as its object the regulation of conflicting interests of property both internally among its owners and as between them and society and the State; in this sense the State is the organ of dominance over the propertied class. The propertied interest is a contradictory one: on the one hand it is a relation of public obligation as a necessity, on the other it is an interest of private exception as a right. He who is with property wants a rule governing the payment of taxes or the regulation of commerce for others, a loophole for himself. During the period of the development of capitalism, the relation of landed, mercantile and manufacturing interests to public regulation (by the State and its organs of government) was a matter of the deepest consciousness: above all, in the doctrine of the categorical imperative of Immanuel Kant, and the political philosophy of Adam Smith, as in the Protestant ethic generally. The private interest has not internalized the

public, the subjective has not internalized the objective, nor has the public and objective interest brought about the externalization of the subjective and private.

The doctrine of the State set forth by Marx is in opposition to that of the Analytical School of John Austin and to the Historical School of Maine. Marx did not undertake a critique of the theory of Hobbes, which underlay that of Bentham and Austin. The critique of the Austinian (and by implication Benthamist) doctrine of the State is that Austin held the State to be unrelated to society, presupposed a priori; as such it is outside the development of society. On the contrary, Marx held the State to be a social institution which would disappear when society had reached a new stage (See Marx, *Critique of Gotha Program*, sect. 4; Drafts of Zasulich Correspondence).

On the one hand, the notion of the freedom of the individual in civilized society was counterposed by Hegel to that of the positive freedom of primitive man by Rousseau.[121] On the other, the doctrine of the origin of civilized society out of the communal life was counterposed to the doctrine of the social contract, according to which Hobbes, Spinoza, Locke, Pufendorf, Hume and Rousseau posited the individual as existing prior to society, and society as dependent for its foundation on the accord between individuals. But society, to the extent that it is mentioned at all in the latter doctrine, was an abstraction of the conditions required for the formation of the State, hence as an abstraction of the State. Society in the civilized state was taken primarily as political society, and the attention was withdrawn from social institutions other than those which led to the establishment of the State or were necessary to its functioning. The doctrine of the social contract posited at the same time an abstraction of man which had the force of law in particular societies; the abstraction is his reason and will, which made him a direct contracting party to the formation of the State. If according to Hobbes fear of pain is the force which drives man to form political society, then man is rational in the measures that he takes for its avoidance. Other determinants of society and of man were subordinated to those which culminated in the State, whereby reason and will were abstracted from their social contexts, and made up, at the same time, the abstract representation or composition of the human being.

The philosophy of the social contract was at once an extreme individualism and the abstraction of the State from society for the purpose of political construction, for of all the social institutions the State is the most specifically directive of man and society; the conception of the State is such that society is thereby subjected to the human decisive power, or will. Hume, Rousseau and Kant who altered the doctrine of the social contract, and of the law of nature which it presupposed, did not develop an empirical science of man. Although their alterations were made in the

light of increasing amounts of empirical data, yet they remained within the abstract and directive frame of political, juridical and legislative reference of the social contract. The writings of Vico, which express his notion of man's creation of mathematics, poetry and legislative acts; of Ferguson, which express the paradox of the nature of man as art, already incorporating the mediacy of man's relation to nature; of Herder, who conceived history as tradition, following Vico, and who withdrew human history from the political plan; of Franklin, in part by his notion of man the toolmaker, but more so by his practical ethic of work, helped to dissolve the political abstraction of man in relation to society. Adam Smith expressed his contempt of statesmen or politicians who were subjected to the fluctuations of momentary affairs.[122] The view of man taken by Rousseau was ambivalent, for he conceived man at one time as a political, at another as a social animal.[123] The extreme form of atomistic individualism of the social contract and of natural law, from which Rousseau was only liberated in part, was an abstraction, further, because man in the civilized condition is conceived by all who adhered to that doctrine as wholly subjected to the State, the mortal god, and none of man's social institutions falls outside its power. The opposite of the doctrine of the social contract was developed in the nineteenth century as the science or sciences of man became increasingly empirical, and at the same time fell increasingly under the influence of the natural sciences. The extreme atomism and the implied abstraction of man expressed in the doctrine of the social contract were called into question in part wittingly and in part implicitly by the communal doctrines of the nineteenth century which had their root on the one side in the empirical tradition of the natural sciences. Both the antiquity of man and his continuity with the rest of the natural order had been established by empirical observation, inference, doubt, etc., of geology, palaeontology, zoology and other means of the natural sciences of the time. On the one hand, the communal doctrine was embedded in this empirical tradition, on the other, it was opposed to the doctrine of individualism on ideological grounds. Individualists such as Spencer, Maine and T. H. Huxley did not deny the communal origin of civilization; at the same time they affirmed the evolution of man toward individualism, of which the foundation was the private ownership of property both for consumption and for further social production.

The individualism of the utilitarian doctrine of Bentham on the one side and the collectivism of the utopians Fourier, Pecqueur, Owen on the other were polarized in the political camps early in the nineteenth century, but their mutual opposition was not extended into the theoretical conflict over the origin of civilization. Saint-Simon who praised the capitalist practices in finance and transportation for their contributions to collectivist doctrine, Max Stirner (Johann Kaspar Schmidt) who confounded

anarchic individualism and the left-wing Hegelian direction to the cause of the people, John Stuart Mill who linked the individualism of Bentham to social reformism and to the collectivism of Auguste Comte, played ambiguous roles. The doctrine of individualism of Herbert Spencer, in which the last flicker of the social contract was detected by Ernest Barker, returned the polarizing tendency of the epoch to its normal course; at the same time Spencer wrote of the social organism as a collective entity, as had Comte before him. Spencer did not resolve this internal contradiction to his individualist doctrine.

Opposed to the internationalist and socialist collectivism was the notion which was developed in the romanticism of the late eighteenth and early nineteenth centuries, of the origin of the nation out of particular collectivist institutions and traditions. The separation of civil from political society in the Hegelian doctrine was taken as the juncture from which the two subsequent traditions of collectivity separated: the Hegelian right brought out the collectivity as the womb of the nation, the Hegelian left brought out the collectivity as the womb of all mankind. The Slavophiles, Russian conservatives, arose out of the nationalist doctrine, seeking the basis of their cultural unity and particularity in the rural social traditions.[124]

Maurer, Hanssen, Roscher, Tylor, Morgan, Kovalevsky, Laveleye, Geffroy, Viollet, Gierke, Waitz, Vinogradoff,[125] together with most of the socialists and anarchists of the nineteenth century maintained the precedence of the collectivist sequence both in time and as the conceptual building block of society; they did so for opposed reasons: Maurer and Gierke were conservative patriots and nationalists; the socialists and anarchists were internationalists and revolutionaries. Laveleye opposed Marx, joined himself to J. S. Mill, as Kovalevsky to Comte and Maine, but also sought Marx out.

The collectivist side was borne into the study of man in the twentieth century by the doctrines of Durkheim, Stein, Toennies, Frobenius, J. Kulischer, Bergson, and Kroeber.[126] The origin of the family out of the promiscuous horde, expressed by J. J. Bachofen, J. F. McLennan, Morgan, Engels, J. Atkinson was then taken up variously by the psychoanalytic schools of Sigmund Freud and Carl Jung. In the same period, Simkhovich, Kaufman, Chuprov and Kachorovsky collected evidence of the antiquity of the rural commune and its survival into modern times among the Russians and other peoples of the Russian empire.[127] Paul Lafargue, Karl Kautsky, Eduard Bernstein, and Heinrich Cunow developed this side of the evolution of the collectivity within the socialist camp.[128]

Baden-Powell opposed Maine's theory of the primacy of the collectivist institutions both on the ground that Maine's use of the evidence from India was partial and on the ground that collectivism as a social theory

had (to him) undesirable political implications.[129] Ratzel attacked the idea of primitive communal landownership as a generalization of science, in which he was followed by Schurtz. Pöhlmann attacked the thesis of primitive communism of property ownership proposed by the socialists on the one side and by Maine, Morgan and Kovalevsky on the other.[130] Dopsch had rejected the idea of the folk-association or collectivity, Markgenossenschaft. It was defended by J. Kulischer. The earliest expression of the theory of the Mark-association mentioned by Kulischer is that of the Dane, Olufsen (1821), followed by G. Hanssen. They were preceded by C. A. Van Enschut (1818), who wrote of the markgenootschappen of the Netherlands peasantry, and by Vuk Karadžić, who wrote of the Serbian zadruga in the same year; these two were followed by J. Csaplowics who described the same phenomenon of the South Slavs (of Slavonia and Croatia) in 1819.

An integral study of the development of the idea of the peasant commune in Europe and in Asia in the 19th century has not been undertaken; the doctrines of Karadžić and Csaplowics[131] remain to be combined with those of Van Enschut and Olufsen. As for the Asian side, the discussion of the peasant community was justifiably connected to that of the European peasants by Maine and others, but it was marred by presuppositions of a common Indo-European antiquity, with an undertone of race. The difficulties of the linguistic interpretations alone, setting aside the juridical, archaeological and other institutional or material presuppositions of that commonalty, have been set forth by E. Benveniste, who has shown that the Indo-European roots **dem-* 'family', and **demə-* 'build', are to be dissociated, with nothing but homophony in common; the roots have been incorrectly associated by identifying the kin group (which Benveniste takes to be the social group) with its material habitat or dwelling.[132]

Fustel de Coulanges had been an early opponent of the thesis of historical primacy of communal over individual ownership of the soil; in regard to Slavic antiquity, he was followed by J. Peisker. Durkheim in reviewing the controversy between Stanišić and Peisker on the proto- and early history of the zadruga supported the former against Fustel de Coulanges and Peisker. Durkheim held that Fustel de Coulanges was wrong in proposing that there is no historical trace of a period in which the soil is held in common by a local group, and that therefore it is untenable to conclude that individual ownership is the primordial form. Moreover, Durkheim considered Peisker's conception of society to be artificial, for the totality preceded the individual part, or was contemporary with it; the part does not precede the whole.[133]

The opposition of Kropotkin's collectivism to Huxley's individualism was recently brought out by Ashley Montagu.[134]

The controversy has not been exhausted, but has taken a different form in the past generation of anthropology in the west; on the other hand, it

has virtually disappeared from most other scholarly fields, although at one time philosophers, sociologists, economists took part in it. No recent expression on either side has been advanced with the confidence of the forerunners. Social Darwinism has been rejected as a biologism, together with the ethical trappings which it wittingly or unwittingly borrowed from the social doctrine of atomistic individualism of the preceding centuries. Since then the collectivists have added no new data or critical insights. The energies have been spent in the overcoming of ethnocentrism and avoidance of the chimeras of speculative reconstructions of the past; (Marx was particularly conscious of the methodological shortcomings of his contemporaries under these headings).

Unsolved problems of the history of the concepts of collectivity, collectivism, commune, community can be noted in past and current usages. The differences in their use not having been systematically examined, the concepts and terminology of socialism and communism present problems of meaning and derivation in consequence. The relations of communism to community or *Gemeinschaft* and of socialism to society or *Gesellschaft* are obvious, but they are not clear.

The primitive community as it was conceived by Marx established the content as well as the form of man's primordial existence and his consequent and subsequent social character. It is carried into the modern era by the primitive and the rural where these are opposed to the urban institutions of recent and current times. The communal institutions preceded the formation of political and of industrial society, and in that former period formed the urban institutions and their modes of production. At the same time these ancient rural communal institutions have provided a model even in distorted form for the formation of the rural institutions of socialist society and the character of the internal social relations of the non-rural social institutions. The ancient rural form of collectivity has determined the modern. But the relation of content to form in the past example differs from that of the modern, and the same criticism directed against the parallel between elections in ancient and in modern society by Marx applies to the concepts of democracy, community and collectivity. The relation of actual difference to potential unity varies likewise in reference to theoretical parallels drawn between cooperation for production and distribution in the ancient commune and the modern; the relation of content to form differs between the types of commune, the parallels being drawn upon the basis of form. (See Marx, *Ökonomisch-Philosophische Manuskripte* and drafts of letters to Zasulich.)

Marx examined the primitive and the Oriental and European peasant communities in the *Grundrisse*, the *Critique of Political Economy*, 1859, in the three volumes of *Capital*, and in the *Theories of Surplus Value*; of these, the most prominent are in the sections on commodities and exchange of the first volume of *Capital*. "In the modes of production of ancient Asia,

classical antiquity, etc., the transformation of product into commodity, and hence the existence of man as commodity producer, plays a subordinate role, which becomes more significant as the community enters the stage of its decline.... Those ancient social organisms of production are far more simple and transparent than the bourgeois, but they rest either on the immaturity of the individual man who has not torn free (losgerissen) from the umbilicus of the generic connection with others, or on the relations of mastery-servitude (Herrschaft-Knechtschaft). They are conditioned by a low stage of development of the productive powers of labor and the correspondingly constrained relations of man within their material process of producing their lives, hence their relations to one another and to nature."[135] His example of labor in common, that is, directly socialized, was taken not from the communes of the dawn of civilization, but from the undifferentiated patriarchal industries of the contemporary peasants.[136] At the same time he quoted in this connection what he had written in 1859 on the ancient community: "It is a ridiculous prejudice of recent times that the form of the natural common property is specifically Slavic, even exclusively Russian. It is the primeval form whose existence we can prove among Romans, Germans, Celts, of which a whole sample-card can also be found today with many examples, even though partly in a ruined state, in India. A more exact study of the Asian, particularly the Indian forms of common property would prove how, from the different forms of natural common property, different forms of its dissolution are produced. Thus for instance the various original types of Roman and Germanic private property are to be deduced from various forms of Indian common property."[137] The peoples specifically mentioned are all members of the Indo-European language family; their primordial cultural unity is presupposed, which was the combined cultural and linguistic presupposition of that time, still having force, however reduced, today, the presupposition being shared by Maine.

Both ancient and nineteenth century India afforded examples of communal ownership of property, the latter in a ruined state; this community of ownership evolved along different lines into the Germanic and Roman forms of private ownership. The evolution from communal to private forms is unilinear in the abstract, multilinear in the concretely different ways. Thus the thesis of the Morgan excerpts and notes of Marx was developed, in part, in 1859. The statement of the ruined state of the communal ownership restates the thesis of the travestied form of the nineteenth century peasant commune which had been mentioned in the Introduction to the *Grundrisse*; the *Losreissung* of the individual from the umbilicus of the community adumbrates the position developed in the Maine notebook. The reference to Herrschaft-Knechtschaft restates in Marx's terms the Hegelian position of social reciprocity in differentiation (*Phänomenologie des Geistes*). Marx wrote that the evolution of products

into commodities arises out of exchange between communities, not between members of the same community. This doctrine was incorporated into volume 3 of *Capital* by Engels in 1894, with the additional note by the latter that 'after the extensive investigation of the original community from Maurer down to Morgan, this is nowadays hardly disputed,'[138] in which Engels was perhaps optimistic; aside from that, however, if the theory of the evolution of commodities outlined by Marx is accepted, it is on another basis than that of Maurer-Morgan.

In the prehistoric community as well as in the historic peasant commune, labor is in common, that is, directly socialized (unmittelbar vergesellschaftet), whereas the collectivity that arises in the context and on the basis of industrial society, and which in turn provides its context and base, has the same form, labor in common, but it is indirectly socialized, for human relations to and in production are themselves mediated by the changed relations of industry to natural matter and energy, and by the changed relations of men to each other. The latter are complex, indirect, mediated by the complex organizational requirements, and the medium itself, which is the total industry in its complex organization, in turn imposes a new form upon collective labor. This form of labor can no longer be regarded as communal labor, labor in common. It is no more communal in the strict and ancient sense than the protohistoric or 19th century peasant labor was mediately socialized. The communal form in the strict sense had its own division of labor under the regime of age and sex differentiation,[139] which are directly biological (i.e. natural) determinants, to which such others as relative degree of health, and physical strength should be added, and race understood only in these senses. These factors become mediated in the industrial regime, just as animal and human muscle power is replaced by machinery and the increased technical control of natural forces and elements. The common labor of the family, the community, etc., was regarded by Marx as naturwüchsig, a natural growth; the labor in common is the natural form of labor and division of labor.[140] The commune, or community, is in this sense a natural growth. The relations between primitive and peasant man and nature and those between the natural form of the primitive and peasant family and community on the one side and the relations between industrial man and nature and those between men in the industrial collectivities are not absolutely but relatively different. The advanced industrial relations are found in the primitive and peasant condition as their potentiality; hence 'natural', 'nature', 'naturwüchsig' can only be taken in the figurative sense, for primitive men and peasants are no more natural than are those who can read and write.

The collective relations of society exceed the communal relations in magnitude or number, ambitus, variety, and complexity, regardless of whether the context is a predominantly peasant or urban-industrial

society, or whether it is socialist or capitalist in either case. The relation of the individual and society on the one side and the mutually antagonistic relations of the collectivities on the other cannot be separated from the political conflicts of western society which extend from 1789 down to the present; at the same time these conflicts obscure the individual and collective social relations. The praxis is the expression of the theory of the relations; it is at once the complication of the resolution of the conflict of the relations in theory and the sole means for their resolution as the realization of the potentiality of the unity of society. The potentiality of that unity lies in the negation of the actual privative relation. The form that the potential may take can be posited, the relation of the form to the content, as of the objective to the subjective side and the converse, however, can only be adumbrated.

There is little interest shown in empirical anthropology at present in the questions of the priority of the communal and the individual possession of the soil, or the origin of civilization out of the one or the other; likewise the question of the antecedence of the individual over society, whether as a logical or a chronological antecedence, is not often discussed. The manner of posing these questions is onesided; they are no more than half-questions. It is only by taking the individual in relation to society, the collectivity, or the primitive commune, and these in relation to the individual that the history and evolution of property, culture and civilization can be discussed at all.

7. RELATION OF ENGELS TO MARX AND MORGAN

Engels took up the primitive and communal institutions briefly in the writings of the 1840s (in conjunction with Marx: *The Holy Family*, *The German Ideology*, *The Communist Manifesto*), and in the last chapter of his *Anti-Dühring* (1878). On Marx's initiative he excerpted Bancroft in 1882. (See Addendum 2.) In his work on the *Mark*, Engels dealt with the organization of the ancient Germans according to kinship and common property, his source being Maurer, treating briefly the evidence of Caesar and Tacitus in regard to the communal property of the Mark associates or members, the long duration of the collective institution and the transition to private property in land in the nineteenth century (the Bavarian Palatinate was singled out by him). Engels dealt with Germanic antiquities in two longer manuscripts, but returned to the question of the Mark, its organization and membership, property ownership only for review.[141]

In the following year, while going through Marx's posthumous papers Engels came upon Marx's excerpts; this discovery is adumbrated in his preparation of the third edition of *Capital*: Marx had written ,"Innerhalb einer Familie, weiter entwickelt eines Stammes, entspringt eine natur-

wüchsige Theilung der Arbeit aus den Geschlechts- und Altersverschiedenheiten...." ("Within a family, and after further development within a tribe, there springs up a natural division of labour, out of the differences of age and sex....") Engels added the footnote to this, "Spätere sehr gründliche Studien der menschlichen Urzustände führten den Verfasser [des *Kapital*] zum Ergebniss, dass ursprünglich nicht die Familie sich zum Stamm ausbildet, sondern umgekehrt, der Stamm die ursprüngliche naturwüchsige Form der auf Blutsverwandtschaft beruhenden menschlichen Vergesellschaftung war, sodass aus der beginnenden Auflösung der Stammesbande erst später die vielfach verschiednen Formen der Familie sich entwickelten." ("Subsequent very searching studies of the primitive condition of man led the author [of *Capital*] to the conclusion, that it was not the family that originally developed into the tribe, but that, on the contrary, the tribe was the primitive and spontaneously developed form of human association, on the basis of blood relationship, and that out of the first incipient loosening of the tribal bonds, the many and various forms of the family were afterwards developed.")[142]

The later studies by Marx which Engels referred to were those which related to Morgan. Engels formulated the problem of his book on the *Origin of the Family* at the end of 1883, foreshadowed both by the footnote in *Capital* of November 1883, and his vain search for a copy of *Ancient Society* at the beginning of January 1884.[143] He prepared a synopsis of his own work, which at first bore the title *Entstehung* (Development or Formation) *der Familie*, etc., on the basis of Marx's notes, read both from these and from his synopsis to Bernstein who visited him at the end of February-beginning of March 1884. Engels acquired his own copy of Morgan's work later in March,[144] and finished the first eight chapters of the *Origin of the Family* two months later, reserving the last chapter for revisions[145] (which were never carried through: these are in connection with the critique of civilization by Fourier).[146] He considered that Marx himself wanted to introduce the work of Morgan to the Germans, and published the book in 'execution of a bequest', thus interpreting the design of Marx's notebooks.[147]

As the opening phrase of his *Origin of the Family*, Engels stated, "Morgan is the first who, with factual knowledge, sought to bring a definite order to the early history of mankind; so long as no significantly expanded material calls for changes, his classification will remain in force."[148]

Engels established his own relation to the work of Morgan on the one side and to that of Marx on the other. The following two tables will list the more important points of contact between Engels' work with that of Morgan, on the one hand, and with that of Marx, in this reference, on the other.

TABLE VI. *Principal References by Engels to Morgan*

Engels[a] p.	Morgan[b] p.	Key words
Preface, 1st ed.		Morgan and materialist conception of history Decline of Morgan's reputation Reconstruction of human prehistory
Preface, 4th ed.		Development of the Family – cf. Bachofen Opposition to McLennan; group marriage Iroquois and other evidence of theory of gens Critique of civilization – cf. Fourier
19-24	Preface, ch. 1	Stages of human progress
25f.		Iroquois family
26-28	Pt. III (p. 444)	Reconstruction of prehistoric family; theory of promiscuity
32-74	393 et seq.	Evolution of family
75-88	61-87	Iroquois gens
91	236	Grote[c]
91-92	239	Greek gens and Grote[c]
92	240	Marx's summary of Morgan on Greek gens
94	255	Gladstone
98ff.	263-284	Athenian State
114	293, 298	Roman gens
122	368f.	Scottish clan
109-111	283-352	Roman gens and State
ch. 9	passim	Barbarism and civilization
162f.	561f.	Property

[a] Engels, *Origin of the Family*, op. cit. Eng. tr. 1942.
[b] Morgan, *Ancient Society*, 1907.
[c] See Table I, note c.

Marx's strictures upon Morgan were generally passed over by Engels; alone Engels determined that Morgan went too far in regarding group marriage and the punaluan family as a necessary stage before the pairing family, in the light of later evidence.[149] Engels was also disposed more positively toward Bachofen and Maine than was Marx.[150]

Morgan counterposed the future of the liberty, equality and fraternity found in the ancient gens to the society of the present, its mere property career, and the unmanageable power of property.[151] This was a step forward from Ralph Waldo Emerson, who had also wished to transcend the reign of things, but had not conceived of the question of their ownership and accumulation. Engels quoted part of Marx's statement regarding antagonism of interest within the gens (Marx, Morgan excerpts, p. 79), but in connection with greed for riches which had begun to split the unity of the gens during the period in question.[152] Engels thus took up the subjective side of the question, while the relation of the two sides

TABLE VII. *The Utilization by Engels of Marx's Excerpts from Morgan*

Engels[a] p.	Marx[a] p.	Key words
19[b]	2	absolute control over food production
27	10	political, philosophical, etc. systems
35	96	Bachofen on punaluan lawlessness
50	57	Innate casuistry of man
51	16	Family and society in miniature
55	16	Earlier, women were freer
90[c]	68	Savage peeps through
91[c]	69	Gentes older than mythology
91	70	Pedantic philistines
92	71	Humbler gentes – cf. Grote; Morgan's reply to Grote (pedantic bookworms)
94	73f.	Gladstone and Yankee Republican
95[d]	74	The line about the scepter
95f.[e]	74	Sort of military democracy
150	79	Antagonism in gens

[a] Engels, *Origin of the Family*, Eng. tr., 1942. Morgan, *Ancient Society*, 1907. Marx, excerpt notes on Morgan.

[b] Insertion of „almost" by Engels reflects Marx's exclamation at the exaggeration.

[c] Engels here refers to Marx's paraphrase of Morgan, *Ancient Society*, pp. 228 and 234.

[d] Identified as a later added line by Eustathius. (Marx, Morgan excerpts, p. 74).

[e] Engels here reproduces Morgan's thought faithfully (cf. Morgan, *Ancient Society*, op. cit., pp. 126, 256, 259, 282).

was posited by Marx. Engels quoted Morgan about the deterioration of man by property and the hope of return to the ancient gens as his own peroration.[153] Bernstein characterized Morgan's work as being more like that of the socialist theoreticians of the period 1825-1840, i.e., the utopians: "He nowhere oversteps in principle the boundary which separates the average cultural historian from the representatives of historical materialism."[154] Bernstein's points are mutually contradictory, however. Morgan in truth does step over the boundary by his critique of the mere property career of mankind, hence is more than merely objective or distanced from his subject, which is implicit in the reference by Bernstein to the Durchschnitt der Culturhistoriker. But if Morgan's work resembles that of the utopian socialists, then it cannot be regarded as wholly objective. The counterposition to Bernstein's criticism of Morgan's pure objectivity is Morgan's interpenetration, however defective, of his scientific objectivity and his subjectivity, i.e., his hopes for the future. The defect in Morgan lies elsewhere: his objectivity is concrete, his subjectivity abstract. Thus, the dialectical passage in Morgan is one-sided and partially developed, but nevertheless exists, and had a positive response in Marx. Engels took up the line of criticism propounded by

Fourier; the other possibility raised by Bernstein is irrelevant. Yet Engels pointed only briefly to the collective institutions of social life and property in their primitive context, and even more briefly to the same in their modern context, being chiefly concerned with these in connection with their dissolution in the development of civilization. The dialectical passage of the collectivity into its opposite, the individuality-privativity, is implicit in Marx's attention to the given excerpts from Morgan; the nature of the collectivity in the dialectical passage from the privative was adumbrated by him in the ethnological notebooks and others of his writings. The excerpt from Morgan expressing the paramountcy of the social interest over the individual interest juxtaposes its antithesis to the unmanageable power of property and the evanescence of a mere property career. Engels expressed these points in their transition from one to the other in the last pages of *The Origin of the Family*; his thesis, also that of Marx and Morgan, was that man's character was laid down as a collective and social creature over a long evolutionary period, and that this character was distorted in the brief career of civilization. The thesis, with the exception of the factor of time depth, was that of Fourier as well.

Morgan had posited equality, democracy and universality of right as the measure against which the low position of the married woman, and the disharmony and injustice of civilized society under the regime of property is judged.[155] His perspective rested on the optimistic judgment that the property career contains the elements of self-destruction. It is an organicism, positing no specific mechanism whereby the inequity of rights and the disharmony of the civilized condition is to be overcome; it has remained an abstraction, without a concrete course of action. As such it has common features of the Hegelian historical entelechy, but since it is limited in its organicism without the critique of the latter as that had been posited by Hegel, Morgan's evolutionary progressism was already surpassed as an explanation of the rise of civilization in the generation prior to Marx.

The positivist criticism of Morgan's evolutionary doctrine of progress has rested primarily on its abstraction and its lack of concrete mechanisms of social development. Engels had in mind that further empirical data would cause the scientific categories and particular analyses of Morgan to be changed; but this would not change the perspective of progress which they shared. Engels did not overcome the objections to the utopianism and teleology of Morgan, nor did he overcome Morgan's utopianism and teleology within his *Origin of the Family*. Engels' dialectic here is the juxtaposition of Morgan's idea of the evanescence of property to the general and, in this case implicit, unexpressed perspective known to have been shared by Marx and himself. In the footnote and the end of his *Origin of the Family* Engels proposed that he would take up the critique of civilization in the line of Fourier's brilliancy.

Engels, in his 1888 edition of the *Communist Manifesto* commented on the opening sentence (see above, section 3, Marx's Excerpts from Maine), "That is, all *written* history. In 1847, the prehistory of society, the social organization existing previous to recorded history, was all but unknown. Since then, Haxthausen discovered communal landownership in Russia, Maurer proved it to be the social foundation from which all German tribes started historically, and gradually it was found that village communities with possession of the land in common were the primeval form of society from India to Ireland. Finally, the inner organization of this primeval communist society was laid bare in its typical form by Morgan's crowning discovery of the true nature of the gens and its place in the tribe. With the dissolution of these primeval communities, the division of society into separate and finally antagonistic classes begins." The same point was made by Engels in the fourth edition of *Socialism, Utopian and Scientific.*

Engels here made implicit reference to the unity of the peoples of Eurasia in the positing of a communal past, 'from India to Ireland'; implicit is also Maine's evidence thereof. On the other hand, Engels made explicit the theoretical presuppositions if not the factual evidence of Maurer and Morgan. The primeval communist society in question whose inner organization was laid bare by Morgan extended far beyond the ambitus, India to Ireland; indeed it could not have been posited at all on that restricted basis, since Morgan's conceptions rested precisely on the evidence of the middle and lower statuses of barbarism, which was not to be adduced in the culture area of the Old World whose arc was thereby described. On the contrary, the New World alone provided the evidence in that scientific era, for the development of the conception of the gens in its relation to that of society. There was not one society in question here, but many; there was nevertheless one mode of inner organization of these many societies which were identified in the various statuses of barbarism by Morgan. In this connection, Engels presupposed here a primeval communism of property ownership as a basis for the primitive community and the dissolution of both the property and the social relation in the transition to civilization. The relation of the abstraction, society, to its empirical concrescence, the societies undergoing a shared transition was the achievement of Marx, in his anthropology, over the period from the 1840s to the 1880s.

Marx worked out his system in regard to the transition of mankind from the primitive to the civilized social condition, but we can see no more than the outlines, taking as the basis of it the works that he chose for annotation and excerption, together with what is known of the scientific, political and historical positions of the authors, and the points he raised from their works. Morgan was his chief support, Maine his opponent; the comments regarding Phear and Lubbock round out these

outlines, but our depth is limited. Engels accords with the position of Marx in general, but there are significant differences between them; Engels was less deep and less precise than Marx; such was the self-estimation of Engels as well. The system of Marx is incomplete, for he only sketched in his originality, the points of difference with Morgan, and the system raised thereon; the points that he raised in regard to Maine are, in their negativity, more important because more extensive; they are less well-known hence in their subjectivity as well, in regard to the critique of the historical and analytical theories of the State and Law, of the Oriental commune and society, of the early history of the development of capital and landownership in the Occident, and of the origin of civilization. Above all, his empirical and philosophical anthropology in its relation to social critique and practice, and of the social critique in its relation to the latter are here presented from many new sides: the interrelation of the interest of society, collectivity, and individuality; the relation of these to the formation of civil and political society, and a position in regard to their outcome.

Marx wrote in 1844[156], "The greatness in the Hegelian *Phenomenology* and its end-result – the dialectic of negativity as the motive and generative principle – is thus, first, that Hegel grasps the self-generation of man as a process, the position of the object as its opposition (Vergegenständlichung als Entgegenständlichung), as alienation and as sublation (Aufhebung) of this alienation; that he grasps the nature (Wesen) of *labor* and conceives objective man, true because actual man, as the end-result of his *own labor*." (Vergegenständlichung is objectification, the positing of the object; Entgegenständlichung is both opposition, standing opposite, and disobjectification, the disembodiment of the object. We have understood *Wesen der Arbeit* as 'nature of labor' because labor as process has no Wesen (or essence, being as such) which exists independently of the process leading to the product, man himself, the object destroyed by its objectification.) Having posited the self-generation by man as the process of his own labor and as its product in consequence, Hegel then conceived man as a being with a history, or as a participant in temporal processes of which history is one. To this end, Marx comprehended man as social man first, as having no inner essence that stands outside time, hence as having no essence other than his relations in society and in social production, including the production of himself. These temporal processes, as self-generation, history, and the development of the relations of society, self, and history, are at the same time external and internal to man. They develop as the relation to inner needs and drives, as the relation of function to external form, as that of man to the natural world. Hegel

conceived the process as changing over time, and at once as temporality within itself, a non-organic entelechy.

Hegel's theory of change was conceived as an organic growth of a given form, the realization of potentiality by an internal process externalized as the negation of the anterior form of the same type, each antecedent bearing within itself the germ of its own suppression and transformation into the successive stage. It was not, however, a theory of the relations between typic or generic forms. Thus, Hegel did not conceive the process from without, as mediation worked upon the formal growth, hence he did not integrate the internal with the externally originating process into one, or the actual with the potential. In keeping with this we note that Hegel had formulated his notion of that which we have subsequently come to denominate as culture, both as the mediation of man and nature and the intermediation in the cultivation of the young; but he had not come to the conception of the evolution of the process, still less of the emergence on the earth of the culture by man as a separate phenomenon. Moreover, he separated the particular social mechanisms from his wholly organic evolutionary concept as an inner process. The mediation itself is subject to transformation by the relation of the particular to the whole; it is a temporal process; Hegel stopped short of this conception.

Morgan's theory of evolution, on the contrary, was wholly external, that which is brought about by mechanisms directing change from lower to higher stages through inventions and discoveries; human intelligence was likewise subject in its growth to the intervention of these mechanisms. Marx accepted from Morgan the notion of the gens as the social institution mediating, in the form of a bridge, the achievement of civilization. The gens was at the same time conceived by Marx as the generator in its decline of concrete mechanisms which accomplished the transition to civilization. Accumulation of property was the objective factor accounted for by Morgan in the decline of the gens and the transition to civilization. The dissolution of the gens is, however, but the heading under which the analysis is to be promulgated, which Marx then took up as a set of internal and external relations. As internal, it is the transformation in society of common relations to property into mutually antagonistic relations between the peasantry in their still communal institutions, on the one hand, and the private rights and respective institutions of the otiose landowners on the other. The forms of the collectivities, poor and rich, were different, the modes of internalization of the conflicting relations were different, and the rates of social evolution within the same group were likewise different. These social differences were therefore not expressed as conflicts directly until a much later time than their first appearance; the opposition is directly linked with the second dialectic moment, that of the social opposition between the individual private interests. Both moments provide the basis for the formation of the State

and its primary internal functions. Morgan's objective fact was thus differentially internalized by the social institutions.

Morgan's conception of the changing relations to property as a development of society was taken by Marx as common ground; Engels conceived this as the rediscovery by Morgan of the materialist interpretation of history. The common ground has since been overemphasized: the explicit optimism and utopism of Morgan was transformed by Marx into the social conflict in the state of civilization. There is a second reason for questioning the emphasis that has been placed upon the common ground between Marx and Morgan: The anti-teleological element in Marx's thought found support in his reading of Darwin, but thereby he separated the science of man from the science of nature, given both the respective states of both sciences and the separation of man in his actuality from nature. Marx criticized Darwin's use of the model of contemporary English society in the study of the animal kingdom.[157] From this it follows likewise that Morgan wrongly because onesidedly and too facilely proceeded from nature to man by application of the model in the inverse sense.

Marx expressed a scepticism regarding the scientific doctrines of Cuvier, Darwin, Lubbock, Morgan, among others. The objective side of this scepticism is the critique of the respective sciences as doctrines internally to the disciplines themselves, and externally in relation to their social etiology and inspiration. The internal side of the critique is the laying bare of their implicit organicism posited as generalities without concretion in identified empirical processes and methods for their observation, control, and the like. The negative side of this internal critique is the speculative reconstructions detected by him in Cuvier, Morgan, Phear. The external critique of the sciences has as its object the internalization effected, even by their best representatives, of the social prejudices, ethnocentrisms, uncritical borrowings of the preconceptions of their social origins, and the return to the society in question of the scientific conclusions in an altered form: evolution made over into evolutionism, a doctrine comforting and comfortable to the sustainers of the given civilization as the telos of evolutionary progress; the incorporation of the subjective values of the civilization as the end-result of the evolution as the ground for self-satisfaction. The past was reconstructed to these ends, strengthening by the moral means derived therein the dominance and exploitation of one nation by another; the forceful hand of the colonialists was supported by the scientific-pseudoscientific apparatus. Marx's reserve was, however, the withholding of total commitment, which did not diminish his recognition of scientific advancement in paleontology, systematic and evolutionary biology, ethnology and human evolution, and the contributions of the scientists mentioned above to one or another of these fields.

Anti-teleology in nature is interrelated with anti-necessitarianism in human history, each reciprocally presupposing the other. On the one side, moreover, the human is wholly comprised within the natural history; on the other, the matter of the form and the content of each is without difference from the other. On the human side, Marx's thought implicitly and explicitly opposed the painting of pictures of the future ('Zukunftsmalerei') as he opposed the fixity of process and determinacy of form into which a society develops (see note 89 of this Introduction).

Finally, Marx, having expressed these thoughts, buried them in his workroom. Yet their incomplete form has nevertheless indicated the transition of Marx from the restriction of the abstract generic human being to the empirical study of particular societies. The transition made by Marx is likewise that of the development of society and of anthropology in the same period. The posthumous publication of the ethnological parts of his notebooks forms a portion of Marx's legacy, at once continuous and discontinuous, posing anew the open questions of control of human development by human intervention, a wholly human teleology, and the natural science of man as its potentiality. The present generation bears an ambiguous relation to these questions; regarding the future of society, and the lessons to be learned from the past, we get no guidance save that which we can work out for ourselves.

ADDENDA

1. Chronology of materials in IISG Notebook B 146, containing excerpts and notes from Morgan, Phear and Maine; and Notebook B 150 containing excerpts and notes from Lubbock. (See below, note 15 for survey of notebooks.)

The materials were worked on in the order indicated. There is no direct evidence in the notebooks themselves or from correspondence, etc., when the work was begun. There is a direct indication relative to the dating of the close of the materials from Notebook B 146 which are dealt with in the present essay; the indication, while it is direct, is not entirely free of problems, and hence is not firm. Marx commented on an Irish Coercion Bill in Parliament in his notes on Maine, p. 192, i.e. five pages from the end, interpolating in that connection, "Dies geschrieben Juni 1888." It had been announced in January 1880 that a Coercion Statute then in force would be allowed to lapse on June 1, 1880. A new Coercion Bill was introduced by W. E. Forster, of the party of the viceroy of Ireland, in the British Parliament on January 24, 1881 and enacted on March 2, 1881, after strenuous parliamentary debate and public protest. "It practically enabled the viceroy to lock up anybody he pleased, and to detain him as long as he pleased, while the Act remained in force."[158]

The Notebook B 146 was filled seriatim, although number 144 was skipped in the pagination (but not the page – see the place and note 15). It has generally been held that this portion of the Notebook, with the exception of the notes from Hospitalier, was filled within a fairly short, consecutive period of time. It now must be considered that the time period in which the materials from Morgan, Phear and Maine (as well as Money and Sohm) as a whole were worked on was somewhat longer than that which has been accepted hitherto. Following the notes taken from Maine he included in Notebook B 146 in or about November 1882 those from Hospitalier's work on electricity, which had been published in 1881.[159]

As to when the sequence of the materials in this Notebook was begun, there is no direct evidence but only external and indirect indications that Marx worked on the first of the series, Morgan's *Ancient Society*, during the winter, and perhaps spring of 1880-1881. Vera Zasulich had written to Marx concerning agrarian problems and the village commune in Russia[160] in a letter dated February 16, 1881. Marx's reply is dated

March 8, 1881.[161] In a draft which was not sent off Marx wrote, "In a word, [the rural commune] finds [the modern social system] in a crisis which will end only by its elimination, by a return of modern societies to an 'archaic' type of communal property, a form in which – as an American author who is not at all suspected of revolutionary tendencies, supported in his work by the government in Washington, says – 'the new system' toward which modern society tends 'will be a revival in a superior form of an archaic social type.'"[162] [The American author, who is not mentioned by name, is L. H. Morgan, who wrote "It will be a revival, in a higher form, of the liberty, equality and fraternity of the ancient gentes."[163] This passage from Morgan is on the same page as that cited by Engels at the close of the *Origin of the Family*.] In the same draft of the letter to Zasulich, Marx wrote, "In [the time of Julius Caesar] the [arable] land was divided annually, but between gentes (Geschlechter) and tribus of the [different] Germanic confederations and not yet among the individual members of the commune." (The influence of Morgan's terminology can be seen here as well.) Marx also referred in this context to Maine on the commune.[164] Hyndman, an English socialist, recorded in his memoirs that he had visited Marx in London on several occasions during 1880-1881.[165] He wrote of these contacts, "Thus, when Lewis Morgan proved to Marx's satisfaction that the gens and not the family was the social unit of the old tribal system and ancient society generally, Marx at once abandoned his previous opinions based upon Niebuhr and others, and accepted Morgan's view."[166]

The generally reliable *Karl Marx, Chronik seines Lebens*, has given the chronology of the excerpts and notes from Morgan, Maine, Phear, Sohm (and Dawkins) by Marx as ca. December 1880 to ca. March 1881. The evidence cited by the editor of the *Chronik* for this dating is (a) the excerpts, dated therein 1880, and (b) Hyndman (see above).[167] The first bit of evidence is to be set aside for it is circular; the date 1880 is what was to have been proved. All that we can infer from the Hyndman testimony is that Marx had read the Morgan and perhaps the other works. From the evidence of the Zasulich correspondence, known to Adoratsky and the staff of the Marx-Engels-Lenin Institute, Moscow, but not cited by them in this connection, it is clear that Marx had read not only Morgan but also Maine in relation to the study of primitive society and the formation of political society out of the dissolution of the ancient gentes and communities. On internal grounds we infer that Marx had familiarized himself with the content of the Morgan work before setting out to excerpt it, for the act of changing the sequence of the parts implies a prior grasp of the whole. The mastery of the contents may have taken place immediately or long before the actual excerptions and notes. There is a limited amount of internal cross-reference in Notebook B 146 itself: explicitly to Morgan in the Maine excerpts, pp. 163 and 186; implicitly

to Morgan by reference to the Upper Status of Barbarism, a category of Morgan's, in the Maine excerpts, p. 166; and to the gens, presumably also with Morgan in mind (Maine excerpts, pp. 161, 178). Phear is implicitly referred to in the Maine excerpts, p. 162; Sohm is explicitly referred to, together with manuscript pages, Maine excerpts, p. 193. The internal evidence supports the conclusion that the contents form a coherent whole, that the sequence was orderly and not haphazard, and that the place of Morgan's ideas relative to those of Phear, Maine, etc., of Sohm in relation to Maine, and so on, was clear to Marx at this time. There is therefore no ground to differ from the chronology proposed by the editor of the *Chronik* regarding the commencement of the work in Notebook B 146, nor has any evidence been adduced since that time to conclude that this work was not carried on in a continuously organized fashion, which is implicit in the conceptions of Ryazanov and of Adoratsky. The only grounds for difference with the latter are the incompleteness of the evidence that Adoratsky and his staff introduced. That is, they knew of the Zasulich correspondence, which Ryazanov had published some five years earlier; and they had the Maine ms. of Marx in photocopy, for Ryazanov had brought this to Moscow as early as 1923.

If the date of December 1880 (approximately) is taken as the commencement of the Notebook B 146, then it follows that the excerpts from Maine, subject to the method of work set forth above, were being brought to a close in June 1881.

It is possible that we have to deal with the period from the winter 1879 through spring and summer 1880: the possibility of reading 'June 1880' for 'June 1888' is supported, at least theoretically, by the fact that a Coercion Statute was in force in England through June 1, 1880. Marx implied that there was a special significance to this date. It is more probable that he had reference to the Coercion Bill (of 1881) than to the Coercion Statute (of the preceding year), and we assume that he made but one error, that of the year, not of the month or decade. It follows that he had the events of January through March 1881 in mind, hence the pointedness of the reference to the month. (The possibility that we are dealing with a time period from December 1879 to June 1881 can be mentioned simply to touch one more possibility, but it is not a fruitful one to pursue, for it is too far from the implied method of Marx's work on these materials.)

Between the two possibilities, winter 1879 to summer 1880, and winter 1880 to summer 1881, there is a slight preponderance to the choice of the latter date. The choice is based on the consideration that the issues and contents of these excerpts were more directly reflected in Marx's scientific and political work of early 1881. Moreover, the dates of publication of the works excerpted (the Phear and Sohm publications are both dated 1880) tend to support the later date as well. Therefore we propose

that the parts of the notebook B 146 containing the excerpts from the works of Morgan, Money, Phear, Sohm, and Maine be provisionally assigned to the period between the end of the year 1880 and the middle of 1881.

The Russian language version of Marx's excerpts from Morgan, the work of the Marx-Lenin Institute, Moscow, contains the statement that they were in all likelihood made in the winter of 1880-1881.[168] No grounds are given to support this, nevertheless, it cannot be far from the truth, given the reservations noted above. The editors in the Institute of Marxism-Leninism in Berlin who are responsible for Marx Engels *Werke* have based themselves on the work of the parallel body in Moscow, but the former have proposed the dating 1881-1882 for Marx's work on Morgan,[169] giving no grounds for this changed chronology. There is a stylistic difficulty with the date 1881-1882: it places the activity of Marx in reference to Hyndman and Zasulich in the past, whereas the memoir of Hyndman in reference to Marx, and the concerns of Marx in the successive drafts to Zasulich give the impression of current matters. The editor of the *Chronik* has separated the work on Lubbock from that of Morgan, Maine, etc., by a year and a half.[170] The style and contents of the notebooks, insofar as these matters can be treated objectively, tend to support this separation. To argue ex silentio, i.e., that he did not mention Morgan or Maine to this person or that, in order to promulgate one chronology over another, is an idle speculation. To treat the matter of the chronology any further, in the absence of firm data, direct or indirect, is mere conjecture, which has, perhaps, already been spun out too far.

Marx returned to his work in ethnology late in 1882, adding the excerpts from the work of Lubbock.[170]

2. *Varia Concerning Marx's Ethnological Studies*

A. Christoph Meiners and Charles de Brosses

Marx read C. Meiners, *Allgemeine kritische Geschichte der Religionen*, 1806; he took it up first in 1842, and returned to it in 1852. Also in 1842 Marx read C. de Brosses, *Du Culte des Dieux fétiches*, 1760, in a German translation by Pistorius.[171] De Brosses combined a belief that man had degenerated from a higher state with his advocacy of the progression of mankind. He influenced the theorizing about primitive religion in the nineteenth century concerning fetishism,[172] while at the same time he expressed a critical attitude toward 'la folle imagination du fétichisme'. While neither the substance of his general theory of mankind nor his specific theory of fetishism had any obvious effect on Marx's thinking, nevertheless the formal category of fetishism, which may perhaps be attributed to de Brosses, played a minor role in Marx's *Grundrisse*[173] and a major role in *Capital*.[174] De Brosses' rationalism in regard to the primitive religion, but not to the religion of his own civilization, is out

of keeping with the 'objective' attitude prevalent among nineteenth century ethnologists with regard to the study of primitive man.[175]

B. W. Cooke Taylor

In May 1851, Marx took notes from W. Cooke Taylor, *The Natural History of Society in the Barbarous and Civilized State. An Essay Towards Discovering the Origin and Course of Human Improvement*, 2 v., 1840. (I owe this information to Mr. Harstick.) The work describes the stages of social advancement prior to the writings on social evolution here discussed; it is the precursor of the latter. In addition to the division of mankind into barbarism and civilization, the work divides the barbarous races into hunters, shepherds and agriculturists (ch. 9). Thus it is an early statement of the hunter-pastoralist-farmer sequence later advanced by Eduard Hahn and others. Phear in the Introduction to *The Aryan Village* adopted the same sequence (see n. 58). Tylor wrote of three stages, savagery, barbarism, and civilization,[176] as did Morgan. Hegel, *Philosophie der Geschichte*, mentions savage and barbarian peoples, but without developing this distinction.

C. Adolf Bastian

Marx in a letter to Engels, Dec. 19, 1860, wrote after referring favorably to Darwin, "Dagegen A. Bastian, '*Der Mensch in der Geschichte*' (3 dicke Bände, der Bursche junger Bremer Arzt, der mehrjährige Reise um die Welt gemacht) mit seinem Versuch einer 'naturwissenschaftlichen' Darstellung der Psychologie und psychologischen Darstellung der Geschichte schlecht, konfus, formlos. Das einzige Brauchbare darin hie und da ein Par ethnographische oddities. Dazu viel Prätention und schauderhafter Stil." The same ground is covered in a letter of Marx to Lassalle, Jan. 16, 1861.[177]

D. Marx and E. Ray Lankester

Lankester, a biologist, palaeontologist and Darwinist, was in close touch with Marx in 1880.[178]

E. Sir William Boyd Dawkins

According to the *Chronik*, Marx read and excerpted Dawkins, *Early Man in Britain and his Place in the Tertiary Period*, 1880.[179] Phear op. cit. used Dawkins' work in his Introduction; Engels used Dawkins as the basis for his unpublished work *Zur Urgeschichte der Deutschen*.[180]

F. Hubert Howe Bancroft

Engels in a letter to Marx, Dec. 8, 1882, wrote,[181] "In order to clear up the matter of the parallel between Tacitus' Germans and American Redskins, I have gently excerpted the first volume of your Bancroft." (Bancroft, *The Native Races of the Pacific States*, 5 v., San Francisco, 1874-1875; New York, 1874-1876.)[182]

The publication of Marx's ethnological manuscripts has the aim of reproducing the form and content of the materials as they were left by their author. For this reason, the materials from the notebooks follow the sequence in which they were left by him; details concerning that sequence are to be found in the Introduction, note 15. The accuracy of the transcription and reproduction of the materials is limited by human error, further by the difficulties inherent in the transfer of the writings from manuscript to typescript to printed page. While the reproduction of Marx's manuscripts has been as faithful as possible, departures from this aim have been conscious in certain cases:

1. Punctuation, including periods and commas, etc., has been occasionally inserted. Square and round brackets drawn by Marx have been closed where necessary, or made consistent, so that a bracketing introduced as round is closed as such, etc. These matters have been treated without further indication. An exception to this will be found in the Introduction, note 16: the matter of that note touches another corpus of Marx's manuscript materials; it was treated differently, and the difference is set forth in that place.
2. Marx's note-taking style included abbreviations standardized according to his practice: u. = und; od. = oder; d. = any definite article of the German language; dch = durch, ddch = dadurch; whd = während; it also included non-standardized abbreviations, word-shortenings such as elimination of vowels, reduction of consonant clusters, contractions, etc. Thus, bdtde = bedeutende; df, drf = darauf; flgde = folgende; v., vn = von; nothwdg = nothwendig; wdn = werden or wurden; wf, wrf = worauf; etc. Marx rendered 'wahrscheinlich' variously as whsclich, wrsclich, whrsclich, etc.; Gesellscft, Bildg, Verwandscft, Verwdtscft, have been left in the form in which they were found, the editor being persuaded that this will be generally obvious.

   Where there is reason to doubt whether the form of the shortened word will be readily understood, it has been either filled in by the use of angle brackets ⟨ ⟩ by the editor, or else it has been given in full within the text and annotated. More rarely, where a word appears to be wanting from a phrase, it has been filled in by the editor, again with the use of angle brackets. All square and round brackets found

in the texts here published are those of Marx (but see above, under 1). On the other hand, apart from Marx's texts, that is, in the Introduction, in the notes to the texts, and in the bibliographic section, editorial insertions in the texts and references, etc., have been made by square and round brackets.

3. Departures from Marx's forms have been noted in reference to the Morgan, Maine and Lubbock texts. This is the case also regarding that of Phear, save that, for reasons given in the editorial note to the Phear text, certain terms of Indic or of so-called Anglo-Indian provenience have been given uniform renderings without further annotation.
4. Paragraphing, spacing, and page format have been reproduced as Marx set them out, within the limitations noted above.
5. Alternative readings and difficult or illegible parts of the manuscripts are indicated in the notes to each text.
6. The text in the modern languages, which are chiefly German and English, has been left without substantive change, save as noted above. Citations from Greek and Latin authors of classical antiquity have likewise been left in their original form in the text, save where subsequent editions of the classical works have proposed changes of the forms in which Morgan, Maine, or Marx left them. Where the matter concerns other than a formal difference, and where it has some significance attached to it, this has been noted, but not in the cases of mere variations of form. These classical citations have likewise been translated into English in the notes to the texts. The citations and translations have been checked against some standard current edition, in most cases that of the Loeb Classical Library. In the case of Aristotle they have been checked against the edition of W. D. Ross.
7. References to Marx's text in the Introduction and Notes are by page number, following his sequence in the mss., which is indicated on the left margin of the page.
8. Underlinings, marginal and interpolated lines are reproduced from the manuscript insofar as it is feasible to do so.
9. The reproduction of the form of Marx's bibliographic notes from Excerpt Notebook B 146 (see above, Introduction, note 15) is discussed in the Notes appended to that bibliographic section.
10. Spelling of words has been left in the form that Marx gave, even though contemporary practice has since been changed, e.g., Theil, commandirt, Etablirung. Grammatical and syntactic constructions have been reproduced unchanged, likewise, unless noted otherwise, for these matters concern Marx's peculiar and characteristic shifts from German to English and vice versa. No attempt has been made to standardize differences between spelling practices in England and America (e.g., 'civilisation', 'civilization'); Marx accorded with either

practice; occasionally, it is difficult to decide between alternatives in the manuscripts; such matters have been left without notice.

Marx wore his erudition lightly. The references to the Bible, to Shakespeare and to Don Quixote need no comment; Pecksniff, in *Martin Chuzzlewit* of Charles Dickens, needs no more comment than that.

Where Marx has not supplied enough information to provide ground for firm identification of a work, as in the references to Frédéric Le Play, Achille Loria, Francis Parkman, Ernest Renan, James Anderson, James MacPherson, i.a., some bibliographic indications are offered, but marked as conjectural.

PART I

MARX'S EXCERPTS FROM LEWIS HENRY MORGAN, *ANCIENT SOCIETY*

Lewis H. Morgan: „Ancient Society". London 1877.

Part I. Ch. I.

I) Growth of intelligence through inventions and discoveries.

I) Period of Savagery

1) Lower Status. Infancy of human race; living in their original restricted habitat, subsisting upon fruits and nuts; in this period commencement of articulate speech; ends with acquisition of fish subsistence and knowledge of use of fire. No tribes in this condition to be found in historical period of mankind.

2) Middle Status: commences with fish subsistence and use of fire. Mankind spread from original habitat over greater portion of earth's surface. Such tribes existing still, f.i. the Australians and greater part of the Polynesians, when discovered.

3) Upper Status: commences with invention of bow and arrow, ends with invention of art of pottery. In this state the Athapascan tribes of the Hudson's Bay Territory, the tribes of the valley of Columbia and certain coast tribes of North and South America; with relation to the time of their discovery.

II) Period of Barbarism

1) Lower Status begins with art of pottery. First distinct status (middle) commences with the unequal endowment of the 2 hemispheres, eastern and western; also to adopt equivalents. In Eastern hemisphere the domestication of animals; in the Western the cultivation of maize and plants by irrigation, together with use of adobe-brick and stone in house building. Examples in lower status f.i. the Indian tribes of the United States east of the Missouri river, and such tribes of Europe and Asia practising pottery, but were without domestic animals.

2) Middle Status commences in Eastern hemisphere with domestication of animals, in the Western with cultivation by irrigation and the use of adobe-brick and stone in architecture; ends with the process of smelting iron ore. In this state f.i. the village Indians of New Mexico, Mexico, Central America, Peru and tribes in the Eastern hemisphere possessing domestic animals, but without knowledge of iron. Ancient Britons belong here; they knew the use of iron and other arts of life far beyond the state of development of their domestic institutions — thanks to the vicinity of more advanced continental tribes.

3) Upper Status. Commences with the smelting of iron ore, use of iron tools etc., ends with the invention of a phonetic alphabet, and the use of writing in literary composition. In the upper status of Barbarism the Grecian tribes of Homeric age, Italian tribes before the founding of Rome (?), the German tribes of Caesar's time.

III Period of Civilisation.

Begins with phonetic alphabet [illegible] and production of literary records; as equivalent — hieroglyphical writing upon stone.

Ad: Pottery especially to II Period (1)

Flint and stone implements older than pottery, found frequently in ancient repositories without pottery. Evidence of this, commencement of village life, with some degree of control over subsistence, wooden vessels and utensils, finger weaving with filaments of bark, basket making and bow and arrow anterior to pottery. Some well established tribes are Athapascans, the tribes of California and of the valley of Columbia. Pottery unknown in Polynesia (except the islands of the Tongans and Fijians), in Australia, California and the Hudson's Bay Territory. Tylor remarks, „the art of weaving unknown in most of the islands away from Asia" and „in most of the South Sea islands there was no knowledge of pottery".

Flint and stone implements gave the canoe, wooden vessels and utensils, and ultimately timber and plank in house architecture. Cooking of food without pottery was rudely accomplished in baskets coated with clay, and in ground cavities lined with skin, the cooking being effected with heated stones.

The village Indians — such as Zuñians, the Aztecs and Cholulans (in Period II (2) status) manufactured pottery in large quantities, and in many forms of great excellence; the partially village Indians of the U.S. in Period II (1) were Iroquois, Choctas, Cherokees made it in smaller quantities in limited number of forms.

Goguet — cited ... relates of Capt. Gonneville visiting the southeast coast of South America in 1503, that he found „their household utensils of wood, even their boiling pots, but plastered with

1 *Lewis H. Morgan*:[1] "*Ancient Society*". *London 1877.*
Part I.[2] Ch. *I.* A) I) *Growth of intelligence through inventions and discoveries.*

I) *Period of Savagery.*

1) *Lower Status.* Infancy of human race; lives in its original restricted habitat; *subsists upon fruits and nuts;* in this period *commencement of articulate speech;* ends with *acquisition of fish subsistence* and *knowledge of* use of *fire.* No tribes in this condition to be found in *historical period of mankind.*
2) *Middle Status:* commences mit *fish subsistence* and *use of fire.* Mankind spreads from original habitat over greater portion of earth's surface. Such tribes existing still, f.i. the *Australians* and *greater part of the Polynesians*, when discovered.
3) *Upper Status:* commences with *invention of bow and arrow*, ends with *invention of art of pottery.* In this state the *Athapascan tribes* of *the Hudson's Bay Territory*, the tribes of the *valley of Columbia* u. certain *coast*[3] *tribes of North* and *South America;* with relation to the time of their discovery.

II) *Period of Barbarism*

1) *Lower Status* begins with *art of Pottery.* Für d. flgde status (middle) comes in Betracht the *unequal endowment of the 2 hemispheres*, western and eastern; aber to *adopt equivalents.* In *Eastern hemisphere* the *domestication of animals*, in the *Western* the *cultivation of Maize and plants by irrigation*, zugleich mit *use of adobe-brick* and *stone in house building.* Im lower status z.B. the *Indian tribes of the U.St. east of the Missouri river*, and *such tribes of Europe and Asia* practising *pottery*, but were *without domesticated animals.*
2) *Middle Status.* Commences in Eastern sphere with *domestication of animals*, in the *Western* with cultivation by irrigation and the use of adobe-brick and stone in architecture; ends with *the process of smelting iron ore.* In this state f.i. the *village Indians of New Mexico*, *Mexico*, *Central America*, *Peru* u. *tribes* in *the Eastern hemisphere* possessing domestic animals, but *without knowledge of iron. Ancient Britons* belong hierhin; they knew the *use of iron* and other arts of life – far beyond the state of development of their domestic institutions – thanks *to the vicinity of more advanced continental tribes.*
3) *Upper Status.* Commences with the smelting of *Iron Ore*, *use of iron tools* etc, ends with the *invention of a phonetic alphabet*, and the use of writing in literary composition. In the *upper Status of Barbarism* the *Grecian tribes of homeric ages*, *Italian tribes before the founding of Rome* (?), the *German tribes of Caesar's time.*

III) *Period of Civilisation.*

Begins with *phonetic alphabet* and production of literary records; as *equivalent – hieroglyphical writing upon stone.*

Ueber Pottery specially to II Period. (1)

Flint and stone implements älter als *pottery*, found frequently in ancient repositories *ohne pottery*. Eh diese erfunden, commencement of *village life*, with some degree of control over subsistence, *wooden vessels* u. *utensils*, *finger weaving* with *filaments of bark*, *basket making* u. *bow u. arrow* vor appearance of pottery. Diese nicht z.B. bei d. *Athapascans*, the *tribes of California* u. of the *valley*[4] *of Columbia*. It was unknown in *Polynesia* (except the islands of the *Tongans u. Fijians*), in *Australia*, *California* u. the Hudson's Bay Territory. *Tylor* bemerkt, dass d. "*art of weaving* unknown in most of the *islands away from Asia*" u. "in *most* of the *South Sea islands there was no knowledge of pottery.*" *Flint* and *stone implements* gave the *canoe*, *wooden vessels* and *ustensils*, and ultimately *timber and plank* in house architecture. Boiling of food – vor pottery – rudely accomplished in *baskets coated with clay*, and in *ground cavities lined with skin*, *the boiling being effected with heated stones.*

The *village Indians* – wie d. *Zuñians*, *the Azteks* u. d. *Cholulans* (in *Period II*, (2) *state*) manufactured *pottery* in large quantities, and in many forms of great excellence; the partially *Village Indians* of the U.St. in Period II (1) wie d. *Iroquois*, *Choctas*, *Cherokees* made it in smaller quantities u. limited number of forms

Goguet[5] – in last century – relates of Capt. Gonneville visiting the South east coast of South America in 1503, that he found "their *household ustensils*
2 of wood, even their boiling pots, but plastered with | a *kind of clay*, a good finger thick, which prevented the fire from burning them" u. nach *Goguet*[5] daubed d. wooden combustible vessels mit clay to protect them ⟨from⟩[6] fire, till *they found that clay alone would answer the purpose*, and "*thus the art of pottery came into the world.*"

Nach *Prof. E. T. Cox* of Indianapolis, the analyses of "ancient pottery"[7] ...belonging to the *mound-builders age*, are composed of *alluvial clay and sand*, or a mixture of the former with pulverized fresh water-shells.

Development in different tribes u. families.

Einige so geographisch isolirt, dass sie selbstständig d. verschiednen Phasen dchlaufen; andere adultera⟨te⟩d dch *external influence*. So *Africa* was u. is an[8] *ethnical chaos of savagery u. barbarism; Australia u. Polynesia* were in savagery, pure and simple.

The *Indian family of America* – unterscheidet sich dadurch v. jeder andern existirenden – stellten *condition* of mankind in *three successive ethnical periods*

dar. When discovered, stellten sie jede der 3 conditions dar u. namentlich *lower u. middle status of barbarism* more elaborate u. complete als irgend andre portion of mankind. D. *far Northern Indians* u. *some of the coast tribes of North and South America* were in the *Upper Status of Savagery;*
the partially *Village Indians east of the Mississippi* were in the *Lower Status of Barbarism,*
the *Village Indians of North and South America* were in the *Middle* Status.

Part I. Ch. II. Arts of Subsistence.
Upon their (men's) skill in this direction – *arts of subsistence* – the whole *question* of human *supremacy on the earth* depended. Mankind are the only beings who may be said to *have gained an absolute control* (?!) over the production of food. (19) The great epochs of human progress – identified, more or less directly, with the *enlargement of the sources of subsistence.* (l.c.)
1) *natural subsistence upon fruits or roots on a restricted habitat.* Primitive period, invention of language. Such kind of subsistence unterstellt a tropical or subtropical climate. Fruit and nutbearing forests under a tropical sun. (20) Were at least partially *tree-living* (auf Bäumen lebend) (*Lucret. de rerum natura* lib. V)[9]
2) *fish subsistence;* first *artificial* food, not fully available without cooking; *fire* first utilized for this purpose – [*hunt for game* too precarious ever to have formed an exclusive means of human support.] Upon this species of food mankind became independent of climate and locality; by *following the shores of the seas and lakes,* and the *courses of rivers* could, while in the savage state, spread over the greater portion of the earth's surface. Of the first of these migrations ... abundant evidence in the remains of flint and stone implements found upon all the continents. In Interval bis zur nächsten period important *increase* in the *variety and amount of food; bread roots* z.B. cooked in ground ovens; *permanent addition of game* through *improved weapons,* especially the *bow and arrow;* dies kam *nach spear* u. *war club;* gab the first deadly weapon for the hunt, appeared late in savagery; Bezeichnet (*Bogen u. Pfeil*) the *upper status of savagery,* adds *iron sword* to barbarism, *firearms* to the period of civilisation. *Bow u. arrow* were *unknown* to the *Polynesians* in general, and to *the Australians.* (21) (22)
In Flge d. precarious nature of all *these sources of food, outside* of *the great fish areas, cannibalism* became the resort of mankind. The *ancient universality of this practice* is being gradually demonstrated. (22)
3) *Farinaceous food through cultivation.*
D. *cultivation of cereals* scheint unbekannt gewesen zu sein im *lower* u. *bis nah zum Ende d. middle status of barbarism* ... in der *Oestlichen Hemisphäre den tribes of Asia u. Europe.* Dagegen im *Lower Status of barbarism* in d. *Westlichen Hemisphäre* bekannt den *American aborigenes;* sie hatten *horticulture.* Beide Hemisphären ungleich endowed by nature; d. *Oestliche* besass *alle Thiere,* save one, *adapted to domestication,* u. a *majority of cereals;* the *Western*

had *one cereal* (*Maize*) fit for cultivation, but that the best. Gave the advantage of condition in this period den American aborigenes. Aber als d. most advanced Eastern tribes, *at the commencement of the middle period of barbarism*, had *domesticated animals giving meat and milk*, without a knowledge of the cereals, ihre condition much superior to that of the American aborigenes mit *maize u. plants*, aber *ohne domesticated animals*. Mit d. *domestication of animals* scheint *differen(tia)tion der Semitic u. Aryan families*
3 heraus aus der Masse der Barbaren begonnen zu haben. | Dass d. *discovery* u. *cultivation of cereals* dch d. Aryan family *später als domestication von animals* beweisen *common terms for these animals* in the *several dialects* der Aryan language, and *no common terms for cereals* or *cultivated plants*. ζέα (einzige dieser Worte), philologisch = Sanscrit *yavas* (bdtet in Indian *barley*, in *Greek* "spelt").

Horticulture preceded field culture, as the *garden* (*hortos*) das field (ager); the latter *implies boundaries*, the former signifies directly an "*inclosed field*." [*hortus* an *inclosed place for plants*, hence a garden; from the same root *cohors* (auch *cors*, in einige Mscpte *chors*) a *yard*, a place walled round, a court, (auch cattle-yard); cf. *gr.* χόρτος, χορός; lat. *hortus; german. garten*, engl. *garden, yard* (*ital. corte, french* cour,[10] engl. *court*) (*ital. giardino, sp. u. french* jardin).

Tillage muss aber älter sein als d. *inclosed garden; erst. tilling of patches* of *open alluvial land*, 2) *enclosed space of gardens*, 3) *field* by means of the *plow drawn by animal power*. Ob d. Cultur solcher plants wie *pea, bean, turnip, parsnip, beet, squash* (Kürbisartige Frucht bei Massach. Indians) u. *melon*, one or more of them, preceded the cultivation of the cereals, wissen wir nicht. Einige v. diesen haben common terms in Latin u. Greek, aber keines davon common term mit Sanskrit.

Horticulture in[11] Östlicher Hemisphere seems to have originated more in the *necessities of the domestic animals* than of those of mankind. Commences in the Western hemisphere mit *Maize;* led in America to *localization and village life;* tended bes. under the *village Indians* to take the place of fish and game. V. cereals u. cultivated plants mankind obtained the first impression of the possibility of an abundance of food. – Mit farinaceous food verschwindet cannibalism; it survived in war, practised by war parties unter d. American aborigenes in the *Middle Status of barbarism* z. B. unter *Iroquois* u. *Azteks;* but the general practice had disappeared. (Wde in savagery practicirt upon *captured enemies* u. in times of famine upon friends and kindred)

4) *Meat and Milk Subsistence. Absence of animals, adapted to domestication* in *Westlicher Hemisphäre* ausser *Llama*. D. early *Span. writers* speak of a "*dumb dog*" *found domesticated* in the *West India Islands*, ditto in *Mexico* u. *Central America*, sprechen auch von *poultry* u. *turkeys* on the American continent; the *aborigenes had domesticated the turkey* u. d. *Nahuatlac tribes some species of wild fowl.*

Diese Differenz u. d. specific differences in the cereals beider Hemisphären producirte essential difference with *that portion* ihrer inhabitants who had *attained to the Middle Status of Barbarism.*

The domestication of animals provided a permanent meat and milk subsistence; tribes, die sie besassen, differentiated v. d. mass of other barbarians. D. *Village Indians* ungünstig the limitation upon an essential species of food; haben *inferior size of the brain* verglichen mit d. *Indians in the Lower Status of Barbarism.*

Vorzüge der *Aryan u. Semitic families* dch maintenance in number of domestic animals. D. Greeks milked their *sheep* as well as their cows u. goats (*Ilias* IV, 433)[12] Aryans to noch greater extent als Semites.

Domestication of animals – in östl. Hemisphäre – gradually introduced *pastoral life*, upon *the plains of the Euphrates* and of *India* u. d. *steppes of Asia;* on the confines of one or the other of which the domestication of animals first accomplished. Sie kamen so ⟨nach⟩[13] *regions, die, so weit entfernt d. cradle lands der human race zu sein*, were areas they would *not have occupied as savages or barbarians in the Lower Status of barbarism, to whom forest areas were natural homes.* Nachdem sie sich gewöhnt an pastoral life, unmöglich for either of these families to *reenter the forest areas of Western Asia and of Europe with their flocks u. herds*, without first learning *to cultivate some of the cereals* with which to subsist the latter *at a distance from the grass plains.* Sehr probable *that the cultivation of the cereals originated in the necessities of the domestic animals*, and in connection with these western migrations; and that the use of farinaceous food by these tribes was a consequence.

In d. *Western Hemisphere* d. aborigenes advanced generally into the *Lower Status of Barbarism*, u. ein Theil davon in *Middle Status* ohne domestic animals, *ausser Llama in Peru*, u. upon a *single cereal, maize*, mit d. adjuncts of *bean, squash* u. *tobacco* u. in some areas *cacao, cotton* u. *Pepper.* "*Maize*", from its *growth in the hill* – which favoured direct cultivation – from its *useableness both green and ripe*, from its *abundant yield* u. *nutritive properties*,[14] was a richer endowment in aid of early human progress als all other cereals together; hence remarkable progress d. American aborigines *ohne domestic animals;* the *Peruvians produced bronze* which stands next to the *process of smelting iron ore.* |

4 5) *Unlimited subsistence through field agriculture.* The *domestic animals* supplemented *human muscle* with *animal power*, new factor of the highest value. Später *production of iron* gab *Pflug mit an iron point* u. a better *spade and axe.* Mit diesen u. aus d. früheren horticulture, came *field agriculture* u. damit *zuerst unlimited subsistence.* D. *plow drawn by animal power;* damit entsprang thoughts of *reducing the forest* and *bringing wide fields into cultivation.* (*Lucret. v. 1369*) *Dense population on limited areas became possible.* Vor field agriculture schwerlich dass ½ Million Menschen held together u. developed under one government in any part of the earth. Wo exceptions, they must have resulted *from pastoral life on the*

plains od. von *horticulture improved by irrigation*, under peculiar u. exceptional condition.

Morgan theilt d. Familienformationen (p. 27, 28) ein in:

1) *Consanguine family; intermarriage of brothers and sisters in a group;* darauf founded (u. dient jetzt als *evidence davon*) das *Malayan system consanguinity.*
2) *Punaluan family;* name derived von d. *Hawaiian* relationship of *Punalua.* Founded upon the *intermarriage of several brothers to each others' wives in a group; and of several sisters to each other's husbands in a group.* "Brother" includes the first, second, third, and even more remote cousins, all considered as brothers; u. "sister" includes first, 2nd, 3d, and even more remote female cousins, all sisters to each other.[15] Auf this form of family ggründet the *Turanian u. Ganowànian systems of consanguinity.* Beide Familienfor⟨m⟩en gehören zu *period of savagery.*
3) The *Synd⟨y⟩asmian family;* von συνδυάζω [⟩*paaren* (συνδυάς gepaart *Eur.*) *Passiv: sich paaren od. begatten Plato, Plutarch*] [συνδυασμός Paarung, Verbindung Zweier. *Plutarch.*] Founded *upon the pairing of a male and a female* under the form of marriage, aber *ohne an exclusive cohabitation,* ist germ der Monogamian family. Divorce or separation at the option of both husband u. wife. Dies⟨e⟩ Familienform gründet *kein besondres Verwandtschaftssystem.*
4) *The Patriarchal family;* founded upon the *marriage of one man to several women.* In *Hebrew pastoral tribes* the *chiefs and principal men* practiced polygamy. Little influence on mankind for want of universality.
5) *Monogamian family; marriage of one man with one woman, with an exclusive cohabitation;* preeminently the *family of civilized society, essentially modern.* Auf diese Familienform gegründet *an independent system of consanguinity.*

Part III. Ch. I The ancient family.

Allerältestes: *Hordenwesen mit promiscuity;* no family; hier kann nur *Mutterrecht* irgdwelche Rolle spielen.

Die Verwandtschaftsysteme gebaut auf *different types of family;* ihrerseits wieder *evidence* für Existenz d. letzteren, die sie überleben.

D. *älteste system of consanguinity,* bis jetzt entdeckt, found unter d. *Polynesians,* wovon d. *Hawaiian* als typical genommen, Morgan nennts d. *Malayan system.* Hier alle consanguinei fallen unter d. relationship *parent, child, grandparent, grandchild, brother u. sister;* keine andre *Blutverwandschaft;* ausserdem d. *marriage relationships.* Dies system came in with the "*consanguine" family form* u. beweist deren alte Existenz; d. system prevailed sehr allgemein unter den *Polynesians,* obgleich d. family unter ihnen übergegangen aus *consanguine form in punaluan.* Letztere von ersterer nicht genug *verschieden,* um eine *Modification* d. auf erstere gegründeten Verwandtschaftssystems zu produciren. *Intermarriage zwischen brothers u. sisters* noch nicht gz verschwunden aus d. *Sandwichinseln,* als amerik. Missionäre

sich vor 50 Jahren dort etablirten. Muss auch in *Asien* geherrscht haben, weil es d. Basis des dort noch existirenden *Turanian system.*

Turanian system war allgemein unter d. nord*amerik. aborigenes* u. hinreichend auch in *Südamerika* nachgewiesen, found in parts *of Africa*, wo jedoch unter dessen tribes Verwandtschaftssystem sich mehr dem Malayan nähert. *Turanisches System* noch prevailing in *Südindien* unter d. Hindus der *Dravidian language* u. in modificirter Form in *Nordindien* unter d. Hindus sprechend *dialects der Gaura language;* also in *Australien* in partially developed form. In d. *principal tribes der Turanian* u. *Ganowanian families* producirt dch *punaluan marriage in the group* u. d. *organization into gentes,* tending to repress consanguine marriage, by | *prohibition of intermarriage in the gens*, wdch *own brothers u. sisters von marriage relation ausschloss.*

The *Turanian system* recognizes all the relationships known under the *Aryan system*, aber auch diesem unbekannte. In familiar u. formal salutation the people address each other *by the term of relationship*, nie *by the personal name;* wo keine relationship exists dch "*my friend.*"

Bei Entdeckung d. American aborigines war d. *family* aus d. *punaluan* in ihre *synd⟨y⟩asmian form* überggen; so dass d. *relationships recognized by the system of consanguinity* in zahlreichen Fällen *nicht die waren die wirklich in d. synd⟨y⟩asmian family* existirten; aber ebenso hatte *Malayan system of consanguinity* überdauert *den Uebergang dr consanguine family in die Punaluan.* Gradeso überdauerte *Turanian system of consang.* den Uebergang der *punaluan family* in d. *synd⟨y⟩asmian.* D. *Familienform* variirt schneller als *systems of consanguinity which follow to record the family relationships.* D. *organization in gentes* war nöthig to change the *Malayan system* in d. *Turanian; property in the concrete*, with its *rights of ownership u. inheritance*, war nöthig, zusammen *mit d. monogamian family which it created*, to overthrow the *Turanian system* of consanguinity and substitute the *Aryan.*

The *Semitic*, *Aryan od. Uralian system* of consanguinity – defining the *relationships in the monogamian family* – war nicht *based upon the Turanian system*, wie dies war upon *the Malayan*, sondern *superseded it* among *civilized* nations.

Von den 5 family forms haben 4 existed in d. *historic period;* nur d. consanguine disappeared; can aber be deduced v. d. *Malayan system of consanguinity.*

Marriage between single pairs had existed from the older period of barbarism; under *the form of pairing* during the pleasure of the parties; wurde stabiler mit *advance of society*, mit progress dch inventions and discoveries into higher successive conditions. Man began to exact fidelity from the wife, under savage penalties, but he claimed exemption for himself. So unter den *Homeric Greeks.* Ftschrtt v. *Homerisch. Zeitalter bis* dem von *Pericles*, with its gradual *settlement into a defined institution.* So moderne Familie höher als griech. u. röm;[16] *Geschichte* dchgemacht in histor. Zeit von 3000 Jahren dch d. *monogamische Familie u. Ehe.* D. Fortschritt d. alten

complicirten "*conjugal*" *system* besteht in seiner successive *reduction*, bis reduced to *zero* in d. monogamian family. *Jeder d. 5 family types belongs to conditions of society entirely dissimilar.* D. *Turanian system of consanguinity*, which *records the relationships in punaluan family*, blieb wesentlich unverändert bis zur *Etablirg der monogamian family*, when *it became almost totally untrue to the nature of descents, and even a scandal upon monogamy.* Z.B. unter d. *Malayan system* nennt ein Mann seines Bruders Sohn *seinen Sohn*, weil seines Bruders Frau auch seine Frau ist; u. *seiner Schwester Sohn* ist auch *sein Sohn*, weil seine Schwester auch *seine Frau* ist. Unter d. *Turanian system* ist seines Bruder's Sohn *immer noch sein Sohn*, aus dem selben Grund, aber *seiner Schwester Sohn* ist jetzt *sein Neffe*, weil unter d. *gentile organization seine Schwester aufgehört hat* seine Frau zu sein. *Unter d. Iroquois*, wo d. family synd⟨y⟩asmian ist, nennt ein Mann seines Bruder's Sohn seinen Sohn, obgleich *seines Bruder's Frau* aufgehört hat, *seine Frau* zu sein u. so selber Incongruenz mit grosser Anzahl andrer relationships, die *der existing form of marriage* aufgehört haben zu entsprechen. *D. System hat d. Gebräuche überlebt, worin es entsprang u. erhält sich oft unter ihnen*, obgleich in the main *untrue, for descents as they now exist.* Monogamy kam auf to *assure the paternity of children* and *the legitimacy of heirs.* Turanian system konnte dch keine Reform ihm adaptirt wden; stand in schnei⟨d⟩endem Gegensatz zu Monogamie; d. System ward dropped; aber d. *descriptive method* stets employd dch d. Turanian tribes when they wished to make a *given relationship specific* wde *substituted.* They fell back upon the bare facts of consanguinity u. described the relationship of each person by *a combination of the primary terms*; sagten so: *Bruder's Sohn, Bruder's grandson, father's brother, father's brother's son;* each phrase described a person, leaving the relationship a matter of implication; so bei d. *arischen Nationen*, in d. ältesten form bei d. *Griechischen, latein., sanskritischen, celtischen, semitischen tribes* (*Old testament Genealogies*) Traces des Turanian system unter d. *arischen u. semit. nations* down to the historical period, aber essentially
6 uprooted. Descriptive | substituted in its place.

Jedes der *systems of consanguinity* expresses *the actual relationships existing in the family* at the time of its establishment. D. *relations* v. *Mutter u. Kind, Bruder u. Schwester, Grossmutter u. grandchild* were stets versicherbar (seit Etablirung irgendeiner Form von family), aber nicht *die von Vater u. Kind, Grossvater u. grandchild;* letzteres nur (mindestens officiell?) versicherbar in Monogamie.

D. *systems of consanguinity* sind *classificatory* oder aber *descriptive.* Unter d. ersten system *consanguinei* "*classified*" into *categories* unabhängig von ihrer *Nähe od. Entfernung in degree von Ego;* d. selbe *term of relationship* applied to *all the persons in the same category.* Z.B. *meine eignen Brüder* u. d. *Söhne von d. Brüdern meines Vaters* sind alle gleichmässig *meine Brüder; meine eignen Schwestern* u. d. *Töchter d. Schwestern meiner Mutter* sind alle gleichmässig *meine Schwestern;* such is the classification in *Malayan u. Turanian systems.*

Im *descriptiven System* dagegen d. consanguinei bezeichnet dch d. *primary terms of relationship* od. *combination dieser terms*, wdch d. relationship jeder Person *specific* gemacht. So im *Aryan, Semitic, od. Uralian system*, which came in with monogamy; später introducirt a small amount of classification dch *inventions of common terms*, aber d. earliest *form of the system* – the *Erse* u. *Scandinavian* – typical, *purely descriptive*. D. radicale Unterschied d. Systeme resulted von *plural marriages in the group* in one case, *from single marriages* between single pairs in the other.

Relationships zweifach: 1) by *consanguinity* or *blood;* diese selbst *zweifach*, a) *lineal* u. b) *collateral;* a) *lineal* ist d. connection unter Persons wovon *eine von der andern abstammt;* b) *collateral* ist sie, wo *persons descend von common ancestors*, aber nicht von einander. 2) *by affinity or marriage: marriage relationships* exist by custom. Wo marriage between single pairs, *each person* the *Ego* from whom the degree of relationship of each person is reckoned u. to whom it returns. This position in the *lineal line*, which *line is vertical.* Upon it, above and below him, *ancestors and descendants* in direct series from father to son; these persons together constitute the *right lineal male line.* Out of this *trunk line* emerge the several *collateral lines*, male and female, numbered outwardly; in einfachster Form with one brother and one sister etc:

1st collateral line: *male*, my *brother* and his descendants; *female:* my *sister* and her descendants

2nd coll. line: *male*, my *father's brother* and his descendants; *female:* my *father's sister* u. her descendants. *male*, my *mother's brother* and his descendants; *female:* my *mother's sister* and her descendants.

3d coll. line: on *the father's side: male:* my *grandfather's brother* and his descdts; *female:* my *gdfathers sister* and her descendants. on *the mother's side:* my *grandmother's brother* and his descdts; *female:* my *gdmother's sister* and her descendants.

4th coll. line: *great grandfather's brother and sister* and their respective descendants.
great grandmother's brother and sister and ... ditto ... ditto.

5th coll. line: *great-great grandfather's brother and sister* and their respective descendants.
great-great grandmother's brother and sister and ditto ... *ditto*

Habe ich *several brothers u. sisters*, so constituiren sie mit ihren descendants *so many independent lines*, aber zusam⟨m⟩en bilden sie my *first collateral line in 2 branches, a male and a female* etc etc.

Dies Zeug einfach summirt dch d. *Roman civilians* [*Pandects* lib. XXXVIII, title X. *De gradibus et ad finibus et nominibus eorum;* u. *Institutes of Justini⟨an⟩*[17] *lib. III. title V:*[18] *De gradibus cognationis*];[19] adoptirt dch principal European nations.

Römer geben bes. Namen: *patruus* (for *uncle* on father's side) u. *amita* (für *aunt* on father's side);
avunculus (*uncle* on *mother's* side) u. *matertera* (for *aunt* on mother's side)
avus, grandfather, gibt *avunculus* (a little grandfather); *Matertera* soll herkommen v. *mater* u. *altera* = another mother. – D. *Erse*, *Scandinavian* u. *Slavonic* haben nicht diese röm. method of description angenommen.
The 2 radical forms – the *classificatory* u. the *descriptive* yield *nearly the exact line of demarcation between the barbarous u. civilized nations.*
Powerful influences existed to *perpetuate the systems of consanguinity* after the conditions under *which each originated had been modified or had altogether*
7 *disappeared.* | In so complicated system wie d. *Turanian* entwickelte sich natürlich *divergence in minor particulars.* D. *system of consanguinity* des *Tamil people* of *South India* u. das der *Seneca-Iroquois*, of New York, sind *noch identisch* through 200 relationships; a *modified form of the system* – standing alone – that of the *Hindi*, *Bengali*, *Marâthi* u. other people of *North India*, ist combination d. *Aryan u. Turanian systems.* A civilised people, the *Brahmins*, coalesced with a barbarous stock, lost their language in the new vernaculars named, which retain the grammatical structure of the aboriginal speech, wozu d. Sanskrit 90% of its vocables gab. *Ihre 2 systems of consanguinity* came into collision, the one founded on *monogamy or syndyasmy* u. the *other upon plural marriages in the group.*
Unter d. *Indian tribes von North America* the *family syndyasmian;* aber lebten generally[20] in *joint-tenement houses* u. *practised communism within the household.* Je mehr wir niedersteigen in d. direction d. *punaluan* u. *consanguine families*, the *household group becomes larger*, with more persons crowded together in the same apartmt. The coast *tribes in Venezu⟨e⟩la*, wo d. family punaluan gewesen zu sein scheint, are represented by the Spanish discoverers (*Herrera's: History of America*) as living in *bell-shaped houses, each containing 160 persons. Husbands u. wives lived together in a group in the same house.*

Part III. Ch. II The Consanguine Family.
Existirt in *primitivster Form* nicht mehr selbst unter lowest savages. Sie ist aber bewiesen dch a *system of consanguinity and affinity* welches für zahllose Jahrhunderte überlebt hat the marriage customs in which it originated. – D. *Malayan system;* it defines the relationships wie sie *nur in einer consanguine family* existiren konnten; es besitzt an antiquity of unknown duration; d. *inhabitants of Polynesia* included it in this system, obgleich d. eigtlichen *Malays* es in einigen Punkten modificirt haben. *Hawaiian u. Rotuman forms* typical; t⟨h⟩e simplest, therefore the oldest. Alle consanguinei, near u. remote, *classified* under 5 categories:
1st category: Ego, my brothers u. sisters, my first, second and more remote male

and female cousins, are all *without distinction* my *brothers and sisters*. (word *cousin* here used in our sense, the relationship being unknown in Polynesia.)

2t category: My *father and mother, together with their brothers and sisters*, and *their first, second, and more remote cousins* are all *my parents.*

3t category: My *grandfathers* and *grandmothers*, on father's side and mother's side, with their *brothers and sisters*, and their several cousins, are my *grandparents.*

4t category: *my sons and daughters, with there several cousins*, are all *my children.*

5t category: *my grandsons and granddaughters*, with their several cousins, are all *my grandchildren.*

Ferner: all *the individuals of the same grade or category are brothers and sisters to each other.*

The 5 categories or grades in the Malayan system appears auch in d. "*Nine Grades or relations*" of the *Chinese* mit 2 additional ancestors u. 2 additional descendants.

The wives of my several brothers, own and collateral, *are my wives as well as theirs;* für d. *female*, the husbands of her several sisters, own and collateral, are also her husbands.

The *several collateral lines* are brought *into and merged in the lineal line*, ascending as well as descending; so that the ancestors and descendants of my collateral brothers and sisters become mine as well as theirs.

All the *members of each grade are reduced to the same level* in their relationships, without regard to nearness or remoteness in numerical degrees. Auch bei *andern Polynesian* tribes – ausser Hawaiians u. Rotumans – dies System; so unter den *Marquesas Islanders* u. d. *Maoris of New Zealand;* den *Samoans, Kusaiens, King's Mill Islanders of Micronesia;* zweifellos in every inhabitant island of Pacific except where it verges upon the Turanian.

System based auf: *intermarriage zwischen own brothers and sisters, and gradually enfolding the collateral brothers and sisters* as the *range of the conjugal system widened.* In dieser consanguine family the *husbands* lived in *polygyny* u. d. *wives in polyandry.* It would be difficult to *show any other possible beginning of the family in the primitive period.* All traces of it had not disappeared among the Hawaiians at the epoch of their discovery —

The system also founded upon *the intermarriage of own and collateral brothers*
8 *and sisters in a group.* | The *husband* in diesem Sinn weiss nicht ob dies od. jenes Kind *sein* eignes Fabrikat; es ist *sein Kind*, weil d. Kind einer *seiner* Frauen, die er mit seinen brothers, own od. collateral gemein hat. Die *Frau* kann daggen ihre Kinder von denen ihrer sisters unterscheiden; sie wäre ihre *step-mother;* diese "Categorie" existirt aber nicht im System; ihrer Schwesters Kinder also *ihre* Kinder. Die *Kinder* dieser gemeinsamen Ahnen könnten sich zwar von mütterlicher Seite unterscheiden, aber nicht von väterlicher: sind daher alle *Geschwister.*

The *marriage relationship* extended wherever the *relationship of brother and sister* was recognized to exist; each brother having as many wives as he had sisters, own or collateral, and each sister as many husbands as she had brothers, own or collateral.
Wherever the *relationship of wife* is found in the collateral line, that of husband must be recognized in the lineal, and vice versa.
Unter d. *Kaffern v. Südafrika* d. wives meiner *Cousins – father's brother's son, father's sister's son, mother's brother's son,* mother's *sister's son* – are alike my wives.[21]
The larger the group recognizing the marriage relation, the less the evil of close interbreeding.

1820 the American missions established in the *Sandwich islands*, were shocked[22] at the sexual relations; they fanden dort die *punaluan family*, with own sisters and brothers not entirely excluded, the *males* living in *polygyny*, the *females* in *polyandry*, the people *had not attained the organization in gentes*. Unwahrscheinlich dass d. *actual family* among the Hawaiians was as large as the group united in the marriage relation. *Necessity would compel its subdivision into smaller groups for the procurement of subsistence, and for mutual protection;* individuals passed whsclich at pleasure *from one of these subdivisions into another* in the punaluan as well as consanguine families, giving rise to that apparent desertion by husbands and wives of each other and by parents of their children mentioned by Rev. Hiram Bingham (Missionary Amerik., in Sandwich islands) *Communism in living* must have prevailed both in the consanguine and in the punaluan family als *requirement of their condition. It still prevails generally among savage and barbarous* tribes. [each smaller family would be a miniature of the group.]
Ueber *Chinese system of 9 Grades* see "*Systems of Consanguinity* etc p. 415, p. 432.
In Plato's *Timaeus* (Ch. II) all consanguinei in the Ideal Republic to fall into 5 categories, in which the women were to be in common as wives and the children in common as to parents. (*sieh meine Ausgabe p. 705 erste Columne*) Hier dieselben 5 primary grades of relations. Plato bekannt mit hellenischen u. pelasgischen traditions reaching back in the region of barbarism etc. Seine *grades exact die der Hawaiians.*
D. *state of society indicated by the consanguine family* points to an *anterior condition of promiscuous intercourse* (in der *Horde*!) trotz Darwin (See *Descent of Man* II, 360) Sobald d. *Horde* would break up *into smaller groups for subsistence*, it would fall von *promiscuity* into *consanguine families*, welches die first "*organized form of society.*"

Part III. Ch. III The Punaluan Family.
Existed in *Europe, Asia, America* within the historical period, in *Polynesia*

within the *present century;* widely prevailing *in the Status of Savagery,* remained in *some instances among tribes advanced into the Lower Status of Barbarism,* u. im case der Britons, among tribes im *Middle Status of barbarism.*

Geht hervor aus *consanguine family* dch *gradual exclusion of own brothers and sisters from the marriage relation* u. commencing in ⟨i⟩solated cases, introduced partially at first, then becoming general, and finally universal among the advancing tribes, still in savagery ... illustrates the operation of the principle of natural selection.

In dem *Australian class system* (sieh später) evident, that their primary object *the exclusion of own brothers and sisters* from the marriage relation, whd (see the *descents* of *these classes p. 425*) the *collateral brothers and sisters were retained* in that relation. In d. *Australian punaluan group* wie in der *Hawaiian* the *brotherhood of the husbands* formed the bases of the marriage relation of one group, and the *sisterhood of the wives* of the other ... The *Australian organization into classes upon sex* – which gave birth to the punaluan group, which contained the germ of the gens – prevailed wahrscheinlich unter allen tribes of mankind who afterwards fell under the gentile organization. Von der *organization into gentes,* which permanently excluded brothers and sisters from the marriage relation by an organic law, *letztere noch frequently involved in Punaluan family,* wie bei d. *Hawaiian,* die keine organization in gentes noch d. *Turanian system of consanguinity* hatten.

1) *Punaluan family: 1860* said *Judge Lorin Andrews,* of Honolulu, in a letter accompanying a schedule of the Hawaiian system of consanguinity: "the
9 *relationship of pŭnalŭa* is rather amphibious. It | arose from the fact that 2 or more brothers with their wives, or two or more sisters with their husbands, were inclined to *possess each other* in common: but the modern use of the word is that of *dear friend,* or *intimate companion*". What Judge Andrews says they were inclined to do, and which may then have been a declining practice, their system of consanguinity proves to have been once *universal among them.* Weiter bezeugt dch d. Missionäre (*see p. 427, 428*) So schrieb Rev. *Artemus Bishop,* lately deceased, one of the oldest missionaries in these islands, der dem Morgan ebenfalls 1860 a *similar schedule* schickte "This *confusion of relationships* is the result of the *ancient custom among relatives of the living together of husbands and wives in common.*" Then *punaluan family group consists of:* one group: *several brothers and their wives;* other *group: several sisters with their husbands;* jede group including the *children* of the marriages.

Bei[23] d. *Hawaiians* a man calls his *wife's sister his wife;* all the sisters of his wife, own as well as collateral, are also *his wives.* But the *husband of his wife's sister* he calls *pŭnalŭa,* i.e. *his intimate companion;* and all the husbands of the several sisters of his wife the same. *They were jointly intermarried in the group.* Diese husbands waren probably *keine Brüder,* sonst would the

blood relationship have prevailed über die *affineal; but their wives were sisters, own and collateral,* in such case the *sisterhood of the wives the basis upon which the group was formed,* and the *husbands stood to each other in the relation of pŭnalŭa.*

Die andre group rests upon the *brotherhood of the husbands,* and a woman calls her husband's brother *her husband;* alle Brüder ihres Mannes, own and collateral, waren auch ihre husbands; but the *wife of her husbands brother* stands to her in the relationship *of pŭnalŭa.* Diese wives generally nicht sisters, obgleich zweifellos *exceptions* in beiden Gruppen [so dass auch Brüder Schwestern u. Schwestern Brüder in common hatten] Alle diese wives zu einander in relationship of pŭnalŭa.

Brothers ceased to marry their own sisters, and after the gentile organization had worked upon society its complete results, their collateral sisters as well. *But in the interval they shared their remaining wives in common.* In like manner, sisters ceased marrying their own brothers, and after a long period of time, their collateral brothers; but they shared their remaining husbands in common.

Marriages in pŭnalŭan groups explain the relationships of the *Turanian system of consanguinity.* Giebt nun verschidne Beispiele von Ueberleben über savagery hinaus of punaluan custom; *Caesar De bell. gall.* über *Britons* in the *Middle Period of Barbarism;* Caesar sagt: "*Uxores habent dexi duodexique inter se communes, et maxime fratres cum fratribus* parentesque cum liberis."[24] Barbarian mothers have not 10-12 sons, die als *Brüder* sich gemeinscftliche Weiber halten könnten; aber d. *Turanian system of consanguinity* liefert *viele Brüder,* weil *male cousins,* near and remote, fall in this category with *Ego.* Das "*parentis que cum liberis*" wahrscheinlich falsche Auffassung d. Cäsar for *several sisters* sharing their husbands. *Herodot* über *Massagetae* in *Middle Status of Barbarism* (1. I, c. 216). Herodots Phrase: „γυναῖκα μὲν γαμέει ἕκαστος, ταύτῃσι δὲ ἐπίκοινα χρέωνται."[25] scheint auf Beginn d. synd⟨y⟩asmyan family hinzudeuten; jeder husband paired with one wife, who thus became his principal wife, but within the limits of the group husbands and wives continued in common. Die Massagetae, obgleich ignorant of iron, fought on horseback armed with battleaxes of copper and with copper-pointed spears, and manufactured and used the wagon. (ἅμαξα) Also *nicht promiscuity* supposable. *Herodot* 1. IV, *c. 104* sagt auch v. d. *Agathyrsi:* "ἐπίκοινον δὲ τῶν γυναικῶν τὴν μεῖξιν ποιεῦνται, ἵνα κασίγνητοί τε ἀλλήλων ἔωσι καὶ οἰκήιοι ἐόντες πάντες μήτε φθόνῳ μήτ' ἔχθεϊ χρέωνται ἐς ἀλλήλους."[26]

Punaluan marriage in the group erklärt besser diese u. similar usages in other tribes mentioned by Herodotus, than polygamy or general promiscuity.

Herrera, Hist. of America. sagt: (das gilt v. Zeit d. first navigators who visited the *coast tribes of Venezuela.*) "They observe no law or rule in matrimony, but took as many wives as they wou⟨l⟩d, and they as many husbands, quitting one another at pleasure, without reckoning any wrong

done on any part. There was no such thing as jealousy among them, all living as best pleased them, without taking offense at one another... – – – – – – *the houses they dwelt in were common to all, and so spacious that they contained 160 persons, strongly built*, though covered with palmtree leaves, and shaped like a bell." | These tribes used *earthen vessels*, were in *Lower State of Barbarism*. Derselbe[27] *Herrera*, speaking of the *coast tribes* of *Brazil:* "They live in *bohios*, or *large thatched cottages*, of which there are about 8 in every village, full of people, with their nests or hammocks to lye in they live in a beastly manner, without any regard to justice or decency."

Bei d. *Entdeckung of North America* in its several parts, the *punaluan family seems to have entirely disappeared; synd⟨y⟩asmian form of family*, aber environed *with the remains* of the ancient conjugal system. Eine custom z.B. noch jetzt anerkannt in mindestens *40 North American Indian tribes*. Heirathete ein Mann d. *älteste Tochter* einer family, so dch custom entitled *to all her sisters as wives when they attained the mar⟨r⟩iageable age*. Das Recht selten enforced, wegen d. Schwierigkeit several families to maintain, obgleich *Polygyny*[28] *allgemein anerkannt as privilege of the males*. Früher – pŭnalŭa –[29] own sisters went into the marriage relation on the basis of sisterhood; nach Absterben d. pŭnalŭan family the right remained with the husband of the eldest sister to become the husband of all her sisters, if he chose. Dies genuine revival of the ancient pŭnalŭan custom.

2) *Origin of the Organization into gentes.*

Partial development of gentes in the *Status of savagery*, complete development in the *Lower Status of barbarism*. *Germ of gentes* found in the *Australian classes* wie in d. *Hawaiian punaluan group*. The *gentes* are also found among the Australians, based upon the classes, *with the apparent manner of their organization out of them* – – – Its (the gentile organization's) birth *must be sought in pre-existing elements of society*, and its *maturity* would be expected to occur long after its origination.

Two of the fundamental rules of the gens in its archaic form found in the *Australian classes*, the *prohibition of intermarriage between brothers and sisters*, and *descent in the female*[30] *line*. ... und when *gens* appeared, the *children are found in the gens of their mothers*. Natural *adaptation of the classes to give birth to the gens sufficiently obvious* ... Und in Australien the fact: *gens here found* [actually *in connection with an antecedent and more archaic organization*, die *still the unit of a social system*, Platz später dch die gens eingenommen.

Germ of gens ebso found in *Hawaiian punaluan group*, aber confined *to the female branch* of the custom, wo several sisters, own and collateral, shared their husbands in common. Diese Schwestern, mit ihren Kindern u. descendants through females, *liefern the exact membership of a gens of the archaic type*. Descent hier nothwdg traced dch females, da *paternity* d. *children* nicht mit certainty ascertainable. Sobald diese specifische Form der Ehe in the group etablirte Institution, *the foundation for a gens existed.*

D. Hawaiians did not turn this natural punaluan group into a *gens*, d.h. in *eine Organization* beschränkt auf diese Mütter, Kinder u. Abkommen in der weiblichen Linie. Aber zu einer analogen Gruppe, *resting upon the sisterhood of the mothers*, or to the similar Australian group, resting upon the same principle of union, the *origin of the gens* must be ascribed. *It took this group as it found it*, and *organized certain of its members*, with certain of their posterity, *into a gens on the basis of kin.*

The gens sprang up in a *family*, which *consisted of a group of persons co-incident substantially with the membership of a gens.*

Sobald *sich d. gens voll entwickelt u. ihre full influence on society ausübte "wives became scarce in place of their former abundance,"* weil d. gens tended *"to contract the size of the punaluan group*, and finally to overthrow it." D. *syndyasmische Familie* wde gradually produced within the punaluan, nachdem d. gentile organization became predominant over ancient society. Als d. syndyasmische Familie zu erscheinen begann u. d. punaluan groups zu verschwinden, wden *wives sought by purchase and capture.* Originating in the punaluan group, sprengte d. gentile organization diese ihre Geburtsstätte.

3) *The Turanian or Ganowanian System of Consanguinity.*

This system u. d. gentile organization, when in its archaic form, werden gewöhnlich zusammen gefunden. D. family active principle, steht nie still, passes von a lower form into a higher one. *Systems of consanguinity* sind dagegen passiv; *recording the progress made by the family at long intervals apart, and only changing radically when the family has radically changed.* [Ebenso verhält es sich mit *politischen, religiösen, juristischen, philosophischen* Systemen
11 überhaupt.] | D. *Turanian system of consanguinity* drückt aus d. *actual relationships wie sie in der Punaluan family* existiren; es beweist seinerseits die Praeexistenz dieser Familie. D. System geht herab bis auf unsere Zeit in Asien u. America, nachdem d. *Familienform*, hence *Eheform*, aus der es entsprang, verschwden u. d. punaluan family ersetzt dch d. syndyasmische. Die substantiell identischen Formen des Verwandtscftsystem⟨s⟩ der *Seneca-Iroquois* (used as *typical* f. d. *Ganowanian tribes of America*) u. d. *Tamil people* v. *Südindien* (als typical for d. *Turanian tribes of Asia*) haben gemein über 200 relationships of the same person. (sieh d. *Tabellen* p. 447 sq.)

Natürlich einige, aber nicht substantielle diversities d. Systems bei different tribes u. nations. All alike salute by kin; unter d. *Tamil people*, when the *person addressed is younger than the speaker*, the term of relationship must be used; when *older*, salute by kin or by the personal name; bei d. *American aborigenes*, the address must always be *by the term of relationship.* Dies System was also the means by which each individual in the ancient gentes was able to trace his connection with every member of his gens, bis monogamy d. Turanian System niederwarf.

Bei d. Seneca-Iroquois the relationships of Grandfather (Hoc'-sote),

grandmother (Oc'-sote), grandson (Ha-yä'-da) u. granddaughter (Ka-yä'-da) sind d. most remote recognized in aufsteigender u. absteigender Linie.

D. relationships of brother and sister sind nicht abstract, sondern in d. doppelten Form v. "älter" u. "jünger", mit special terms for each:

Elder Brother Ha'-ge; Younger Brother – Ha'-gă; | Elder Sister: Ah'-jé; *Younger Sister Ká-gă*

The relationship of the same person to Ego in many cases different mit change of the sex of the Ego.

Ist collateral line: für *male* Seneca *his brother's son and daughters* are *his son and daughter* (*Ha-ah'-wuk u. Ka-ah'-wuk*) u. beide nennen ihn *Vater* (*Hä-nih*) Ebenso *seines brother's grandchildren* his *grandsons* (*Ha-yä'-da* (singular) u. *granddaughters* (Ka-yä'-da); beide nennen ihn (Hoc'-sote) *grandfather.* Also his brothers children u. grandchildren in *same category with his own.*

Ferner: für *male Seneca his sister's* son and daughter are his *nephew* (*Ha-yă-wan-da* u. *niece* (*Ka-yă-wan-da*), each calling him *uncle* (Hoc-no'-seh).[31] So *relationships of nephew u. niece restricted* to the children of a *man's sisters*, own and collateral.

The *children of this nephew and niece* were his grandchildren, as before, u. he their *grandfather.*

Für *Seneca female* einige dieser relationships different; her *brother's son*[32] *and daughter* are her *nephew* (Ha-soh'-neh) and *niece* (Ka-soh'-neh) u. beide nennen sie *aunt* (*Ah-ga'-huc*) (andre terms als für nephew u. niece des *male* Seneca) The children dieser nephews u. nieces sind ihre *grandchildren.*

Her *sister's son and daughter* are her son and daughter, jeder v. beiden nennt sie *Mutter* (Noh-yeh') u. deren children sind ihre grandchildren, nennen sie *grandmother* (Oc'-sote). The *wives* of these *sons and nephews* are her *daughters-in-law* (Ká-sä) u. d. *husbands* dieser daughters u. wives are her *sons in law* (Oc-ná-hose) u. they apply to her the proper correlative.

IInd collateral line. For male u. female Seneca: father's brother his or her father, calls her son or daughter. Also all *the brothers of a father* are placed in the relation of a father. Their sons and daughters *are his or her brothers and sisters*, elder or younger. Alias: *the children of brothers* are in the relationship of brothers and sisters.

Für *male Seneca*, the *children of these brothers* are *his sons and daughters*, their children his *grandchildren;* die *children of these sisters* his *nephews* and *nieces*, and the children of the latter his *grand-children.*

Für female Seneca: the *children of these brothers* her *nephews u. nieces*, the children of these sisters *her sons and daughters*, and these children alike her grandchildren.

D. *father's sister* ist d. Seneca's *aunt*, calls him *nephew*, if he is a male. The relationship of *aunt* restricted to the *father's sister* and the *sisters of*

such other persons as stand to Seneca in the relation of a father, to the exclusion of the *mother's sisters.* The *father's sister's children* are *cousins* (*Ah-gare'-seh*)

Für male Seneca: the children of his male cousins are *his sons and daughters* u. *of his female cousins* his *nephews and nieces.*

Für female Seneca the id. id. are her *nephews u. nieces* and *ditto* her *sons and daughters.*

12 All children of the latter his or her grandchildren. |

Für male Seneca: mother's brother is *uncle*, calls him *nephew;* the relationship of uncle hier restricted to the *mother's brothers*, own and collateral, to the exclusion of the father's brothers. *His children* sind d. male Seneca's *cousins;* the children of his *male cousins* are his sons and daughters, of his *female cousins* his *nephews and nieces;*

For female Seneca the children of all her cousins are *her grandchildren.*[33]

Für male: The mother's sisters are *my mothers*, the *mother sister's children* my *brothers and sisters*, elder and younger. The *children of these brothers* are my *sons* and *daughters*, of these *sisters* my nephews and nieces; and the children of the latter *my grandchildren.*

Für female: reversed the same relationships as before.

For male Seneca: Each *of the wives of these several brothers* and of *these several male cousins* is his *sister-in-law*, (Ah-ge-ah'-ne-ah) each of them calls him: *brother-in-law* (Ha-yă'-o).

Each of the *husbands* of these *several sisters and female cousins* is my *brother-in-law.*

Traces of the punaluan custom remain here and there in *the marriage relationship* of the American aborigenes;

In *Mandan* my brother's wife is *my wife*, in *Pawnee u. Arickaree* the same; in *Crow* my *husband's brother's wife* is "*my comrade*"; in *Creek* "my present occupant", in *Munsee* "*my friend*", in *Winnebago u. Achaotinne* "*my sister*". My *wife's sister's husband* is in some tribes "*my brother*", in others "my brother-in-law", in *Creek* "*my little separater*" whatever that may mean.

IIId collateral side: hier nur one branch (4" entsprechend den vorhergehden) considered.

my *father's father's brother* is my *grandfather*, calls me his *grandson.* It places these brothers in the relation of grandfathers and this prevents *collateral ascendants from passing beyond this relationship.* The principle which *merges the collateral lines in the lineal line works upwards as well as downwards.* The son of his grandfather is my father, his children my brothers and sisters, the children of these sisters are my sons and daughters, of these sisters my nephew and nieces; and their children my grandchildren. With Ego being a female the same relationships reversed as in previous cases.

IVth collateral line. Auch nur eine branch dieser line betrachtet.

My *grandfather's father's brother* is my grandfather; his *son* also my *grandfather;* the son of the latter my *father;* his son and daughter my brother and sister, elder or younger; and their children and grandchildren follow in the same relationship to Ego as in other cases.

V col. line – classification same as in the corresponding branches of IId, except of additional ancestors.

In *Seneca-Iroquois* terms for *father-in-law* (Oc-na'-hose), for a wife's father, and *Hä-gä'-sä* for a *husband's father.* Former term also used for a son-in-law. Terms also for *stepfather* (Hoc'-no-ese) u. *stepmother* (Oc'-no-ese), stepson (Há-no) u. *stepdaughter* (Ká-no) In a number of tribes 2 fathers-in-law and 2 mothers-in-law are related, and terms to express the connection.

In about one half of all the relationships named, the *Turanian system* is *identical with the Malayan. Seneca* u. *Tamil* unterscheiden sich von Hawaiian in d. relationships which depended on intermarriage or non-intermarriage of brothers and sisters. In d. 2 ersteren z.B. my sister's son is my nephew, in d. latter my son. The change of relationships resulting from the *substitution der punaluan in place of the consanguine family* turns the *Malayan* in⟨to⟩ the *Turanian* system.

In *Polynesia* family punaluan; *system of consanguinity* bleibt *Malayan;* In *Northamerica family syndyasmian, system of consanguinity* bleibt *Turanian;* In *Europe u. Western Asia family becomes monogamian,* system of consanguinity *blieb* für Zeitlang *Turanian,* bis fallend in decadence *u.* succeeded by the *Aryan.* | The *Malayan system* must have prevailed generally 13
in Asia *before the Malayan migration to the Islands of the Pacific;*

the system (Turanian) transmitted in the Malayan form to the ancestors of the three families, with the streams of the blood *from a common Asiatic source;* afterward modified into its present form by the remote ancestors of the Turanian and Ganowanian families.

The principal relationships of the *Turanian system* created by *punaluan family;* several of the marriage relationships have changed. The brotherhood of the husbands and the sisterhood of the wives formed the basis of the relation fully expressed by the Hawaiian custom *of pŭnalŭa.* Theoretically the *family of the period* was *co-extensive* with the *group united in the marriage*[34] *relation;* but practically, it must have *subdivided* into *a number* of *smaller families* for *convenience of habitation and subsistence.* The brothers, by 10 and 12, of the *Britons,* married to each other's wives, may indicate the *size of an ordinary subdivision of a pŭnalŭan group.*

Communism in living seems to have originated *in the necessities of the consanguine family,* to *have been continued in the* punaluan, and transmitted to the *syndyasmian* unter d. American aborigenes, with whom it remained a practice down to the epoch of their discovery – (and the *South Slavonians*? and even *Russians* to a certain degree?)

Part III. Ch. IV. The Syndyasmian and the Patriarchal families.

Syndyasmian od. *pairing family* gefunden bei Entdeckung d. *American aborigenes* unter *der Portion derselben* who were in *the Lower State of Barbarism; married pairs*, forming clearly marked *though but partially individualized families*. In dieser family der *germ der monogamian family*.

Verschiedne d. *Syndyasmischen families usually found in one house* [wie bei *Südslawen:* der *monogamischen Familien*], *forming a communal household* [wie Südslawen u. in some degree: *Russian peasants* vor u. nach[35] Leibeignen-emancption] worin the *principle of communism in living was practised.* Dies fact beweist *that the family was too feeble an organisation* to face alone the hardships of life; aber founded upon *marriage between single pairs.* D. woman war jetzt *etwas mehr* als d. *principal wife of her husband; birth of children* tended to cement the union and make it permanent.

Marriage hier founded not upon "sentiment", but upon convenience and necessity. D. *mothers arranged the marriages of their children*, ohne deren previous consent od. knowledge; oft so *strangers* brought into marriage relation; at the proper time they were informed when the simple nuptial ceremony was to be performed. So usages bei *Iroquois* u. many other Indian tribes. *Prior to the marriage, presents* to the *gentile* relations of the bride, *partaking* in *the nature of purchasing gifts*, became feature of these matrimonial transactions. *The relation continued only at the pleasure of the parties*, Mann oder Frau. Nach u. nach gebild⟨e⟩t u. Kraft gewinnend public sentiment gegen diese separations. When dissension arose, erst Vermittlung versucht dch d. *gentile kindred* of each party. Half das nicht, so *verliess Weib d. Haus ihres Manns*, nahm mit ihren *personal effects auch d. Kinder, regarded as exclusive her own;* wo d. *wife's kindred predominated in d. communal household*, was gewöhnlich der Fall, the *husband left the home of his wife.* So *continuance of marriage relations at the option of the parties.*

Rev. *Asher*[36] *Wright*, many years a *missionary among the Senecas*, wrote to Morgan in 1873 hierüber: "*As to their families, when occupying the old long-houses* ... some *one clan predominated, the women taking in husbands from the other*[37] *clans;* and *sometimes*, for a novelty, *some of their sons bringing in their young wives* until they felt brave enough to leave their mothers. *Usually, the female portion ruled the house... The stores were in common;* but woe to the luckless husband or lover who was too shiftless to do his share of the providing. No matter how many children, or whatever goods he might have in the house, he might at any time be ordered to pick up and budge, durfte nicht attempt to disobey. The house would be too hot for him, ... he must retreat to his own clan; or, as was often done, go and start a new matrimonial alliance in some other. *The women were the great power among the clans, as everywhere else.* They did not hesitate, when occasion required, '*to knock off the horns*', as it was technically called, from the head of a chief, and send him back to the ranks of the warriors. *The original nomination of the chiefs also always rested with them.*" Cf. *Bachofen:*

14 "*Das Mutterrecht*", wo gynecocracy discussed. | Unter d. *Iroquois*, barbarians in *Lower Status of barbarism*, but of high mental grade, and among the equally advanced Indian tribes generally, verlangten d. Männer *under severe penalties* Keuschheit v. d. Weibern, aber nicht reciprocal obligation. *Polygamy* universally recognised as the right of the males, was in practice limited from inability to support the indulgence. In *syndyasmian family* — absence of exclusive cohabitation. The old conjugal system remained, but under reduced u. restricted forms.
Aehnlich unter d. *Village Indians in the Middle Status of barbarism*. Nach *Clavigero* (*Hist. of Mexico*) settled the parents all marriages. "A priest tied a point of the *huepilli* (gown) of the bride with the *tilmatli* (mantle of the bridegroom) and in this ceremony the matrimonial contract chiefly consisted." *Herrera* (*History of America*) says "*all that the bride brought* was kept in memory, that in cases they should be unmarried again, as was usual among them, the goods might be parted; *the man taking the daughters, and the wife the son, with liberty to marry again.*" Polygamy a recognized right of the males among the Village Indians, more generally practiced than among the less advanced tribes.
In the *punaluan family was more or less of pairing* from the necessities of the social state, each man having a *principal wife* among a number of wives and vice versa; so that *tendency in the direction of the syndyasmian family.* Dies result hptsclich hervorgebracht dch d. *organization into gentes.* In dieser organisation:

1) *Prohibition of intermarriage in the gens* excluded *own brothers and sisters, and also the children of own sisters*, da diese alle in der gens. Bei *subdivision der gens* the prohibition of intermarriage — with all the descendants in the female line of each ancestor in the gens — followed its branches, for long periods of time, as shown was the case among the Iroquois.
2) The structure der gens created a prejudice agst the *marriage of consanguinei;* war schon sehr general unter d. American a⟨bo⟩rigenes zur Zeit ihrer Entdeckung. Z.B. unter d. Iroquois none of the blood relations enumerated were marriageable. Since es[38] war nöthig to seek wives from other gentes they began to be *acquired by negotiation u. by purchase;* scarcity of wives statt previous abundance, so *gradually contracted the numbers of the punaluan group.* Such groups however disappeared, obgleich d. system of consanguinity remains.
3)[39] In seeking wives they did not confine themselves *to their own, nor even friendly tribes, captured them by force from hostile tribes;* hence *Indian usage* to *spare the lives of female captives, while the males were put to death.* When wives acquired by purchase and by capture, they not so readily shared as before. This tended to cut off *that portion of the theoretical group not immediately associated for subsistence;* reduced still more the size of the family and the range of the conjugal system. Practically group limited itself, from the first, to own brothers who shared their wives

in common and own sisters who shared their husbands in common.

4) Gens created a higher structure of society than before known. Die marriage of unrelated persons created a more vigorous stock physically and mentally; 2 advancing tribes blended, the *new skull and brain would widen and lengthen to the sum of the capabilities of both.*

The *propensity to pair*, now so powerful in the civilised races, also *nicht normal to mankind*, but *a growth through experience*, like all the great passions u. powers of the mind.

Warfare under barbarians — from more improved weapons and stronger incentives — zerstört more life als *Krieg unter savages.* The *males* trieben stets the trade of fighting; left *females in excess;* this strengthened the conjugal system created by marriages in the group, *retarded the advancement der syndyasmian family.* Dagegen *improvement in subsistence*, following the *cultivation of maize u. plants*, favored the general advancement der family (bei d. American aborigenes) The more *stable such a family, the more its individuality developed.* Having taken a refuge *in a communal household*, in which a *group of such families succeeded the punaluan group*, it now drew its support from itself, from the household and the gentes to which the husbands and wives respectively belonged. *Syndyasmian family* springing up on the confines of savagery and barbarism, it traversed the *Middle and greater part of the Later Period of barbarism.* Wd superseded by a *low form of the monogamian.* Overshadowed by the conjugal system of the times, it gained in recognition with the gradual progress of society.

M. sagt, was oft anwendbar, von d. *Old Britons:* (in the middle status of barbarism), "*they seem to have been savages in their brains, while wearing the art apparel of more advanced tribes.*"

Iron has been smelted from the ore by a number of African tribes, including the Hottentots, as far back as our knowledge of them extends. *After producing the metal by rude processes acquired from foreign sources*, they have
15 succeeded in fabricating | rude instruments and weapons. (463)

D. Entwicklungen müssen studirt werden in areas where the institutions are *homogeneous. Polynesia u. Australia* best areas for the *study of savage society. North u. South America* for condition of society in the *Lower and Middle Status of Barbarism.* M. nimmt an "*Asiatic origin of the American aborigines.*" *Their advent in America* could not have[40] resulted from *a deliberate migration*, but due to the accidents of the sea, and to the great ocean currents from Asia to the Northwest coast. (464)

Middle State of barbarism – in 16t century – (splendidly) exemplified by the *Village Indians of New Mexico, Mexico, Central America, Granada, Ecuador and Peru*, with its *advanced arts and inventions, improved architecture, nascent manufactures* and *incipient sciences.*

Upper Status of barbarism – Grecian, Roman, and later on the *German tribes. Patriarchal family of the Semitic tribes* belongs to the *Later Period of Barbarism* and remained for a time *after the commencement of civilization.* Chiefs

lived in *polygamy;* dies *nicht the material principle of the patriarchal institution.* Was diese *Familienform* wesentlich charakterisirt: *Organization of a number of person, bonds and free, into a family, under paternal power, for the purpose of holding lands, and for the care of flocks and herds.* Those *held to servitude,* and *those employed as servants,* lived *in the marriage relation,* and *with the patriarch as their chief,* formed a patriarchal family. *Authority over its members and over its property was the material fact.* D. Charakteristische: *the incorporation of numbers in servile and dependent relations, before that time unknown.* Paternal power over the group; with it a higher individuality of persons.

So auch d. *Roman family under patria potestas.* Macht d. pater über Leben u. Tod seiner Kinder u. descendants, wie über *slaves und servants* who formed the *nucleus of the family* and furnished *its name;* his *absolute ownership of all the property they created.* Without polygamy, the Roman *pater familias was a patriarch* and his family a *patriarchal family.* In mindrem Grad selbe Charakteristik der ancient family der *Grecian tribes.*

The *patriarchal family* marks the peculiar epoch in human progress when *the individuality of the person began to rise above the gens,* in which it previously had been merged; its general influence tended powerfully to the establishment of the *monogamian family* ... Its *Hebrew and Roman forms* exceptional in human experience. *Paternal authority "impossible"* in the *consanguine* and *punaluan families;* began to appear as a feeble influence in the *syndyasmian family,* and fully established under *monogamy* u. beyond all bounds of reason *in the patriarchal family of the Roman type.*

Part III Ch. V The Monogamian Family.

Mode: *patriarchal family* – in *Latin or Hebrew form* – zur typical family[41] of primitive society zu machen. The *gens,* as it appeared in the later period of barbarism, was understood, but erroneously supposed to be *subsequent in point of time to the monogamian family.* The gens was treated as an aggregation of families; aber gens *entered ganz* in phratry, phratry in tribe, tribe into the nation; aber *family could not enter entirely into the gens, because husband and wife were necessarily of different gentes.* The wife, down to the latest period, counted herself of the gens of her father, and bore *the name of his gens* under the Romans. As all the parts must enter into the whole, *the family* could not become *the unit of the gentile organization,* that *place was held by the gens.*

Family[42] modern appearance unter Roman tribes; beweist d. Bedeutg von *familia,* contains same element as *famulus = servant. Festus* sagt: "*Famuli* origo ab Oscis dependet, apud quod *servus Famul* nominabun (?) tur, unde *familia* vocata."[43] Also in seiner primairen Bedeutg *family* unbezogen auf d. *married pair* od. dessen *children,* sondern in relation *to the body of slaves and servants* who labored for its maintenance and were under the power of the *paterfamilias.* In einigen testamentarischen dispositions ist *Familia* used als *Equivalent* für *patrimonium,* the inheritance which passed

to the heir. *Gajus instit.* II, 102. "Amico *familiam suam*, id est *patrimonium* suum mancipio dabat."[44] Wde introducirt in Lateinische Gesellscft to define a new organism, the head of which held wife and children, and a body of servile persons under paternal power. *Mommsen* nennt d. *familia* a „body of servants" (*Roman Hist.*) Dieser term also nicht älter als *the*
16 *iron-clad family system* | of the[45] Latin tribes which *came in after field agriculture and after legalised servitude*, as well as *after the separation of* the *Greeks and Romans.* [*Fourier* charakterisirt Epoche der *Civilisation dch Monogamy u. Grund Privateigenthum.* D. moderne Familie enthält im Keim nicht nur *servitus* (Sklaverei) sondern auch *Leibeigenscft*, da sie von vorn herein Beziehg auf *Dienste für* Ackerbau. Sie enthält in *Miniatur* alle d. Antagonismen in sich, die sich später breit entwickeln in d. Gesellscft u. ihrem Staat.

Mit der *syndyasmischen Familie*[46] Keim der väterlichen Autorität, entwickelt sich je mehr d. neue Familie *monogamische Charactere* annimmt. Sobald *property began to be created in masses* u. the *desire for its transmission to children had changed descent from the female line to the male*, wde *zuerst a real foundation for paternal power gelegt. Gajus* selbst sagt *Inst.* I, 55. Item in *potestate nostra* sunt *liberi nostri* [auch *jus vitae necisque*], *quos iustis nuptiis* procreauimus. *quod ius proprium ciuium Romanorum est. fere enim nulli alii sunt homines qui talem in filios suos habent potestatem qualem*[47] *nos habemus.*[48] Monogamy appears in a *definite form* in the *Later Period of Barbarism.*

Old Germans: their institutions *homogeneous and indigenous.* Nach Tacitus *marriages strict* among them; *contented themselves with a single wife*, a very few excepted on *account of their rank;* husband brought dowry to his wife (not vice versa), nämlich a *caparisoned horse and a shield, with a spear and sword;* by *virtue of these gifts the wife was espoused* (*Germania*, c. 18). The presents in the nature of purchasing gift – zweifelsohne früher *für gentile kindred of the wife* – damals schon went to bride. "*Singulis uxoribus contenti sunt*"[49] (*Germania*, c. 18 u. d. Weiber "*septae pudicitia agunt.*"[50]

Wahrscheinlich family "*sheltered*" *itself in a communal household* (wie Südslaven)[51] *composed of related families. When slavery became an institution, these households would gradually disappear.* [In fact die *monogamische family* unterstellt, um selbständig isolated existence zu können, überall *a domestic class*, die ursprünglich[52] überall direct *slaves.*]

Homeric Greeks: Monogamian family of a low type. The treatment of their female captives reflects the culture of the period with respect to women in general; *tent life*[53] *of Achilles u. Patroclus;* whatever of monogamy existed, was *through an enforced constraint upon wives* [some degree of seclusion];

D. *change of descent von d. female line to the male* schädlich für Position u. Rechte d. Frau u. Mutter; ihre Kinder transferred von ihrer gens zur gens ihres husband; sie verlor dch marriage *ihre agnatic rights*, erhielt kein Equivalent dafür; vor dem Change, *d. Glieder ihrer eignen gens predominated*

in the household; dies gave full force to the maternal bond u. machte *women rather than men the center of the family.* Nach dem change stand sie allein im household ihres husband, isolated from her gentile kindred. Under the prosperous classes *her condition of enforced seclusion* u. als *primary object der marriage to beget children in lawful wedlock.* (παιδοποιεῖσθαι γνησίως).

Von Anfang bis End unter d. Griechen a principle of studied selfishness among the males, tending to lessen the appreciation of women, *scarcely found among savages.* The usages of centuries stamped upon the minds of Grecian women a sense of their inferiority. [Aber d. Verhältnis d. *Göttinnen im Olymp* zeigt Rückerinnerg an frühere freiere u. einflussreichere Position der Weiber. Die Juno herrschsüchtig, die Weisheit Göttin springt[54] aus Kopf d. Zeus etc] Es war vielleicht ... dieser Race nöthig, um aus Syndyasmian in Monogamian System herüberzukommen. Greeks blieben *barbarians* in their treatment of the female sex at the height of their civilization; their education superficial, intercourse with the opposite sex denied them, their inferiority inculcated as a principle upon them, until it *came to be accepted as a fact by the women themselves.* D. wife not companion equal to her husband, but *in the relation of a daughter.*
See *Becker: Charicles.*

Da d. moving power which brought in monogamy was – the growth of property and the desire for its *transmission to children – legitimate heirs;* the *actual progeny* of *the married pair* – in the *Upper Status of Barbarism* sprang up – als protection gegen d. survival of some portion of the ancient *jura conjugalia* – the new usage: *the seclusion of wives;* plan of life among the
17 civilized Greeks – *a system of female confinement and restraint.*

Roman family:

Materfamilias was mistress of the family; went into the streets freely ohne restraint by her husband, frequented with the men the theaters and festive banquets; in the house not confined to particular appartments, nor excluded from the table of the men. Roman females daher mehr personal dignity u. independence als griechische; aber *marriage* gave them *in manum viri;* war = daughter des husband; he had the power of correction u. of life u. death in case of adultery (mit concurrence of the council of her gens).

Confarreatio, coëmptio, usus,[55] alle 3 Formen d. röm. Ehe, gaben Frau in manus d. Mannes, fell out *under the Empire* when *free marriage* generally adopted, not placing the wife in manus d. Mannes.

Divorce von frühster Period, at the option of the parties, (whsclich transmitted v. *Syndyasmian family* Period), selten in Republik (*Becker: Gallus*).

Licentiousness – so auffallend in Grecian and Roman cities at the height of civilization – in all probability *remains of an ancient conjugal system,* never fully eradicated, had followed down from barbarism as a social taint u. *now expressed its excesses in the new channel of hetaerism.*[56]

D. *Monogamian family* entsprach *Aryan* (*Semitic, Uralian*) *system of consan-*

guinity and affinity. Gentes had their natural origin in the *punaluan* family. The principal branches of the Aryan stock *organized into gentes* when first known historically; zeigt, dass sie auch dort anfingen u. aus. d. punaluan family entsprang *Turanian system of consanguinity, still found connected with the gens in its archaic form* among the American aborigenes. Also auch dies urspgliches System der Aryans. Im *Aryan system of consanguinity*—Armuth of *original nomenclature* für relationship erklärt ddch dass *a large portion of the nomenclature of the Turanian system would fall out under monogamy. Common* unter d. several Aryan dialects nur: *father* u. *mother, brother* u. *sister, son u. daughter*, u. a *common term* applied indiscriminately to *nephew, grandson and cousin* (Sanscrit: *naptar, lat. nepos, Greek:* ἀνεψιός). In so advanced Cultur, wie Monogamy voraussetzt, they could not have arrived mit such a scanty nomenclature of blood relationships. Erklärt with a previous system wie d. Turanian dch impoverishment.

Im *Turanian* system brothers u. sisters – younger u. elder u. the several terms applied to categories of persons including persons not own brothers and sisters. ⟨Im⟩ *Aryan*, on basis of *monogamy*, terms for brother u. sister now *in the abstract* for the first time u. inapplicable to collaterals.

Remains of a prior Turanian system still appear: So bei *Hungarians* brothers u. sisters classified als *elder* u. *younger* by special terms. *French frère* (*aîné* älter, *puîné*[57] u. *cadet* jünger[58]); *aînée u. cadette* älter u. jünger[58] sister. *Sanskrit:* älter *Bruder u. jüngerer* (*agrajar* u. *amujar*), ditto for Schwester (*agrajri* u. *amujri*). If common terms once existed in Greek, Roman, etc dialects for elder u. younger brother and sister, their *former application* to *categories of persons*, machte sie unanwendbar als exclusiv für own brothers and sisters.

For *grandfather* no *common term in the Aryan dialects. Sanskr. pitameha, Gr.* πάππος, *lat. avus, Russ. djed, Welsh hendad.* Der term in a *previous system* (Turanian) was applied nicht nur zu grandfather proper, his brothers and several male cousins, sondern auch to brothers u. several male cousins of his grandmother; konnte daher nicht be made to signify a *lineal grandfather and progenitor under monogamy.*

Kein term für uncle and aunt in the abstract u. *no special terms für uncle and aunt* väterl. u. mütterl. Seite in d. Aryan dialects. *Sanskr. pitroya, Gr.* πάτρως, *lat. patruus, Slavonic: stryc; Anglo-Saxon, Belgian, German eam, oom, oheim* for paternal uncle. In d. *Aryan original speech* no term f. *Onkel mütterlicher Seite*, a relationship made so conspicuous *by the gens* among barbarous tribes. If the previous system *Turanian*, necessarily a term hierfür, aber restricted *to the own brothers of the mother, and her several male cousins;* d. *Categorie* schloss numbers of persons ein wovon viele could not be uncles under the monogamian system.

Dagegen erklärt sich, bei früherer Existenz des *Turanian Systems* (by *categories*) d. Uebergang zu *descriptive system* auf Basis d. Monogamy. Jede relationship under monogamy is *specific;* persons, under the new system,

described by *means of the primary terms* or *combinations of them* as *brother's son* für *nephew*, *father's brother* für Onkel, *father's brother's son* für cousin. Dies war the *original* of the present system of the Aryan, Semitic u. Uralian
18 families. The generalizations they now contain | were of later origin. *All the tribes*, die d. Malayan u. Turanian system besessen, *described their kindred by the same formula*, when asked in what manner one person was related to another; nicht as a system of consanguinity, but as a means of tracing relationships. *Schluss* daraus: nach allgemeiner Errictg d. monogamian systems unter Aryans etc, fielen *diese back upon the old descriptive form*, always in use under the Turanian system u. dropten diesselbst als *useless u. untrue to descents.*

Beweis dass d. original des present system purely descriptive: Erse – typical Aryan form, *Esthonian* – typical *Uralian* – are still descriptive. In *Erse* the only terms for the blood relationships *the primary: father and mother*, *brother and sister*, *son and daughter*. Alle andre kindred *described* vermittelst dieser terms, commencing in *the reverse order*. Z.B. *brother*, *son of brother*, *son of son of brother*. The Aryan system exhibits the actual relationships under monogamy, assumes that the paternity of children is known.

Später *a method of description*, materially different from the Celtic, was *engrafted upon the new system:* but without changing its radical features; introduced by the *Roman civilians*, angenommen dch verschiedne Aryan nations, unter denen Roman influence extended. *Slavonic system* has some features entirely peculiar, *of Turanian origin* (see: *Systems of consanguinity* etc p. 40)

Römische Aenderungen: unterschieden den *väterlichen u. mütterlichen Onkel* mit besondern terms dafür, erfanden *term für Grossvater* als *correlative of nepos*. Mit diesen terms u. d. primary, in connection mit suitable augments, konnten sie systematize the relationships in the lineal u. the first 5 collateral lines, which included the body of the kindred of each individual.

The *Arabic* system passed through processes similar to the Roman u. mit similar results.

Von *Ego* to *tritavus*, in the lineal line, 6 *generations of ascendants* u. von *Ego to trinepos* the *same number* of *descendants*, in deren description nur *4 radical terms* used. Wäre es nöthig to ascend farther, *tritavus* would become the new starting point of description: *tritavi pater* bis *tritavi tritavus*, the 12th ancestor of Ego in the lineal line, male; ebenso *trinepotis trinepos* etc.

1st collateral line male: frater; fratris filius; fratris nepos; fratris pronepos bis *fratris trinepos;* wenn zum 12t descendant *fratris trinepotis trinepos*. Dch diese simple Method *frater* is made the root of descent in this line.

Same line: female: soror, *sororis filia*, *sororis neptis*, *sororis proneptis* bis *sororis trineptis* (6th degree) u. *sororis trineptis trineptis* (12th descendant) Beide Linien descend von pater; aber, by making the brother and sister the root of descent in the description, the line and its two branches are

maintained distinct, and the *relationship of each person to Ego* is specialized.

2nd collateral line: male on the father's side: father's brother, patruus; patrui filius, p. nepos, p. pronepos p. trinepos, bis patrui trinepotis trinepos.

patrui filius heisst auch *frater patruelis*, u. im Gbruch d. Volkssprache *consobrinus* (cousin)

Pand. lib. XXXVIII, *tit. 10* "Item fratres patrueles, sorores patrueles, id est qui quaeve ex duobus fratribus progenerantur; item consobrini consobrinae, id est qui quaeve ex duobus sororibus nascuntur (quasi *conso⟨b⟩rini*); item *amitini amitinae*, id est qui quaeve ex fratre ex sorore propagantur; sed fere vulgos istos omnes communi appellatione consobrinus vocat."[59]

female on the father's side. father's sister; amita, amitae filius, a. neptis, a. trineptis, a. trineptis trineptis. Special term for amitae filia *amitina.*

3d collateral line male on the father's side: grandfather's brother – *patruus magnus* (keine existing language has an original term for this relationship); *patrui magni filius, nepos*, trinepos, ending with patrui magni
19 trinepotis trinepos. | *Same line female* (on father's side) commences with *amita magna*, great paternal aunt etc.

4th and 5th collateral lines on the father's side commence *respectively* mit *patruus major* (great grandfather's brother) u. *patruus maximus* (great-great-grandfather's brother). Geht dann wie vorhin: *patrui majoris* filius, bis *trinepos* u. *patrui maximi filius bis trinepos.*

Female branches (on paternal side) commence respectively mit *amita major* u. *amita maxima.*

Für d. relatives on the mother's side the first collateral line soror etc remains the same, whd the *female lineal line* is *substituted for the male.*

Second collateral line (on mother's side): avunculus (maternal uncle), *avunculi filius, nepos, trinepos etc*

In the female branch (on mother's side): *matertera* (maternal aunt), *materterae filia, neptis, proneptis, trineptis* etc

Third collateral line, male and female (on mother's side) begin respectively mit: *avunculus magnus* u. *matertera magna.*

Fourth ——— ... mit *avunculus major* u. *matertera major.*

Fifth ——— ——— *avunculus maximus* u. *matertera maxima.*

Mit Bezug auf d. present *monogamian family: it must advance as society advances, and change as society changes*, even as it has done in the past. It is the creature of the social system ... must be supposable that it is capable of still further improvement *until the equality of the sexes is attained.* Should the monogamian family in the distant future fail to answer the requirements of society, assuming the continuous progress of civilization, it is impossible to predict the nature of its successor. (491, 492)

Part III. Ch. VI Sequence of Institutions Connected with the family.
First stage of sequence: I) *Promiscuous Intercourse.*

II) *Intermarriage of Brothers and Sisters, own and collateral, in a group; gives:*

III) *The Consanguine Family (first stage of the family;* gives:

IV) *The Malayan System of Consanguinity u. Affinity.*

Second Stage of Sequence:

V) *The Organization upon the Basis of Sex, and the Punaluan Custom, tending to check the intermarriage of brothers and sisters; gives:*

VI) *The Punaluan Family (Second Stage of the Family)*, gives:

VII) *The Organization into Gentes, which excluded brothers and sisters from marriage.* Gives:

VIII) *The Turanian and Ganowanian System of Consanguinity and Affinity.*

Third Stage of Sequence:

IX) *Increasing influence of Gentile Organization and improvement in the arts of life, advancing a portion of mankind into the Lower Status of Barbarism*, gives:

X) *Marriage between single pairs, but without an exclusive cohabitation;* gives:

XI) *Syndyasmian Family (Third Stage of the Family).*

Fourth Stage of Sequence.

XII) *Pastoral life on the plains in limited areas*, gives:

XIII) *Patriarchal Family (Fourth but exceptional stage of family)*

Fifth Stage of Sequence:

XIV) *Rise of Property, and settlement of lineal succession to estates*, gives:

XV) *The Monogamian family (Fifth Stage of the family)*, gives:

XVI) *The Aryan, Semitic and Uralian system of Consanguinity and Affinity, and overthrows the Turanian.*

1) *Promiscuous intercourse. Leben in Horde;* no marriage; far below the lowest savage now living; The *ruder flint implements* found over part of the earth's surface, and not used by existing savages, attest extreme rudeness of man's condition, after he had emerged from his primitive habitat and commenced, as a fisherman, his spread over continental areas. – *Primitive Savage.* | The *consanguine family*[60] *... recognised promiscuity within defined limits, and those not the narrowest*, and it points[61] through its organism to a *worse condition*[62] against which it interposes a shield.

ad V) In the *Australian* male *and female classes united in marriage, punaluan groups* are found. Among the *Hawaiians*, the same group is also found,

with the marriage custom it expresses. The punaluan[63] *family included the same persons found in the previous ⟨con⟩sanguine, with the exception of own brothers and sisters,* who were theoretically if not in every case excluded.

ad VII Organisation into gentes. Unter d. *Australian classes,* the *punaluan group* is found[64] on a broad and systematic scale; the people were also organised in gentes. Here the punaluan family *older than the gens,* because it rested upon classes which preceded the gentes .... The *Turanian system* requires both the *punaluan family and the gentile organisation* to bring it into existence.

ad X and XI Tendency to reduce the groups *of married persons to smaller proportions* before the close of savagery, because the *syndyasmian family* became a constant phenomenon in the *Lower Status of Barbarism.* Custom led the more advanced savage to *recognise one among a number of wives*[65] *as his principal wife;* this ripened in time into the custom of *pairing,* and in making this wife a companion and associate in the maintenance of family.... *The old conjugal system,* now reduced to narrower limits by the gradual disappearance of *punaluan group,* still environed the advancing family, which it was to follow to the verge of civilisation.... It *finally disappeared into the new form of hetaerism, which still follows mankind in civilization as a dark shadow upon the family*
Syndyasmian family subsequent to the gens, which was largely instrumental in its production.
From the *Columbia*[66] *River* to the *Paraguay,* the *Indian* family was *syndyasmian* in general, *punaluan* in exceptional areas, u. *monogamian* perhaps in none.

ad XIV It is impossible to overestimate the *influence of property* in the civilization of mankind. It was the power[67] that brought the Aryan and Semitic nations out of barbarism into civilization.... *Governments and laws* are *instituted* with primary reference to its creation, protection and enjoyment. *It introduced human slavery as an instrument in its production.* With the establishment of the inheritance of property in the children of its owner, came the first possibility of a strict monogamian family.

ad XV The Monogamian family: As finally constituted, this family assured the paternity of children, *substituted the individual ownership of real as well as personal property for joint ownership,* and *an exclusive inheritance by children in the place of agnatic inheritance.* Modern society reposes upon the Monogamian family.

Alle älteren Burschen – darunter *Sir Henry Maine* – nehmen Hebrew u. Latin types (patriarchal family) an as producing the earliest organised society ... damit hängt zusammen the hypothesis of *human degradation* to explain the *existence of barbarians and savages.* Aber *inventions u. discoveries came one by one;* the knowledge of a *cord*[68] must precede the *bow and arrow,* wie gunpowder the musket, steamengine the railway and steamship; so *the arts of subsistence* followed each other at long intervals u. *human*

tools passed through forms of flint and stones before they were formed of iron. Ebenso *institutions*

Part IV. (*The Growth of the Idea of Property*)
Ch. I. The three rules of inheritance.
"*Earliest ideas* (!) *of property*" intimately associated mit *procurement of subsistence, the primary need.* D. *objects of ownership* vermehren sich natürlich in jeder "successive ethnical period" mit der *multiplication der arts wovon d. Subsistenzmittel* abhängen. *Wachsthum v. Eigenthum* hält so schritt mit *Fortschritt von Erfindungen u. Entdeckungen.* Jede ethnische Periode zeigt so *marked advance upon its predecessors*, nicht nur in der *Zahl der Erfindungen*, sondern ebenso in *variety and amount of property* which resulted therefrom. The *multiplicity of the forms of property* would be accompanied by the *growth of certain regulations with reference to possession and inheritance.* The *customs* upon which *these rules* of *proprietary possession and inheritance depend*, are *determined* by the *condition* and *progress of social organisation.* The growth
21 of property is thus closely connected with the increase of inventions | *and discoveries*, and the *improvements of social institutions* which mark the several ethnical periods of human progress. (*525*, *526*)
I) *Property in the Status of Savagery.*
Mankind, when *ignorant of fire*, without *articulate language*, and without *artificial weapons* depended ... upon *the spontaneous fruits of the earth.* Langsam u. fast unbemerkbar, in d. Period of savagery, avanciren sie von *Gebärdensprache* u. *unvollkommnen sounds* to *articulate speech;* von dem *club* (Keule), als erster *Waffe*, zu *spear* pointed with flint, u. schliesslich zu *arrow u. bow;* von *flint-knife* u. *-chisel* to *stone axe u. -hammer;* von *osier* (Korbweide) u. *cane basket* to the *basket coated with clay*, which gave a *vessel for boiling food with fire;* and, *finally to the art of pottery.*
In the means of subsistence, they advanced from *natural fruits in a restricted habitat* to *scale and shell fish of the sea*, and *finally* to *bread roots and game.*
Ferner im status von savagery developed: *Rope and string-making from filaments of bark;* a *species of cloth made of vegetable pulp;* the *tanning of skins* to be *used as apparel* and as a *covering for tents;* finally the *house constructed of poles and covered with bark*, or *made of plank split by stone wedges.* Unter *minor inventions* zählten neben *fire-drill* (während umgekehrt alles zum Feuermachen Gehörige d. Hauptinvention!), *moccasin* (Indian word for Schuhe ohne Sohlen aus weicherm skin von deer etc), u. the *snow-shoe.*
Während dieser Periode grosse Vermehrung d. Menschen (im Gegensatz zum primitiven Zustand) auf Basis of vermehrte Consumtions Mittel, *Ausbreitung derselben über d. Continents.* In *socialer Organisation* Fortschritt von *consanguine horde* zu *tribes organized into gentes*, so *possessed of the germs of the principal governmental institutions.*
D. entwickelteste Theil der savages, had *finally organised gentile society* u.

developed small tribes with villages here and there... ihre rude energies and ruder arts chiefly devoted to subsistence; noch nicht the *village stockade* (Pfahlwerk) *for defence, no farinaceous food*, still *cannibalism.* – Der progress was *immense* "*potentially*", trug in sich d. *rudiments* of language, government, family, religion, house architecture, property; ditto the principal germs of the arts of life.

Property of savages inconsiderable; rude weapons, fabrics, ustensils, apparel, implements of flint, stone, and bone u. "*personal ornaments*" *their chief items of property.* Wenige Gegenstände des Besitzes, keine passion für Besitz; kein *studium lucri*, now such a commanding *force in the human mind.*

Lands owned by the tribes in common, while *tenement-houses owned jointly by their occupants.*

D. *passion of possession* nourished its nascent powers upon *articles purely personal*, increasing with the slow progress of *inventions.* Those *esteemed most valuable deposited in the grave of the deceased proprietor for their continued use in spirit-land.*

x *Inheritance: its first great rule* came in with the *institution of the gens, which distributed the effects of a deceased person among his gentiles.* Practically they were *appropriated by the nearest of kin;* but the *principle general that the property should remain in the gens of decedent,*[69] *and be distributed among its members.* [*Blieb in civilization*[70] *v. Greek, Roman gentes*]. *Children inherited from their mother, but took nothing from their reputed father.*

II) *Property in the Lower State of Barbarism.*

Hauptinventions: art of pottery, finger weaving and the *art of cultivation in America* which gave farinaceous food (*maize*) u. plants by irrigation [in Eastern hemisphere bginning as equivalent: *domestication of animals*), keine great inventions. *Finger weaving* with *warp and woof* (Kette u. Einschlag) scheint dieser Periode anzugehören, ist eine der greatest inventions; but it cannot be certainly affirmed that *the art was not attained in savagery.*

The *Iroquois* u. other tribes of America in the same status manufactured *belts* u. *burden straps with warp and woof of excellent quality and finish;* using *fine twine made of filaments of elm and bass wood bark.* (*basswood* americ. Linde). *Principles dieser Erfindung*, which since clothed the human family, *were perfectly realized;* but sie were *unable* to extend it *to the production of the woven garment.*

Picture writing seems to have made its first appearance in this period; *wenn früheren Ursprungs*, erhielt es jetzt sehr beträchtliche Entwicklung.

D. *series of connected inventions* in this department:

1) *Gesture Language or language of personal symbols.* 2) *Picture writing*, or
22 *idiographic symbols.* 3) verte/ | 3) *Hieroglyphs*, or *conventional symbols.* 4) *Hieroglyphs of phonetic power*, or *phonetic symbols used in a syllabus.* 5) *Phonetic alphabet* or written sounds.

The characters on the *Copan monuments* apparently hieroglyphs of the grade of *conventional symbols*, beweisen, dass d. *American aborigenes, who practiced the 3 first forms*, unabhängig auf Weg in direction of a phonetic alphabet.

Stockade as a means of village defence u. of a *raw-hide shield* als defence[71] ggen *arrow*, which had now become a deadly missile, of the *several varieties of war-club, armed with an encased stone* or *with a point of deerhorn*, scheinen zu dieser Periode zu gehören. Jedenfalls waren sie in *common use* among the American Indian Tribes in the Lower Status of Barbarism when discovered. Der *Spear, pointed mit flint or bone* kein customary weapon with the *forest-tribes*, though sometimes used; z.B. d. *Ojibwas* used the *lance or spear, She-mä-gun*, pointed with flint or bone. *Bow u. arrow*, und *war-club* Ha⟨u⟩ptwaffen d. American Indians in diesem Status.

Einiger Fortschritt in pottery, nämlich im *increased size der vessels produced* u. in *their ornamentation;* the *Creeks* made *earthen vessels* von 2 to 10 gallons; d. *Iroquois* ornamented their *jars u. pipes mit miniature human faces attached as buttons;* im ganzen blieb pottery extremely rude bis Ende dieser Periode.

Bemerkbarer Fortschritt in House architecture in *size* u. *mode of construction.*

Unter *minor inventions: air-gun for bird shooting, wooden mortar for reducing maize to flour* u. d. *stone mortar for preparing paints.*

Earthen u. stone pipes, with the use of tobacco.

Bone and stone implements of higher grades, with *stone hammers and mauls* (Mauls sind heavy wooden hammers), the *handle* and upper part of the stone being encased in raw hide; and *moccasins u. belts ornamented with porcupine quills.*

Einige dieser Erfindgen wahrscheinlich *geborgt from tribes in the Middle Status;* denn es *war dch diesen Process constantly repeated that the more advanced tribes lifted up those below them*, as fast as the latter were able to appreciate and appropriate the means of progress.

The cultivation of maize and plants gave the people *unleavened bread*, the *Indian succotash* (Specie von grünem Mais u. Bohnen) u. *hominy* (Maismuss),

ro- tended also to *introduce a new species of property, cultivated lands or*
ber- *gardens.*
ty *Obgleich lands owned in common by a tribe*, a *possessory right to cultivated land was now recognised in the individual*, or *in the group, which became a subject of inheritance.* The *group united in a common household were mostly of the same gens*, and the rule of inheritance would not allow it to be *detached from the kinship.*

Inheritance: The *property u. effects v. husband u. wife kept distinct*, remained after their demise in[72] the gens worin sie respective gehörten. Weib u. Kinder nahmen nichts von husband u. father u. vice versa. Starb unter d. *Iroquois* ein Mann leaving wife and children, so wde *sein Eigenthum* vertheilt *unter seine gentiles* so dass *seine Schwestern* u. *deren children u. ihre maternal uncles* would receive the most of it; *his brothers* might receive a

small portion. *Starb a wife*, leaving husband and children, so *ihre effects* geerbt von *ihren Kindern, Schwestern, Mutter u. Mutterschwestern;* d. *greater portion* assigned to her children; in jedem Fall *blieb property in der gens.* Unter d. *Ojibwas* d. effects der Mutter vertheilt unter ihren Kindern, wenn alt gènug to use them; sonst, od. in default of children, they *went to her sisters*, ihrer *Mutter u. Mutterschwestern*, to the *exclusion of her brothers.* Obgleich d. *Ojibwas had changed descent to the male line*, the inheritance *followed the rule which prevailed when descent was in the female line.*

D. *variety u. amount of property grösser als in savagery*, aber noch nicht stark genug to develop a strong sentiment in relation to inheritance.

In d. *distributions modus* germ d. *2nd great rule of inheritance, which gave the property to the agnatic kindred to the exclusion of the remaining gentiles.* Agnation and agnatic kindred assume jetzt *descent in the male line.* Princip selber in beiden cases, aber the *persons included – different.* Mit descent in the female line, *agnates* Personen who can trace their descent through females
23 exclusively von | same common ancestor with the intestate; im andern Fall, who can trace their descent dch males exclusively. *It is the blood connection of persons within the gens by direct descent, in a given line, vom selben common ancestor* which lies at *the foundation of agnatic relation.*

Gegenwärtig *unter advanced Indian tribes* hat begun sich zu manifest *repugnance ggen gentile inheritance*, einige haben sie ganz über Bord geworfen u. *exclusive inheritance in children substituirt.* Evidence of this repugnance unter *Iroquois, Creeks, Cherokees, Choctas, Menominees, Crows* u. *Ojibwas.*

In dieser älteren Periode of barbarism *sehr bdtende Abnahme of cannibalism;* wde aufgegeben *als common practice;* blieb als *war practice* in dieser u. d. Middle Period. In dieser Form ward Cannibalism *gefunden in d. principal tribes der U.St., Mexico*, u. *Central America.* Erwerbung v. farinaceous food Ha⟨u⟩ptmittel to extricate mankind von this savage custom.

I) u. II) *status of savagery* u. *Lower Status of Barbarism*, diese *2 ethnische Perioden*, cover mindestens 4/5 der ganzen Existenz der Menschheit auf der Erde.

Im Lower Status beginnen d. higher attributes of mankind sich zu entwickeln: *Persönliche Würde, Beredsamkeit, religious sensibility, rectitude, manliness* u. *courage jetzt common traits of character*, aber auch *Grausamkeit, treachery*, u. *fanaticism. Element worship in religion*, with a *dim conception of personal gods*, and of a *Great Spirit, rude verse making, joint-tenement houses*, and *bread from maize* belong to this period. It produced also *syndyasmian family* u. *confederacy of tribes, organized into phratries u. gentes.* D. *imagination*, that great faculty so largely contributing to the elevation of mankind, was *now producing an unwritten literature of myths, legends u. traditions*, already become powerful stimulus upon the race.

III. *Property in the Middle Status of Barbarism.*

D. Evidence dieser Periode more completely lost than that of any other.

It was exhibited by the *Village Indians of North and South America* in barbaric splendour at the epoch of their discovery.
Diese Epoche eröffnet in *Eastern Hemisphere* mit *domestication of animals*, in d. *Western* mit der *Erscheinung d. Village Indians*, living *in large joint-tenement houses of adobe* (Luftziegel) *brick* u., in some areas, of *stone* laid in courses.
Cultivation of maize u. *plants by irrigation*, which *required artificial canals*, u. *garden beds laid out in squares, with raised ridges* to *contain the water until absorbed.*
Ein Theil dieser *Village Indians*, when discovered, *had made bronze*, bringing them near dem Iron smelting process.
The *joint-tenement house* in the *nature of a fortress*, hatte intermediate position zwischen der *stockades village of the Lower* u. *the walled city of the Upper Status.* Als entdeckt no *cities*, in the proper sense of the word, *in America.*
In Kriegskunst kein grosser Fortschritt ausser *in defence*, dch. d. *construction of great houses* generally impregnable to Indian assault.
Sie hatten *erfunden: quilted mantles* (*escaupiles*), *stuffed with cotton* as a further *shield agst the arrow* u. the *two-edged sword* (*macuahuitl*), *each edge having a row of angular flint points imbedded in the wooden blade.* They still used *bow u. arrow, spear, war club, flint knives u. hatchets*, u. *stone implements*, obgleich they had *the copper axe u. chisel*, which for some reason came never into general use.
Zu *maize, beans, squashes u. tobacco* nun added *cotton, pepper, tomato, cacao* u. the *care of certain fruits.* A beer[73] was made *by fermenting the juice of the maguey* (mexikanische *Agave*). D. *Iroquois hatten jedoch* ein ähnlich Getränk producirt dch *fermenting maple* (*Ahornart*) *sap.*
Dch improved methods in the ceramic art produced *earthen vessels of capacity to hold several gallons*, of fine texture and superior ornamentation. *Bowls, pots, water jars* manufactured in abundance.
Discovery and use of the native metals, erst for ornaments, finally for *implements and ustensils*, wie copper axe and chisel, dieser Periode angehörig. Melting dieser metals in *crucible*, with the probable use of *blow-pipe* (Blaserohr, Pustrohr) and *charcoal*, and *casting them in moulds*, the *production of bronze, rude stone sculptures*, the *woven garment of cotton* (*Hakluyt: Coll. of Voyages.* III, 377), *houses of dressed stone, ideographs or hieroglyphs cut on the grave-posts of deceased chiefs*, the *calendar for measuring time*, the *solstitial stone for marking the seasons, cyclopean walls*, the *domestication of the llama*, of a *species of dog, of the turkey and other fowls* belong to same period in America.
A priesthood, organized in a *hierarchy, distinguished by a costume*[74]; *personal gods with idols to represent them*, u. *human sacrifices* erscheinen zuerst in
24 dieser Periode. | *Two large Indian pueblos, Mexico* u. *Cusco* jetzt, containing über 20,000 inhabitants, number unknown in the previous period.
Aristocratic element in society, in feeble forms, among the *chiefs, civil* and *military*, through *increased numbers under the same government*, and the growing complexity of affairs.

Eastern hemisphere: we find its *native tribes* in dieser Periode, mit *domestic animals*, yielding them a *milk and meat subsistence* aber whsclich ohne horticultural u. farinaceous food. *Wild horse, cow, sheep, ass, sow;*[75] ihre *Zähmung* gab grossen Impuls; *produced in herds u. flocks* they became *source of permanent* progress. Der *effect wde erst allgemein*, sobald *pastoral life* established for the *creation* u. *maintenance of flocks. Europa*, als hauptsächlich *Wald area*, unadapted to the pastoral state; aber d. *grass plains* of *high Asia* u. upon the *Euphrates*, the *Tigris* u. other rivers of Asia, *natural homes der pastoral tribes.* Thither they would naturally tend; there the remote Aryan ancestors found confronting like pastoral Semitic tribes.

Cultur v. cereals u. plants muss vorhergegangen sein ihrer migration von den grass plains in d. Forest areas v. *Westasien u. Europa.* Diese Cultur *forced upon them by the necessities of the domestic animals* now incorporated into their plan of life. (Dies vielleicht nicht Fall bei d. *Celts*)

Woven fabrics of flax and wool u. *bronze implements u. weapons* erscheinen in dsr Period auch, in d. oestlichen Hemisphäre.

To cross the barrier into the *Upper Status of barbarism* unentbehrlich *metallic tools able to hold an edge and point;* dazu nöthig *Invention d. process of Iron smelting.*

Eigenthum: Grosser Zuwachs v. personal property u. *einige changes in the relations of persons to land.* D. *territorial domain gehörte noch d. Tribus in common;* aber *a portion* now set apart for *support of the government*, andrer für *religious uses*, u. noch *wichtigere portion – das, wovon Volk seine Subsistenz bezog, divided unter the several gentes*, or *communities of persons who resided in the same pueblo.* Niemand owned lands or houses in his own right mit Macht zu verkaufen u. übermachen in fee simple, wem er wollte. *Individual ownership of houses and lands* excluded by *gemeinschftliches Eigenthum an lands dch gentes* od *communities of persons, joint-tenement houses* u. *mode of occupation by related families.*

Rev. Sam. Gorman, Missionäre unter d. *Laguna Pueblo Indians*, in address to the Historical Society of New Mexico says:

"*The right of property* belongs to the female part of the family, and descends in that line from mother to daughter. *Their land is held in common*, but after a person cultivates a lot he has *personal claim to it, which he can sell to one of the community*... Their *women*, generally, *have control of the granary*, are more provident than *their Spanish neighbours* about the future. *Ordinarily they try to have a year's provision on hand.*[76] It is only when *two years of scarcity* succeed each other, that Pueblos, *as a community*, suffer hunger. (*Morgan p. 536, Nte. Possessory rights*, existing in individuals or families, *inalienable* ausser dch inheritance to his or her gentile heirs.

The *Moqui Village Indians*, ausser 7 large pueblos u. gardens, haben jetzt *flocks of sheep, horses and mules* u. considerable other *personal property;*

manufacture *earthen vessels of many sizes* u. excellent quality, u. *woolen blankets in looms* u. mit *yarn* of their own production. Major *J. W. Powell* noticed the following case showing that dort still *the husband acquires no rights over the property of the wife*, or *over the children* of *the marriage*. A *Zunian* married an *Oraybe woman*, and had by her 3 children; er wohnte mit ihnen zu *Oraybe*, bis sie †. The *relatives of his deceased wife* ergriffen Besitz ihrer Kinder u. household property leaving him *his horse, clothing u. weapons*, mit certain blankets, die ihm gehörten, nicht die seiner Frau. Er left the Pueblo mit Powell um nach *Santa Fe* zu gehn u. dann to return to his own people at *Zuñi*. – *Women as well as men*, not unlikely, had a *possessory right* to such rooms and sections of the pueblo houses as they occupied u. überliessen sie ihren next of kin under certain regulations. |

25 The *Spaniards* (writers) have left the land tenure of the southern tribes in inextricable confusion. In *unveräusserlichem common land* belonging to a *community of persons* sahn sie *feudal estate*, im chief the *feudal lord*, im people *his vassals;* sie sahen, dass d. land owned in common; nicht die *community ihrer owners selbst* – die *gens* od. *division of a gens*.

Descent in the female line remained still in *some of the tribes* of *Mexico u. Central America*, whd in andern, probably larger Theil, übergegangen in a *descent in the male line;* letztres caused dch d. influence of property. Unter d. *Mayas* descent was in *male* line, dagegen schwer zu bestimmen in welcher line bei *Aztecs, Tezcucans, Tlacopans* u. *Tlascalans*.

Unter d. *Village Indians* probable descent in the male line with *remains of the Archaic rule* wie in the case of the office of Teuctli. Unter ihnen zu erwarten the second *grand rule of inheritance*, which distributed the property among the agnatic kindred. With descent in the male line *children of a deceased person at the head of the Agnates*, so dass sie d. *greater portion* (unter d. Agnates) erhielten. Aber waren nicht *exclusive heirs* (mit Ausschluss der *andern Agnaten.*[77] D. Americans never entered *last* (*Upper*) *Period of Barbarism*.

Ch. II (*part IV*) *The three rules of inheritance continued*

Upper Period of Barbarism commenced in the *Eastern Hemisphere*.

Process of smelting Iron; trotz *Bronze* progress arrested dch want of a *metal* of *sufficient strength and hardness for mechanical purposes;* found zuerst in *iron*. Von da Fortschritt rapider.

IV) *Property in the Upper Status of Barbarism*.

Ende dieser Periode, property in masses verallgemeinert – consisting in many kinds, held *by individual ownership* – dch *settled agriculture, manufactures, local trade, foreign commerce;* aber:

Old common tenure of lands had not given place, ausser in part, to *Separat-eigenthum*.

In *diesem Status* entsprang *Slavery; it stands directly connected with the production of property*. Out of it (slavery) came *the patriarchal family* of the *Hebrew type* u. the *similar family der Latin*[78] *tribes under paternal power*, wie

auch a *modified form of the same family* unter den *Grecian tribes.* Hence, namtlich aber *von increased abundance of subsistence, through field agriculture*, nations began to develop, zählten *vielen 1000nds* unter one government, wo früher nur *a few 1000nds. Struggle* for d. *possession der most desirable territories* intensified dch. d. *localization of tribes in fixed areas*, u. *in fortified cities*, mit d. increase der Volkszahl. Advanced *Kriegskunst* u. vermehrte d. *rewards of prowess.* Diese changes indicate the approach of civilisation.

Ersten Gesetze der *Griechen, Römer, Hebräer – nach Beginn der Civilisation –* verwandelten chiefly nur *in legal enactments* the results die *ihre previous experience verkörpert hatte in usages and customs.*

Gegen Ende der Upper Period of Barbarism Tendenz zu *2 Formen von Ownership*, nämlich, *durch Staat* u. *durch Individuen. Lands*, unter d. *Griechen*, still held, *einige dch d. tribes in common*, andre *dch d. phratry in common* for religious uses, *andre* dch die *gens in common*, aber d. *bulk der lands* had *fallen under individual ownership in severalty.* Zur *Zeit Solon's* war *Athenian society* noch *gentil, lands* in general held dch individuals who had *learnt to mortgage* them (*Plut. in Solon c. XV.* "Σεμνύνεται γὰρ Σόλων ἐν τούτοις ὅτι τῆς τε προϋποκειμένης (verpfändeten) γῆς ὅρους [die Marken die d. Schuldner bei Haus od. Acker setzen musste, worauf er Geld entlehnt hatte, mit einer Schrift, welche seinen Namen neben der Summe angab]

"Ορους ανεῖλε πολλαχῆ πεπηγότας·
πρόσθεν δὲ δουλεύουσα, νῦν ἐλευθέρα."[79]

The *Roman tribes, from their first establishment*, had a *public domain, Ager Romanus;* while lands were held by the *curia* for religious uses, by the *gens*, u. by *individuals in severalty.* Nachdem diese social *corporations* ausgestorben, *the lands held by them in common gradually became private property.*

Diese several forms of ownership show dass die *älteste land tenure was die in common dch den tribe;* nach Beginn *ihrer Cultivation*, ein *Theil der tribe lands divided unter d. gentes*, jede wovon *held their portion in common;* diesem folgte im Lauf der Zeit *allotments to individuals* u. diese *allotments finally ripened*
26 *into individual ownership in severalty.* | *Personal property*, generally, was subject to *individual ownership.*

Monogamian family erschien in *Upper Status of barbarism* herausentwickelt aus *Syndyasmian* family, hing intimately zus. mit *increase of property* u. *usages in respect to its inheritance. Descent changed to the male line; aber alles Eigenthum, real u. personal*, blieb, wie seit time immemorial, *hereditary in gens.*

Ilias. In der *Ilias* (V, 20)[80] mentioned *fences around cultivated fields.* (*IX, 577*) an *enclosure of 50 acres* (πεντηκοντόγυος), half for *vines*, remainder for *tillage*, XIV (121) Tideus lives in a mansion rich in resources, and had corn producing fields in abundance.

(*Morgan* irrt sich, wenn er glaubt, d. *blosse fencing* beweise Privatgrund-

eigenthum). *Breeds of horses* already distinguished for particular excellence (V, 261) "sheep of a rich man standing countless in the fold" (IV, 433) *Coined money unknown*, daher *trade mostly barter*, wie in flgden lines: ἔνθεν ἄρ' οἰνίζοντο (οἰνάζω im medium *W*ein *kaufen*) κάρη κομόωντες Ἀχαιῶί, ἄλλοι μὲν χαλκῷ (*aere*), ἄλλοι δ'αἴθωνι (*splendid*) σιδήρῳ ἄλλοι δὲ ῥινοῖς (pellibus), ἄλλοι δ'αὐτῆσι βόεσσιν, ἄλλοι δ'ἀνδραπόδεσσι' ⟨τίθεντο δὲ δαῖτα θάλειαν⟩[81] (Il. l. V v. 472-75);

hier	Erz	(III *Aequivalentform*); *u. wine* = *Erz od. Eisen od.*	
	Eisen	wo wine = *Geld.*	*Felle od. Ochsen*
	Felle = Wein		
	Ochsen		
	Sklaven		(II Equivalentform)

Gold in bars named as *passing by weight and estimated by talents.* (Il. XII, 274 v. Morgan citirt; steht da *nicht*)[82]

Mentioned: *manufactured articles of gold, silver, brass and iron, textile fabrics of linen and woolen* in many forms, *houses, palaces* etc

Inheritance: Nach Erreichg so grosser Quantität in *Upper Status of Barbarism* v. *houses u. lands, flocks u. herds* u. *exchangeable commodities* and *held by individual ownership question of inheritance* pressed bis *right* d. facts entsprach. D. *domestic animals a possession of greater value* than alle früheren Arten property zusammen, *served for food, exchangeable for commodities, usable for redeeming captives, for paying fines,* and *in religious sacrifices; capable of indefinite multiplication in numbers – their possession revealed to the human mind the first conception of wealth.* Folgte in course of time the *systematical cultivation of the earth, tending to identify the family mit d. soil,* and *render it a property-making organization;* fand bald expression in *Latin, Grecian, Hebrew tribes,* in the *patriarchal family, involving slaves u. servants. Labor of father and children* became more and more *incorporated with the land,* the *production of domestic animals,* and the *creation of merchandise,* it tended to *individualise the family* u. suggested *the superior claims of children to the inheritance of the property they had assisted in creating.* Vor d. Landkultur *flocks u. herds* fiel naturally *under the joint ownership of persons united in a group,* on a *basis of kin, for subsistence. Agnatic inheritance* was apt to assert itself in this condition. Aber sobld *land* had *become the subject of property,* and *allotments to individuals had resulted in individual ownership,* was sure to *supervene upon agnatic inheritance: Third great rule of inheritance, giving property to the children of the deceased owner.*

When *field culture* bewiesen hatte, dass d. *ganze Oberfläche der Erde could be made the subject of property owned by individuals in severalty* u. *Familienhaupt* became *the natural center of accumulation,* the *new property career of mankind* inaugurated –, fully done *before the close of the Later Period of Barbarism,*

übte einen grossen *Einfluss auf human mind*, rief *new elements of character* wach; property became *tremendous passion* im barbarian des heroic age. (*"booty and beauty"*). Dagegen nicht haltbar *archaic* u. *later usages*. [Herr Loria! voila the working of passion!)] *Monogamy* had *assured* the *paternity*
27 of | *children* u. maintained u. asserted their *exclusive right to inherit the property of their deceased fathers*.

Germans, when discovered, in *Upper Status of Barbarism*, *used iron*, in limited quantities; had *flocks and herds; cultivated cereals; manufactured coarse textile fabrics of linen and woolen*, had *not attained the idea of individual ownership in lands*. Folgt daher: *individual property in land unknown in Asia u. Europe* in *Middle Period of Barbarism*, came in in *Upper Period*. Bei *Hebrew tribes* individual ownership in lands existed before the commencement of their civilisation. They came out of barbarism, wie d. Aryan tribes, mit possession of *domestic animals* u. *cereals*, *iron u. brass*, *gold and silver*, *fictile wares u. textile fabrics*. Aber ihre *knowledge of field agriculture* limited in Zeit Abrahams. Nach Reconstruction d. Hebrew society, nach dem Exodus, on *basis of consanguine tribes*, to which on reaching Palestine *territorial areas* were assigned, shows that civilisation found them under *gentile institutions*, below a knowledge of *political society*. *Inheritance* was strictly in the *phratry* u. probably in *the gens "the house of the father"* .... After children had acquired an exclusive inheritance, *daughters succeeded in default of sons; marriage* would then *transfer their own property from their own gens to that of their husband*, unless some restraint, in the *case of heiresses*, was put on the right. Presumptively u. naturally *marriage within the gens* prohibited; question came *before Moses* as a *question of Hebrew inheritance*, vor *Solon* as a *question of Athenian inheritance*, the *gens claiming a* paramount right to its *retention within its membership;* sie beide entschieden in demselben Sinn. Same question must have turned up in *Rome* u. in part met by the rule that a *marriage of a female* worked a *diminutio capitis* u. with it a *forfeiture of agnatic rights*.

Andre question involved in the issue: war *marriage to be restricted by the rule forbidding it within the gens*, or *become free*, the *degree*, and not the *fact of kin*, being the *measure of limitation*! Letztere Lösung siegte.

Zelophehad starb, liess *Töchter*, keine *Söhne*, u. die inheritance given to the former. Später diese Töchter about to marry *ausserhalb the tribe of Joseph* wozu sie belonged; the *members of the tribe* objected to such a *transfer of property*, brachten Suite vor Moses.

Diese Burschen präsentiren d. Suite so:

"If they be married to any of the sons of the *other* tribes of the children of Israel, then *shall the inheritance be taken from the inheritance of our fathers*, and shall be *put to the inheritance of the tribe* whereunto they are received: so *shall it be taken from the lot of our inheritance*." (*Numbers*, XXXVI, 3)[83]

Moses[84] antwortete:

"The *tribe* of the sons of Joseph has spoken well. This *is* the thing which

the Lord doth command concerning the daughters of *Zelophehad*, saying, "Let them marry to whom they think best: only *to the family of the tribe of their father* shall they marry. So shall not *the inheritance of the children of Israel remove from tribe to tribe:* for *everyone of the children of Israel* shall keep himself to the *inheritance of the tribe of his fathers.* And every daughter that possesseth an inheritance in any tribe of the children of Israel shall be wife unto *one of the family of the tribe of her father*, that the children of Israel may enjoy every one the inheritance of his *fathers.*" (*Numbers XXXVI*, 5-9) They were required to marry into their own phratry, not necessarily into their own gens. The daughters of Zelophehad were "*married to their father's brother's sons*" (*Numbers* XXXVI, 11)[85] who were not only members of their *own phratry*, but also of[86] their *own gens;* they were also their next agnates.

Früher hatte *Moses* etablirt d. *rule of inheritance u. reversion* thus: "And thou shalt speak to the children of Israel, saying, *If a man die* and *have no son*, then you shall cause *his inheritance to pass unto his daughters.* And if he have *no daughter*, then you shall give his inheritance *unto his brothers.* And if he have *no brethren*, then you shall give his inheritance unto *his father's brethren.* And if his father have *no brethren*, then you shall give it *unto his kinsman*, that is *next to him of his family*, and he shall possess it." (Numbers, XXVII, 8-11)

Hier heirs: 1) the *children;* aber scheint that *the sons took the property* subject to the obligation of maintaining the daughters. Wir finden elsewhere that the *eldest son* had a *double portion.*

2) *the agnates* in *their order of nearness:* a) *the brethren of the deceased*, in default of *children* des Verstorbnen; u. wenn er *keine brethren* hatte b) *the brethren of the father of the deceased.*

3) *the gentiles*, also in the order of nearness "the kinsman that is *next to him* of his family". The "*family of the tribe*" is the analogue of the *phratry;* also *property*, in default of children u. agnates, went to the *nearest phrator* des defunct owner. – Diese Erbfolge *excludes cognates von inheritance;*
28 a *phrator* more distant than a | *father's brother*, would inherit *in preference to the children of a sister of the deceased.* Descent in the male line and the property must be hereditary in the gens. The *father did not inherit from his son*, nor the *grandfather from his grandson.* Hierin u. fst in allem übrigen *Mosaic Law* agrees mit d. *Law of Twelve Tables.*

Später the *Levitical law* established *marriage upon a new basis, independent of gentile law;* verbot Ehe *innerhalb gewissen Grade v. consanguinity u. affinity*, declared it *free* beyond these degrees; dies entwurzelte gentile usages mit Bezug auf Ehe bei d. Hebräern, wde später *the rule of Christian nations.*

Solon's Gesetze über inheritances substantiell selber wie die von Moses.[84] [87]Beweist, dass die *früheren usages, customs, institutions* d. *Hebräer u. Griechen dieselben in Bezug auf Eigenthum.*

Zu *Solon's Zeit, 3d great rule of inheritance* fully established unter *Athenien-*

sern; sons took the estate ihres deceased *father* mit obligation of *maintaining the daughters* u. *apportioning them suitably for their marriage.* Wenn *no sons* erbten d. *Töchter equally;* dadurch created *heiresses* (ἐπικλήρες) by *investing women mit estates;* Solon enacted that *the heiress should marry her nearest male agnate,* although they belonged *to the same gens,* and *Ehe unter ihnen* früher *verboten* dch usage. Instances occurred wo d. *nächste Agnat, obgleich verheirathet, put away his wife,* in order to marry the heiress, and thus gain the estate. Protomachus im Eubulides des Demosthenes Beispiel. (*Demost. agst Eubulides, 41*). Wenn keine children, *estates* to the *agnates,* in their default *to the gentiles* des defunct. *Property was retained within the gens* as *inflexibly among the Athenians* wie unter *Hebrews* u. Romans. *Solon* turned into law, was vorher established usage. Unter *Solon* erschienen *testamentary dispositions* (established? by him); *Plutarch* sagt es sei *früher nicht erlaubt* gewesen. (*Romulus: 754-717* a. C., 1-37 d. Stadt Rom; *Solon* Gesetzgeber Athens' about *594* a.C.)

Εὐδοκίμησε δὲ κἀν τῷ περὶ διαθηκῶν νόμῳ, πρότερον γὰρ οὐκ ἐξῆν, ἀλλ' ἐν τῷ γένει τοῦ τεθνηκότος ἔδει τὰ χρήματα καὶ τὸν οἶκον καταμένειν, ὁ δ' ᾧ βούλεταί τις ἐπιτρέψας, εἰ μὴ παῖδες εἶεν αὐτῷ, δοῦναι τὰ αὑτοῦ, φιλίαν τε συγγενείας ἐτίμησε μᾶλλον καὶ χάριν ἀνάγκης, καὶ τὰ χρήματα κτήματα τῶν ἐχόντων ἐποίησεν.[88] *Plut. Vita Solon,* c. 21

This law recognized the *absolute individual ownership of property by the person while living,* to which jetzt added *testamentar. Verfügg,* when *no children* da, aber d. *gentile right* remained paramount so lange *children existed to represent him in the gens.* At all events muss d. custom früher dagewesen sein (testamentliche), da Solon in *positive law — customary law* verwandelte.
Roman Law of 12 tables, first promulgated *449 a.Ch.;* dch sie anerkannt: *Intestaterbrecht:* "Intestatorum hereditates ⟨ex⟩ lege XII tabularum priscum *ad suos heredes pertinet.*"[89] (*Gajus, inst.* iii, 1) (mit d. children war *wife* des defunct *coheiress*). "Si nullus sit *suorum* heredum, tunc hereditas pertinet *ex eadem lege XII tabularum ad agnatos*".[90] (Gaj. III, 9) "Si *nullus agnatus sit, eadem lex* XII tabularum *gentiles* ad hereditatem vocat."[91] (ib. III, 17) Seems a *reasonable inference* dass *hereditas* wirklich *grade in d. umgekehrten Ordnung* primitiv bei d. Römern existirt hatte als in d. 12 Tafeln; *inheritance by gentes* vor der der Agnaten; *die der Agnaten* vor der exclusiven der Kinder.
In d. *later Period of Barbarism* kam *Aristocratie* auf, dch *Entwicklg d. individuality of persons, increase* of *wealth now possessed by individuals in masses; slavery,* by permanently degrading a portion of the people, *tended to establish contrasts of condition unknown in the previous ethnical periods;* dazu, with *property and official position* – schuf sentiment of aristocracy, *antagonistisch* den *democratical principles fostered by the gentes.*
Im Upper Status of Barbarism, the *office of chief* in its different grades,

originally hereditary in the gens and elective among its members, passed, very likely, unter *Grecian and Roman tribes* von father to son as a rule. Aber
29 kein evidence, dass so by hereditary right. | D. blosse *possession* jedoch der *offices* of *archon, phylo-basileus* or βασιλεύς unter d. Griechen, u. v. *princeps* u. *rex* unter d. *Römern*, hatte Tendenz to strengthen in their families the sentiment of aristocracy. Obgleich es permanent existence gewann, nicht stark genug to *change essentially the democratic constitution of the early governments of these tribes.*

Heutzutag, wo property so immense u. seine forms so *diversified*, it has become, on the part of the people, *an unmanageable power.* "*The human mind stands bewildered in the presence of its own creation.* The time will come, nevertheless, *when* human intelligence *will rise to the mastery over property* ... A *mere property career is not the final destiny of mankind.* The *time which has passed away since civilization began* is but a fragment (u. *zwar sehr kleines*) of the past duration of man's existence; and *but a fragment of the ages yet to come. The dissolution of society bids fair to become the termination of a career of which property is the end and aim; because such a career contains the elements of self-destruction...* It (a higher plan of society) *will be a revival, in a higher form, of the liberty, equality and fraternity of the ancient gentes.*" (552)

"With one principal of intelligence and one physical form, in virtue of a common origin, the results of human experience have been substantially *the same in all times and areas in the same ethnical status.*" (552)

Part II (*Growth of the Idea of Government*)

Ch. I. Organization of Society upon the Basis of sex.

Organisation into male and female classes (*also organisation upon the basis of sex*) now found in full vitality among the *Australian aborigenes.* Low down in savagery, *community of husbands and women,*[92] within prescribed lines, was the central principle of the social system; the *marital rights* (*jura conjugalia*) [Romans distinguish: *connubium*, related to *marriage* as a *civil institution*, u. *conjugium*, the *mere physical union*)] *established in the group.*]Emancipation von diesen "rights" etc slowly accomplished dch *movements resulting in unconscious reformations; "worked out unconsciously through natural selection.*]

In *Darling River district – north of Sydney* – die nachfolgende *organization into classes on the basis of sex* and the *inchoate organisation* into *gentes on the basis of kin* unter d. *Australian aborigines* speaking the *Kamilaroi language.* Wide spread selbiges unter other Australian tribes; evident from internal considerations *that the male u. female classes older than the gentes*, die, among the Kamilaroi, are in *process of overthrowing the classes.* The *class in its male and female branches* is the *unit of the social system* u. the *central position*, whd d. *gentes inchoate* u. advancing to completeness through encroachments upon

the former. Selbe *Organisation upon sex* not yet been found under savage tribes *out of Australia*, weil diese insular savages slowly developing in their secluded habitat, d. *most archaic* (organised) form am längsten erhalten haben.

The *Kamilaroi* divided *in 6 gentes*, standing with relation to ⟨right of⟩ marriage[93] in *2 divisions:*

I) 1) *Igana* (*Duli*)
2) *Kangaroo* (*Murriira*) [*Padymelon*, a species of Kangaroo]
3) *Opossum* (Mute)

II) 4) *Emu* (*Dinoun*)
5) *Bandicoot* (*Bilba*)
6) *Blacksnake* (*Nurai*)

Ursprünglich d. ersten 3 gentes *not allowed* to *intermarriage with each*, weil sie waren *subdivisions of one original gens*, durften aber marry into either of the other gentes u. vice versa. Dies nun modified unter d. Kamilaroi, aber nicht so weit dass marriage erlaubt mit allen gentes ausser der gens des individual. *Absolute prohibition for males or females to marry into their own gens. Descent in female line, which assigns children to the line of their mother.* These features of *archaic form of gens.*

Aber ausserdem existirt weitere u. ältere division des people in *8 classes*, *4 exclusively of males* u. *4 exclusively of females*. It[94] is accompanied with a *regulation in respect to marriage and descent* which ⟨obstructs⟩ *the gens* (zeigt, dass deren organisation *later* .... Marriage is restricted to *a portion of the males of one gens with a portion of the females of another gens*, whd in entwickelter *gentile organisation* members of each gens allowed to marry persons of the opposite sex[95] in all the gentes except their own. |

30 *Die Klassen sind:*

Male	*Female*
1) *Ippai*	1) *Ippata*
2) *Kumbo*	2) *Buta*
3) *Murri*	3) *Mata*
4) *Kubbi*	4) *Kapota*

Alle Glieder, je einer[96] d. 4 männlichen Klassen, sind, *of whatever gens they may be*, *Brüder* v. einander, so alle *Ippais Brüder* etc, weil alle *supposed descended from a common female ancestor.*

Ebenso alle Glieder je einer der 4 weiblichen Klassen *Schwestern v. einander für same reason* (descent from common mother), to *whatever gens they may belong.*

Ferner all⟨e⟩ *Ippais u. Ippatas Brüder u. Schwestern* von einander, ob sie nun *children der same mother or collateral consanguinei*, ebenso verhält es sich für d. folgenden mit *denselben numbers bezeich⟨n⟩end Klassen.* If a Kumbo u. Buta meet, die sich nie vorher gesehn, begrüssen sie sich als Bruder u. Schwester. D. Kamilaroi sind also organised in 4 *great primary groups of brothers and sisters*, each *group being composed of a male and female branch*, but *intermingled over the areas of their occupation.* The classes *embody the germ of gens*, so far as z.B. *Ippai u. Ippata* in fact *a single class* in 2 branches bilden

u. not can intermarry with each other; aber keine realisirte Gens, weil sie fall unter *2 names* (wie *Ippai* u. Ippata), each of which is integral for certain purposes; u. weil *their children take different names from their own.*

D. *classes* stand to each other in *a different order with respect* to *right of marriage, or rather cohabitation* (since brother and sister are not allowed to intermarry) *viz* so:

1) Ippai	can marry	4) Kapota, and no other	Später—as shown hereafter, dies scheme so far modified, that *each class* of *males* gets right of intermarriage mit an additional class of females; dies encroachment von gens upon class.
2) Kumbo		3) Mata	
3) Murri		2) Buta	
4) Kubbi		1) Ippata	

Each male in the selection of a wife so limited to 1/4 of all the Kamilaroi wives.[65] *Theoret⟨i⟩sch* jede Kapota the wife of every Ippai. Quotes *Rev. Fison* quotes von a letter of Mr. *T. E. Lance* (der lange in Australien gelebt): "if a Kubbi meets a stranger Ippata, the⟨y⟩ address each other as *Goleer = Spouse*... A Kubbi thus meeting an Ippata, even though she were of another tribe, would treat her as his wife, and his right to do so would be recognized by her tribe."

Under the *conjugal system*, 1/4 aller males united in marriage with 1/4 aller females of the Kamilaroi tribes.

Whd d. *Kinder* blieben in *gens ihrer Mutter*, gingen sie über in *eine andre Klasse*, in *selber gens, different from that of either parent.*

Male		*Female*		*Male*	*Female*
1) *Ippai*	*marries*	4) *Kapota: their children are*		3) *Murri u.*	3) *Mata*
2) *Kumbo*		3) *Mata*		4) *Kubbi u.*	4) *Kapota*
3) *Murri*		2) *Buta*		1) *Ippai u.*	1) *Ippata*
4) *Kubbi*	„	1) *Ippata*	„ „ „	2) *Kumbo u.*	2) *Buta.*

Folgt man d. female line, so Kapota (4) ist die Mutter of *Mata* (3) u. *Mata* (3) ist hin wiederum die Mutter of Kapota; ebenso Buta (2) Mutter von Ippata (1) u. hinwiederum Ippata (1) die Mutter von Buta (2). Selbes mit male class; da aber *descent in the female line*, leiten sich d. *Kamilaroi tribes* selbst ab von *2 supposed female ancestors*, which laid the foundation for 2 original gentes. – By tracing the descent still further fand *that the blood of each class passes through all classes.*

Obgleich jedes Individuum einen d. oben erwähnten class names führt, so *daneben the single personal name* common among savages as well as barbarous tribes.

The gentile organization supervened naturally upon the classes as an higher organisation, *by simply enfolding them unchanged*, encroaches then upon them. |

31 The *classes* are *in pairs* von *brothers u. sisters derived from each other* u. d. *gentes*, vermittelst der classes, sind auch in pairs, wie folgt:

Gentes	*Male*	*Female*	*Male*	*Female*
1) *Iguana*	*all are Murri u.*	*Mata oder*	*Kubbi und*	*Kapota*
2) *Emu*	„ *Kumbo u.*	*Buta oder*	*Ippai u.*	*Ippata*
3) *Kangeroo*	„ *Murri und*	*Mata od.*	*Kubbi u.*	*Kapota*
4) *Bandicoot*	„ *Kumbo u.*	*Buta oder*	*Ippai u.*	*Ippata*
5) *Opossum*	„ *Murri u.*	*Mata oder*	*Kubbi u.*	*Kapota*
6) *Blacksnake*	„ *Kumbo u.*	*Buta od.*	*Ippai u.*	*Ippata*

The connection of children with a particular gens is proven by the law of marriage. So *Iguana-Mata* must marry *Kumbo*; her children are *Kubbi* u. *Kapota*, u. nothwendig Iguana in gens, because descent in the female line. *Iguana-Kapota* must marry *Ippai*, her children are *Murri* u. *Mata u.* ditto Iguana in gens. So *Emu-Ippata* must marry *Kubbi*, her children are *Kumbo u. Buta* u. of the *Emu gens*. So die gens maintained by keeping in its membership the children of all its female members. Ebenso mit d. remaining gentes. Each gens is made up th⟨e⟩oretically of *2 supposed female ancestors*, and contains 4 of the 8 classes. Wahrscheinlich ursprünglich nur 2 male u. 2 female classes, set opposite to each other in respect to the right of marriage; and that the 4 afterward *subdivided* into 8. The classes evidently as an anterior organisation nachher arranged within the gentes, not formed by the *subdivision of the gentes*.

Da d. *Iguana, Kangaroo u. Opossum gentes* are counterparts to each other in the classes they contain, so *subdivisions of an original gens;* ebenso andrerseits *Emu, Bandicoot u. Blacksnake;* so *2 original gentes* mit d. right in *each to marry into the other*, but *not in itself*. Dies confirmed dch d. fact, dass 1), 3), 5) originally nicht intermarry durften unter einander, ebenso wenig wie 2), 4), 6). When the three *were one gens* intermarriage unter ihnen verboten; dies followed the *subdivisions*, because they were of the same descent, although under different gentile names. Dasselbe exact gefunden bei den Seneca-Iroquois.

Da marriage restricted to particular classes, when there were but 2 gentes, one half of all the females of one were the wives of one half of all the males[97] of the other. After their subdivision into 6 the benefit of marrying out of the gens was neutralised by the presence of the classes mit ihren restrictions; hence continuous in-and-in marriages, beyond the immediate degree of brother and sister.

z.B. descents of *Ippai u. Kapota* giving to each intermediate pair 2 children, a male and a female, dann:

1) *Ippai* marries *Kapota*; their children *Murri u. Mata.* Die letztern 2 können nicht einander heirathen.
2) *Murri marries Buta* ... their children: *Ippai u. Ippata;*
   Mata marries Kumbo their children: *Kubbi u. Kapota;*

3) *Ippai* marries his cousin *Kapota* u. *Kubbi* marries his cousin *Ippata;* their children are respectively *Murri u. Mata* u. *Kumbo u. Buta;* von diesen d. *Murris* marry the *Butas*, second cousins, etc In this condition the classes not only intermarry constantly, but are compelled to do so through this organisation upon sex. – The *organisation into classes seems to have been directed to the single object of breaking up the intermarriage* of brothers and sisters. – *Innovation:* allowing *each triad of gentes* to *intermarry* with each other, to a limited extent; and secondly, to *marry into classes*, not before permitted so *Iguana-Murri* can now marry *Mata* in the *Kangaroo* gens,
32 his collateral sister etc Each | class of males in each triad of gentes seems now to be allowed one additional class of females in the 2 remaining gentes of the same triad, from which they were before excluded.

Wherever the middle or lower st⟨r⟩atum of savagery is uncovered, *marriages of entire groups* under usages defining the groups, have been discovered... the necessities of their condition would set a practical limit to the size of the group living together under this custom. "*Cases of physical and mental deterioration in tribes and nations* must be admitted, for reasons which are known, *but they never interrupted the general progress of mankind... The arts by which savages maintain their lives are remarkably persistent. They are never lost until supersed⟨ed⟩ by others higher in degree. By the practice of these arts*, and the *experience gained through social organisations, mankind have advanced under a necessary law of development*, although their progress may have been substantial⟨ly⟩ imperceptible for centuries... Tribes and nations have perished through the disruption of their ethnic life." (p. 60) Among other tribes (non-Australian) the *gens* seems to have advanced in proportion to the *curtailment of the conjugal system.*

"We have the *same brain, perpetuated by reproduction, which worked in the skulls of barbarians and savages in by-gone ages;* and it has come down to us *ladened and saturated* with the thoughts, aspirations and passions, with which it was busied th⟨r⟩ough the intermediate periods. It is the same brain grown older and larger with the experiences of the ages... Outcrops of barbarism (wie z.B. Mormonism) are so many revelations of its ancient proclivities ... *a species of mental atavism.*" (61)

Pt. II. Ch. II. The Iroquois Gens.

Aelteste *organization – social*, founded upon *gentes, phratries, tribes;* so gentile society created, wo government dealt with persons through their *relations to a gens or tribe.* These relations *purely personal.* Kömmt nachher a *political organisation*, founded *upon territory u. property;* hier government deals with persons through their relations to territory, wie z.B. *the township, the county, and the state.* (62)

Gentile Organisation found in Asia, Europe, Africa, America, Australia; dauert bis political *society*, die erst nach der Civilisation eintritt. Irish *Sept.* Scottish *Clan*, d. *phrara* der Albanians, *ganas* des Sanscrit etc

selber was American Indian gens. *Gens*, γένος *u. ganas* (*lat. gr. Sanskr.*) bedtn alike *kin;* enthalten dasselbe Element as *gigno*, γίγνομαι, *ganamai* (*beget* alle 3); implying an immediate common descent of the members of a gens. A gens daher a *body of consanguinei.* Descended from the same common ancestor, distinguished by a gentile name, and bound together by affinities of blood. It includes a moyety only of such descendants; wo *descent in female line*, wie überall in archaic period, gens zusammengesetzt of *a supposed female ancestor and her children*, with the *children of her female descendants*, through females, in perpetuity; umgekehrt, wo *descent in the male line, into which* the *female* line was changed after the appearance of property in masses. D. moderne *Familienname* ist selbst *a survival of the gentile name*, with descent in the male line. *The modern family*, as expressed by its name, is *an unorganised gens;* with the *bond of kin*[98] *broken*, and its members as widely dispersed as the family name is found. *Final form of gens* enthält two changes: 1) *change from female to male line of descent;* 2) *change of the inheritance of the property* of a deceased member *from his gentiles* to his *agnatic kindred* u. finally *to his children.*

Gens in its archaic form now exists among the American aborigenes.

Wo *gentile institutions prevailed* – and prior to the establishment of political society – we find *peoples or nations in gentile societies* and nothing beyond. "*The state did not exist.*" (p. 67) As the *gens*, the unit of organization, was *essentially democratical*, so necessarily the *phratry* composed of gentes, the *tribe* composed of phratries, and the gentile society formed by the *confederations* or (was höhere Form) coalescing of tribes [(wie d. *3 röm.* in Rom, the *4 tribes of the Athenians in Attica*, the *3 Dorian tribes* in Sparta, all of them on some *common territory.*)]

In der *archaic form der gens* die children einer Frau gehören *zu ihrer gens;* ebenso d. children ihrer Töchter, Grosstöchter etc Aber d. *children ihrer Söhne*, deren Grossöhne etc belong to *other gentes, nämlich denen ihrer Mütter.* In the *Middle Status of Barbarism* (mit *Syndyasmian* family) began d. *Indian tribes* to *change the female line to the male* – selber in *Upper Status of Barbarism* bei *Greek* tribes (except the *Lycians*) u. d. *Italian tribes*
33 (except *the Etruskans*). | *Intermarriage in Gens prohibited.* Die *Gens institution beginnt nothwendig mit 2 gentes;* the males and females of one gens marrying the females and males of the other; the *children*, following *the gentes of their respective mothers, would be divided between them. Resting on the bond of kin* as its *cohesive principle*, gens verleiht jedem individual member *that personal protection which no other existing power could give.*

Gentes of the Iroquois taken as standard exemplification in der *Ganowanian* family. When discovered the *Iroquois* in the *lower status of barbarism; manufactured nets twine and rope from filaments of bark; wove belts* and *burden straps*, with *warp and woof*, vom selben Material; machten *earthen*[99] *vessels* u. *pipes* von *clay mixed with siliceous materials* u. *hardened by fire*, some of them *ornamented* mit *rude medallions; cultivated maize, beans, squashes* u.

tobacco in garden beds, made *unleavened bread von pounded maize which they boiled in earthen*[99] *vessels* (these *loaves* or *cakes* about 6 inches in diameter u. an inch thick); *tanned skins* into *leather* with which they manufactured *kilts, leggins* u. *moccasins;* used *bow and arrow* and *warclub* als Hauptwaffen; used *flint, stone u. bone implements*, wore *skin garments*, were expert *hunters u. fishermen.* Constructed *long joint-tenement houses* large enough to accommodate *5, 10, 20 families* u. *each household practised communism in living;* were *unacquainted* mit the *use of stone or adobe-brick* in *house architecture u. mit d. use der native metals.* In mental capacity u. general advancement waren they d. *representative branch dr Indian family north of New Mexico. Military "their career was simply terrific. They were the scourge of God upon the aborigines of the continent."*

In lapse of time *number u. names der respective gentes* have slightly varied, their largest number being 8.

I) Senecas: *1) Wolf. 2) Bear. 3) Turtle. 4) Beaver. 5) Deer. 6) Snipe. 7) Heron. 8) Hawk.*

II) Cayugas: *1) Wolf. 2) Bear. 3) Turtle. 4) Beaver. 5) Deer. 6) Snipe. 7) Eel. 8) Hawk.*

III) Onondagas: *1) Wolf. 2) Bear. 3) Turtle. 4) Beaver. 5) Deer. 6) Snipe. 7) Eel. 8) Ball.*

IV) Oneidas. *1) Wolf. 2) Bear. 3) Turtle.*

V) Mohawks. *1) Wolf. 2) Bear. 3) Turtle.*

VI) Tuscaroras. *1) Gray Wolf. 2) Bear. 3) Great Turtle. 4) Beaver. 5) Yellow wolf. 6) Snipe. 7) Eel. 8) Little Turtle.*

D. Changes zeigen, dass certain gentes in some of the tribes became extinct u. dass andre *formed by segmentation of overfull gentes.* Das *jus gentilicium* besteht:

1) The *right der gens of selecting its sachem und chiefs.*

F(a)st bei allen American Indian tribes *2 grades of chiefs, sachem* u. *common chiefs; von diesen 2 primary grades all other grades* were varieties; *elected in each gens from among its members*, a *son* could not be elected to succeed his father, wo *descent in the female line*, weil er *belonged to a different gens. Office of sachem* hereditary in the gens, insofern it was filled so oft als a vacancy occurred; *office of chief* non-hereditary, weil bestowed in reward of personal merit u. died with the individual. *Duties of sachem* confined to *peace*, konnte nicht in Krieg ziehen as a Sachem. The *chiefs*, raised to office for personal bravery, wisdom in affairs, or for eloquence in council, gewöhnlich d. superior class in ability, aber *nicht in authority over the gens.* The relation des *Sachem* was primarily *to the Gens*, wovon er *the official head;* die *des chief* primarily *to the tribe* – von dessen council er wie der Sachem members.

The office of Sachem *älter als gens*, gehört ebenso zu *punaluan group* or even the *anterior horde.* In the *gens* the duties of the office *paternal;* in the gens elective among its male members. Dem Indian system of consan-

guinity entsprechend *office of Sachem* passed von *brother zu brother*, or from *uncle to nephew* u. sehr selten von *grandfather to grandson*. The choice, by *free suffrage of both males and females of adult ages*, fiel gewöhnlich auf einen *Bruder des deceased Sachem* od. *einen der Söhne* einer Schwester; sein eigner Bruder od. d. Sohn einer eignen Schwester meist preferred. Zwischen *several brothers*, own or collateral, on the one hand u. d. sons of several sisters, own or collateral, on the other, no priority of right, da alle male members der gens equally eligible.

Hatte d. *gens* einen gewählt (*Sachem*) (unter d. Seneca-Iroquois z.B.), so noch erfordert assent der 7 remaining gentes. These met for the purpose by phratries; wenn sie d. Wahl to confirm verweigerten, musste die gens neu wählen; wde er accepted ,so election complete, aber der neue Sachem musste still "be *raised up*" (i.e. invested with his office), dch a *council of the confederacy*, before he could enter upon his duty; it was their method
34 of conferring the *imperium*. | Der *Sachem of a gens* was *ex officio a member of the council of the tribe, and of the higher council of the confederacy*. Selbe method of election u. confirmation for *the office of a chief;* aber a general council never *convened* to *raise up chiefs* below the grade of a sachem; they awaited the time when sachems were elected.

Chiefs in each gens usually proportioned to the number of its members; unter d. Seneca-Iroquois 1 chief for about every 50 persons; der Seneca nun in New York einige 3000, haben 8 Sachems u. about 60 chiefs; the proportionate number jezt grösser als früher. *Anzahl der gentes* in a tribe meist entsprechd der Bevölkerungszahl des tribe; d. Zahl d. gentes varies in different tribes von 3 unter Delawares u. Munsees to über 20 unter Ojibwas u. Creeks; 6, 8, 10 waren gewöhnliche Anzahlen.

2) *Recht Sachems u. Chiefs abzusetzen.*

Dies Recht reserved by the members of the gens; office nominally "for life", tenure practically "during good behaviour." Die installation eines Sachem hiess: "*putting on the horns*", seine Absetzung "*taking off the horns.*" Sobald ein Sachem od. chief in due form abgesetzt dch gens, war er von nun *Privatperson. Council of the tribes* konnte auch *Sachems u. chiefs absetzen*, ohne zu warten auf action der gens, and even against its wishes.

3) *Obligation not to marry in the gens.*

Diese rule noch inflexible bei d. Iroquois. – Bei Entstehung der gens *brothers were intermarried to each others' wives in a group, and sisters to each others' husbands in a group;* gens sought to exclude *brothers and sisters from the marriage relation* by prohibiting to marry in the gens.

4) *Mutual rights of inheritance of the property of deceased members der gens.*

In *Status of Savagery property* beschränkt auf *personal effects;* im *Lower Status of Barbarism* kam noch hinzu *possessory rights* in *joint-tenement houses u. gardens.* The *most valuable personal articles buried mit body des deceased owner.* Im übrigen: *property to remain in the gens* and to be *distributed among* the *gentiles des deceased owner.* Dies theoretisch noch rule *bei d. Iroquois;*

praktisch the effects einer deceased person appropriated by his nearest relations within the gens. In *case* of a *male* his *own brothers and sisters and maternal uncle* divided his effects amongst each other; in the *case of a female* her property inherited by her *children u. her sisters, to the exclusion of her brothers.* In beiden *Fällen blieb property in gens.* Deshalb nahm husband nichts von wife u. vice versa. *These mutual rights of inheritance strengthened the autonomy of the gens.*

5) *Reciprocal obligations of help, defence, and redress of injuries.*

Individual depended for security upon his gens; bond of kin powerful element for mutual support; to wrong a person was to wrong his gens. *Herrera: "History of America"* erzählt von d. *Mayas of Yukatan:* wo satisfaction to be made for damages, if he adjudged to pay was like to be reduced to poverty, the kindred (*gens*) contributed, *selbe* sagt v. *Florida Indians:* Stirbt ein Bruder od. Sohn, so verhungern eher the people of the house than seek anything to eat during 3 months, aber kindred u. relations send it all in. *Persons, removing von one village to another, could not transfer their possessory right to cultivated lands or to a section of a joint-tenement house to a stranger; must leave them to his gentile kindred. Herrera* refers to the usage under the *Indian tribes of Nicaragua.*

Garcilasso de la Vega [Royal Commentaries Lond. ed. 1688, Rycaut's Trans. (p. 107)] bemerkt über d. tribes der *Peruvian Andes*, dass "when the *commonalty*, or ordinary sort, married, the *communities* (=*gentes*) of *the people were* obliged to *build and provide them houses.*"

The ancient *practice of blood revenge ... had its birthplace in the gens.* Tribunals for the trial of criminals and laws prescribing their punishment, came late into existence in gentile society. Unter d. *Iroquois* and other *Indian tribes* generally, the *obligation to avenge the murder of a kinsman* universally recognized. Vorher *Beilegungsversuch* zwischen *gens of the slayer u. gens des slayed;* a *council of the members of each gens held separately*, propositions made on behalf of the murderer for a condonation of the act meist in Form of expression of regret u. presents of considerable value. Zog das alles nicht, weil gentile kindred der slain person implacable, so ernannte die gens (des slain) unter ihren members *one or more avengers*, die d. criminal to pursue, until discovered, and then to slay him wherever he might be found. If they did so, this no ground of complaint by any member of the gens of the victim.

6) *The right of bestowing names upon the members of the gens*

Unter savage u. barbaric tribes there is *no name for the family.* The *personal names* von individuals derselben family indicate no family connection between them. [*Family name* ist *nicht älter* als d. Civilisation] *Indian personal names*, however, usually *indicate the gens of the individual to persons of other gentes in the same tribe.* As a rule *each gens had names for persons that were its special property*, and, as such, could not be used by other gentes in the same tribe. *A gentile name conferred of itself gentile rights.*

After birth of the child his *mother* selected for him *a name not in use, belonging to the gens*, with the concurrence of her nearest relatives. The child *not fully* christened until *its birth u. the name of its father, had been announced at the next ensuing council of the tribe.* Bei Tod einer Person, konnte deren *Namen nicht wieder used wden in the lifetime of his oldest surviving son, without the consent of the latter* [Dies wie alles particular, wenn nicht direct Gegentheil gesagt, gilt von d. *Iroquois*]
Zwei classes of names in use, one adapted to childhood, the other to adult life; one "being taken away" (ihre expression) u. d. andere "bestowed." Im Alter v. 16 od. 18 der erste Name weggenommen, *usually dch d. chief der gens* u. einer der 2ten Klasse statt dessen gegeben. At the next council of the tribe *the change of names* was publicly announced, after which the person, if a male, assumed the duties of manhood. In some Indian tribes the youth was required to go out upon the war-path *and earn his second name* by some act of personal bravery. After a severe illness nicht ungewöhnlich for a person, from superstitious considerations, to solicit and obtain a second change of name. When a person was elected *a Sachem* od. a *chief, his name was taken away*, and *a new one conferred at the time of his installation.*

D. Individual had no control over the question of a change; was prerogative der female relatives u. der chiefs; but an adult person might change his name provided he could induce a chief to announce it in council. A *person having the control of a particular name*, wie der eldest son of that of his deceased father, *might lend it to a friend in another gens;* but after the death of the person thus bearing it the *name reverted to the gens to which it belonged.* The names jetzt in use unter d. Iroquois u. andern Indian tribes *meist ancient names handed down in the gentes from time immemorial.*
In familiar intercourse u. formal salutation the American Indians address each other by the *term of relationship* the person spoken to sustains to the speaker. When related they *salute by kin;* wenn nicht, they substitute "*my friend.*" Gälte für lümmelhaft *to address an Indian by his personal name, or to inquire his name directly from himself. Anglo-Saxon ancestors* der "English" hatten bis *Norman Conquest* nur *single personal names, no name to designate the family.* Zeigt an *späte Erscheinung der Monogamie;* u. *Existenz in früherer Periode* von *a Saxon gens.*
7) *The right of adopting strangers into the gens.*
Captives taken in war either put to death, or adopted into some gens; letztres mit *women u. children*, taken prisoners, usual. *Adoption* not only *conferred gentile rights*, sondern auch d. *nationality of the tribe.*
The person adopting a captive placed him or her in the relation of a brother or a sister; if a mother adopted, in that of a son or a daughter; and ever afterwards treated[100] the person in all respects as though born in that relation. *Slavery*, which in the *Upper Status of Barbarism* became the fate of the captive, *was unknown among tribes in the Lower Status in the aboriginal period.*

Captives when adopted were often assigned in the family the places of deceased persons slain in battle, in order to fill up the broken ranks of relatives. *Ausnahmsweise declining gens* so replenished, z.B. At certain time die *Hawk gens* der *Senecas* so much thinned, dass dem Erlöschen nah; to save the gens *a number of persons from the Wolf gens* by mutual consent were transferred in a body by adoption to that of[101] the Hawk. D. Adoptionsrecht left to the discretion of each gens. *Unter d. Iroquois* d. Adoptionsceremonie performed at a public council of the tribe, wdch turned practically in⟨to⟩ a religious rite.[102]

8) *Religious rites*[103] *in the Gens*?

Kann kaum gesagt wden, dass *any Indian gens had special religious rites; aber their religious worship* mehr od. minder *direct connection with the gentes;* religious ideas germinated u. forms of worship instituted in gens,
36 expanded from the gens over the | tribe, statt *special* to remain to the gens. So bei den *Iroquois* 6 annual religious festivals [*Maple, Planting, Berry, Green-Corn, Harvest* u. *New Year's Festivals*] common to all the gentes united in a tribe, observed at stated seasons of the year.

Jede gens furnished a number of "*Keepers of the Faith*", male and female, charged mit celebration jener festivals; conducted in selben d. ceremonies zus. mit d. Sachems u. Chiefs der Tribes who, *ex officio*, "Keepers of the Faith." With no official head, none of the marks of a priesthood, their functions equal. Die "*female keepers of the faith*" bes. charged mit preparation of the feast, provided at all councils at the close of each day for all persons in attendance. Das *dinner in common.* Their worship was one of thanksgiving, with invocations der *Great Spirit* u. der *Lesser Spirits* to continue to them the blessings of life. (*Cf. Morgan's: League of the Iroquois*, p. 182)

9) *A common burial place.*

Ancient – aber *nicht exclusive-* mode of burial: *by scaffolding the body until the flesh had wasted,* danach d. *bones collected* u. preserved in *bark barrels in a house constructed for their reception.* Die belonging zur selben gens usually placed in the same house. *Rev. Dr. Cyrus Byington* found these practices unter d. *Choctas, 1827;* so sagt *Adair* [*Hist. of the Americ. Indians* p. 183] von d. *Cherokees:* "I saw three of them, in one of their towns pretty near each other... Each house contained the bones of one tribe separately, with the hieroglyphical figures of each family (*gens*) on each of *the oddshaped arks.*" *D. Iroquois* in ancient times used scaffolds u. preserved the *bones of deceased relatives in bark barrels, often keeping them in the house they occupied.* They *also buried in the ground;* im letzten Fall die same gens not always buried *locally* together, unless *they had a common cemetery for the village. Rev. Asher*[104] *Wright,* a missionary among the *Senecas,* wrote to Morgan: "I find no trace of the influence of clanship in the burial places of the dead buried promiscuously ... they say *that formerly the members of the different clans more frequently resided together than*

they do at present time. As one family they were more under the influence of family feeling, and had less of individual interest."
At the Tuscarora reservation (near Lewiston), obgleich d. Tuscaroras now "Christians", hat *tribe one common cemetery* aber d. *individuals of the same gens* of Beaver, Bear, Grey Wolf – etc are *buried in a row by themselves.* Dort *husbands u. wives* separated u. buried in separate rows: *ebenso fathers u. their children;* aber *found in the same row mothers and their children u. brothers u. sisters.*
Unter d. *Iroquois* u. andern Indian tribes in same status of advancement bei d. funeral of a deceased gentilis, *all the members of the gens are mourners;* d. *addresses at the funeral,* the *preparation of the grave,* u. the *burial of the body* were performed by members of other gentes.
D. *Village Indians v. Mexico u. Central America* practiced a *slow cremation* [confined to chief and principal men], ebso scaffolding u. burying in the ground.
10) *A Council of the Gens.*
The *Council* – instrument of government u. supreme authority über *gens, tribe, confederacy.* Ordinary affairs adjusted dch *d. chiefs; those of general interest* submitted to the determination of the council u. d. council *sprang from the gentile organization – the Council of Chiefs;* its history, *gentil, tribal,* u. *confederate,* bis political *society* intervened, changing *Council* in *Senat.*
Simplest u. lowest form of the Council – that of the Gens; a democratic assembly, wo *every adult male u. female member* had a voice upon all questions brought before it; it *elected u. deposed* its *sachem u. chiefs,* ditto "*Keepers of the Faith*", it *condoned* or *avenged* the murder of a gentilis, it *adopted* persons into the *gens.* It was the *germ of the higher council of the tribe, and of that still higher of the confederacy, each of which was composed exclusively of chiefs as representa-*
37 *tives of the gentes.* | So dies bei *Iroquois* u. selber Rechte der *gentes der Grecian u. Latin tribes* [(save *Punkte 1, 2, 6,* deren ancient existence doch presumirt wden muss)]
All the members of an Iroquois gens *personally free,* bound *to defend each other's freedom; equal in privileges u. personal rights.* Sachem u. chiefs claiming no superiority; a *brotherhood bound together by the ties of kin. Liberty, Equality, and Fraternity,* though never formulated, were *cardinal principles der gens* u. diese d. *unit of a social u. governmental system,* the foundation wor⟨au⟩f *Indian society organized.* Erklärt *sense of independence* u. *personal dignity universally an attribute of Indian character.*
Zur Zeit der europäischen Entdeckg waren d. *American Indian tribes* generally organised *into gentes, with descent in the female line;* In einigen *Tribes,* wie den *Dacotas, the gentes had fallen out;* in andern, wie unter *Ojibwas,* d. *Omahas* u. d. *Mayas of Yucatan,* descent has changed from female to male line. *Throughout aboriginal America* die *gens* nahm ihren *Namen von some animal,* or *inanimate object, never from a person;* in this early condition of society, the *individuality of persons was lost in the gens;* d. *gentes der Grecian*

u. Latin tribes in der *relativ späten Periode* wo sie under *historical notice* kommen, *were* (bereits) *named after persons.* In einigen der tribes, wie bei *Moqui Village Indians of New Mexico*, the *members of the gens claimed their descent from the animal whose name they bore* – their remote ancestors having been transformed by the Great Spirit von animal into human form.

Personenzahl d. gentes varied:

3000 Senecas divided equally *unter 8 gentes*, would give an average v. 375 persons *per gens;*

15,000 Ojibwas divided unter *23 gentes* – ⟨would give an average v.⟩ *650 perss per gens.*

Cherokees would average more than 1000 to a gens.

In d. *present condition d. Haupt Indian tribes* Personenzahl in jeder gens would range v. 100 to 1000.

Except the Polynesians, every *family of mankind seems to have come under the Gentile organization.*

Pt. II. Ch. III. The Iroquois Phratry.

The phratry (φρατρία) a *brotherhood*, a natural growth from the organisation into gentes; an *organic union* or *association of 2 or more gentes of the same tribe for certain common objects. These gentes were usually such as had been formed by the segmentation of an original gens.*

Unter d. Grecian gentes *phratry nearly as constant as the gens; jeder d. 4 tribes dr Athenians organised in 3 phratries, each composed of 30 gentes;* also 4 tribes = 12 phratries = *360 gentes*, od. *4 tribes* = 4 × 3 *phratries* = 4 × 3 × 30 *gentes.* Solche numerisch symmetrische Organization beweist, dass später *Gesetz* herumgearbeitet an d. *gegebnen Division*[105] v. tribes in phratries u. phratries in gentes. *All the gentes of a tribe* – as a rule – *of common descent u. bearing a common tribal name.* The *phratric organisation* had a *natural foundation* in the *immediate kinship of certain gentes as subdivisions of an original gens* u. auf dieser basis auch d. *Grecian phratry originally formed.*[106] D. spätere *legislative numerical adjustment* der *Athenian tribes* in phratries u. gentes erheischte nur *incorporation of alien gentes* u. *transfer by consent or constraint.*

V. d. *functions d. Grecian phratry* wenig bekannt: *observance of special religious rites; condonation or revenge of the murder of a phrator;*[107] *purification of a murderer* nachdem er penalty of his crime escaped preparatory to his restoration to society. ποία δὲ χέρνιψ φρατέρων προσδέξεται[108] (*Aeschylus, Eumenides, v. 656*). In Athen überlebte diese institution die Errichtung of *political society unter Cleisthenes;* his function: *to look after the registration of citizens*, wde so *guardian of descents u. of the evidence of citizenship.* The *wife upon her marriage* was enrolled in the *phratry of her husband* u. d. *children der marriage* were *enrolled in the gens and phratry of their father.* The phratry had *still* the duty to *prosecute the murderer of a phrator in the courts of justice* (Veränderte Form der Blutrache!) Wären alle details known, we would probably find the phratry connected mit *the common tables, the public*

games, the funerals of distinguished men, the earliest army organization,[109] *and the proceedings of councils,* as well as *observance of religious rites* and *the guardian-*
38 *ship of social privileges.* | *Analogue of Greek phratry* – the Roman *curia.* "εἴη δ' ἂν Ἑλλάδι γλώττῃ τὰ ὀνόματα ταῦτα μεθερμηνευόμενα φυλὴ μὲν καὶ τριττὺς ἢ τρίβους, φράτρα δὲ καὶ λόχος ἢ κουρία,[110] (*Dionys. 1. II, c. VII: cf. 1. II, c. 13*) Jede curia = 10 gentes in each of the 3 Roman tribes, making *30 curiae* u. *300 gentes;* the *curia* entered directly into the government. The *assembly of the gentes – comitia curiata* – voted *by curiae,* each having *one collective vote.* This assembly the *sovereign power of the Roman people down to Servius Tullius.*

Of *organic growth* the *phratry* der *American aborigenes,* wo sie existirte under large number of tribes; had *no governmental functions* wie *gens, tribe, confederacy;* certain *social functions,* namtlich wichtig *when the tribe was large.* It *presents the phratry in its archaic form* and *in its archaic functions.*

1) *The Eight gentes of the Seneca-Iroquois Tribes, reintegrated in 2 phratries.*
Ist) Phratry. Gentes: 1) Bear. 2) Wolf. 3) Beaver. 4) Turtle.
2nd) Phratry. Gentes: 5) Deer. 6) Snipe. 7) Heron. 8) Hawk.

De-ă-non-dă'-a-yoh (Phratry) bedeutet *brotherhood.* The *gentes* in the *same phratry* are *brother gentes* to each other, and *cousin-gentes* to those of the other phratry; d. *Senecas brauchen diese Ausdrücke* when speaking of gentes in relation to the phratries. *Originally marriage not* allowed unter d. members der same phratry, aber die Members je einer phratry konnte⟨n⟩ heirathen into any gens of the other. Dies *Verbot* (d. Heirath unter Gliedern derselben Phratry) zeigt, dass *d. gentes of each phratry were subdivisions of an original gens,* u. d. Verbot to marry into one's own gens had followed to its subdivisions. *Diese Restriction* war seit lang verschwunden, ausser *mit Bezug auf marriage eines Individuums in seiner eignen gens. Tradition der Senecas, dass d. Bär u. the Deer* d. *original gentes,* von denen d. andren subdivisions. Also: *natural foundation der phratry – the kinship of the gentes of which it was composed.* After *their subdivision* from increase of numbers there was *a natural tendency to their reunion in a higher organisation for objects common to them all. Dieselben gentes* nicht für immer *constant in a phratry;* wenn d. equilibrium in their respective numbers disturbed, *transfers of particular gentes from one phratry to the other occurred.*
Mit *increase of numbers in a gens,* followed *by local separation of its members, segmentation* occurred, and *the seceding portion adopted a new gentile name.* Aber *tradition of their former unity* remained u. *became the basis of their reorganisation in a phratry.*

2) *Cayuga—Iroquois. 8 gentes unequally divided between 2 phratries.*
Ist Phratry. Gentes. 1) Bear. 2) Wolf. 3) Turtle. 4) Snipe. 5) Eel.[111]
IInd Phratry. Gentes. 6) Deer 7) Beaver 8) Hawk.
Seven of these gentes *selbe* wie die der Senecas; the *Heron gens* verschwunden; *Eel*[111] takes its place, but transferred to the other side. The *Snipe*

u. *Beaver gentes* also have exchanged fratries. D. *Cayugas* nennen auch d. *gentes der same phratry* "brother gentes", die *der opposite phratry* "Cousin gentes."

3) Onondaga-Iroquois (8 gentes, unequally divided in phratries wie bei Cayugas.)
Ist Phratry. Gentes. 1) Wolf. 2) Turtle. 3) Snipe. 4) Beaver. 5) Ball.
IInd[112] *Phratry. Gentes. 6) Deer. 7) Eel.*[111] *8) Bear.*
Hawk (bei d. *Cayugas*) ersetzt dch *Ball bei den Onondagas*. Composition d. Phratries different von der der *Senecas*. 3 d. gentes in d. 1st phratry selbe, aber *Bear gens* now found mit *Deer*.
D. *Onondagas* have no *Hawk*, the *Senecas* no Eel gens, aber *fraternise* when they meet, as connected with each other.
D. *Mohawks u. Oneidas* haben nur 3 gentes: 1) *Bear*. 2) *Wolf;* 3) *Turtle; no phratries*. Zur *Zeit der Bildung der Confederation* seven of the 8 Seneca gentes existed in the several tribes, *as shown by the establishment of Sachemships in them*. But the *Mohawks u. Oneidas* had only the 3 named; they had then *lost an entire phratry*, and *one gens of that remaining – if* (!) *it is supposed* (!)
39 that *the original tribes were once composed | of the same gentes*.
When a *tribe* organised in gentes u. phratries *subdivides*, it might occur *on the line of the phratric organisation*. Obgleich d. members of a tribe *intermingled* throughout by *marriage*, *each gens in a phratry* is *composed of females with their children and descendants through females*, who formed the body of the phratry. Would incline to remain *locally* together, and *thus might become detached in a body*. D. *male members of the gens* married to women of other gentes and remaining with their wives would *not affect the gens* since *the children of the male do not belong to its connexion*. The gentes and phratries can be followed through every tribe.
The *Tuscarora-Iroquois* wden detachirt vom *main stock* in unbekannter Periode der Vergangenheit, bewohnten d. *Neuse-river region von North Carolina* zur Zeit ihrer Entdeckung. Um *1712* verjagt aus dieser Area, removed to the country der Iroquois, were admitted in die Confederacy as 6th member.

Tuscarora-Iroquois. 2 Phratries v. 8 gentes.

Ist Phratry. Gentes. 1) Bear 2) Beaver. 3) Great Turtle. 4) Eel
II Phratry. Gentes. 5) Gray Wolf. 6) Yellow Wolf. 7) Little Turtle. 8) Snipe.
Haben *6 gentes* in common with *Cayugas u. Onondagas*, *5* mit *Senecas*, *3* mit *Mohawks* u. *Oneidas*. The *Deer Gens*, die sie einst besassen, extinct in modern times. *Wolf gens* now divided in 2, *Gray* u. *Yellow;* ebenso *Turtle Gens* verdoppelt in *Great* u. *Little*. 3 of the gentes in the first phratry the same with 3 in the 1st phratry der *Senecas u. Cayugas*, nur d. Turtle[113] gens double. Da several 100 years zwischen separation der Tuscarora von u. return zu ihren congeners, Beweis of *perm⟨an⟩ence in the existence of a gens*. Wie bei d. andern tribes, d. *gentes in d. same phratry* called *brother gentes*, die in the other *cousin gentes*.

Differences in the composition der Phratries zeigen ihre *modification* to meet *changes of condition*, (die diese sie bildenden gentes befielen, wie Entvölkerg einiger, od. extinction etc) to preserve some degree of equilibrium in the number of phrators in each. *Phratric organisation* unter Iroquois von unvordenklicher Zeit, älter als *the confederacy, established über 4*[114] *centuries ago*. Im Ganzen d. difference in their composition as to gentes small, beweist permanence der Phratry sowohl als der gens. D. *Iroquois tribes* hatten *38 gentes* u. in 4 of the tribes a total of 8 phratries.

Unter d. Iroquois d. *Phratry* theils for *social*, theils for *religious* objects.

1) *Games*, gewöhnlich bei *tribal u. confederate councils*. Z.B. in *ball game* der *Senecas* they *play by phratries*, eine gegen d. andre, u. *bet against each other upon the result of the game*. Each phratry puts forward[115] its best players etc. Befor⟨e⟩ d. Spiel beginnt, *articles of personal property* are[116] hazarded upon the results dch members der opposite phratries, are *deposited with keepers* to abide the event.

2) *At a council of the tribe* the sachems and chiefs in each phratry usually seated on *opposite sides of an imaginary Council-fire* u. the speakers addressed the 2 opposite bodies as the representatives of the phratries.

3) Wenn *murder committed* erst *council d. gens* des slain, dann *council der gens* des Mörders; aber gens of the criminal calls oft on d. other gentes of their phratry (when the *slayer u. the slayed belonged to opposite phratries*), to unite with them to obtain a condonation of the andre. Dann hielt diese Phratry ein *council* u. addressed itself hierauf an d. *andre Phratry* to which it sent a delegation *with a belt of white wampum* asking for a council of the phratry u. an adjustment of the crime. They offered reparation to the family u. gens des murdered in expressions of regret u. *presents of value*. Negotiations between the 2 councils, bis affirmative or negative Entscheidg erreicht. Influence einer phratry grösser als die einer gens u. by calling into action d. opposite phratry *condonation* wahrscheinlicher, namentlich bei extenuating circumstances. Darum *Grecian phratry* (vor Civilisation) übernahm main management of cases of murder u. also of purification des murderer wenn he escaped punishment; hence *nach Errichtung*[117] *d. polit. society* nimmt phratry an d. *duty* of prosecuting the murderer in the courts of justice. |

40 4) At *funerals of persons of recognised importance* – conspicuous *functions der phratries* (p. 95, 96) [In the case of a defunct Sachem, the *opposite phratry*, not his own, sent immediately after the funeral, *the official wampum-belt* of the deceased ruler to the *central council fire at Onondaga*, as a notification of his demise. This was retained until the installation of his *successor*, upon whom it then bestowed as the insignia of his office.

5) *Phratry directly* concerned in the *election of sachems and Chiefs of the several gentes*. Hatte a gens *successor ernannt* für ihren deceased *Sachem* (od. elected a chief of the 2nd grade), so expected as a matter of course that the *gentes of the same phratry* would confirm the choice; aber manchmal

opposition von Seiten der *opposite phratry*. Dadurch kam action *of council of each phratry* in's Spiel.
6) Früher vor modern times had the *Senecas* "*Medicine*[118] *lodges*"; letztere formed a prominent part of their religious system; to hold a *Medicine Lodge* was to observe their highest religious rites, and to practice their highest religious mysteries; they had 2 such organisations, *one in each phratry;* each was a brotherhood into which new members were admitted by a formal initiation.
Unlike the Grecian phratry u. d. *Roman curia* this *Indian phratry* had *no official head;* ebenso *no religious functionaries belonging to it as distinguished von gens u. tribe.*
M. betrachtet die 4 "*lineages*" of the *Tlascalans* who occupied the 4 quarters of the pueblo of Tlascala, als so many *phratries* (nicht als so *many tribes*, weil sie *occupied the same pueblo* and *spoke the same dialect.*) Each "*lineage*" od. phratry had a *distinct military organisation*, a *peculiar costume u. banner*, and its head war-chief (*Teuctli*) who was its general military commander. *They went forth to battle by phratries.* The *organization of a military force by phratries u. by tribes* nicht unbekannt d. *homerischen Griechen. Nestor sagt zu Agame⟨m⟩non:* κρῖν' ἄνδρας κατὰ φῦλα, κατὰ φρήτρας, 'Αγάμεμνον, ὡς φρήτρη φρήτρηφιν ἀρήγῃ, φῦλα δὲ φύλοις.[119] (*Hom. Iliad.* II, 362-363.)
D. *Chocta gentes* united in 2 *phratries*, the *first* called "*Divided People*", containing 4 gentes; the *second* "*Beloved People*", contains also 4 gentes. This *separation of the people into 2 divisions by gentes* created *two phratries.* – A *tribe* hat nie *weniger als 2 gentes.* The *gens increases in number of its members, divides* into 2; these again subdivide, and in time *reunite* in 2 or more phratries. These phratries form a *tribe*, and its members speak *the same dialect.* In course of time *this tribe falls into several by process of segmentation, which in turn reunite in a confederacy.* Such a confederacy is a *growth*, through the tribe and phratry, *from a pair of gentes.*
Mohegan Tribe, had *3 original gentes, Wolf, Turtle, Turkey.* Each of these subdivided, and *the subdivisions became independent gentes*, but *they retained the names of the original subdivisions of each gens* as *their respective phratric names*, alias *the subdivisions of each gens reorganised into a phratry.* Dies *beweist* conclusively the *natural process*, wdch, in course of time, a *gens breaks up into several*, u. diese *remain united in a phratric organisation* which is expressed by assuming a phratric name.

Mohegan tribe, originally consisting aus 3 gentes, Wolf, Turtle, Turkey.

I) Wolf Phratry. 4 gentes. 1) Wolf. 2) Bear. 3) Dog. 4) Opossum.

II) Turtle 4[120] *gentes. 5) Little Turtle. 6) Mud Turtle. 7) Great Turtle 8) Yellow Eel.*[111]

III) Turkey „ *3 gentes. 9) Turkey. 10) Crane. 11) Chicken.*

Selten unter den American Indian Tribes befand sich *plain evidence of the*

segmentation of gentes, followed by the *formation into phratries of their respective subdivisions.* Shows also that *the phratry founded upon the kinship of the gentes.* As a rule *the name of the original gens* out of which others had formed – unknown; but in each of these cases it remains as the name of the phratry. Der *Name nur* einer der *Athenian phratries* known to us; die der Iroquois had no name but that of brotherhood.

Pt II Ch. IV. The Iroquois Tribe.

American aborigenes fallen in *zahllose tribes* "by the natural process of segmentation *each tribe individualized by a name, a separate dialect,* a *supreme government, a territory, occupied and defended as its own.* The *dialects as numerous*
41 *as* | *the tribes*, for separation nicht complete, before *dialectical variation* had commenced. – Morgan glaubt, dass all the numerous aboriginal American tribes (minus *Eskimos* who *no* aborigenes) *formed out of one original people.*

D. term *Nation* angewandt auf viele Indian tribes, trotz geringer Volkszahl, v. wegen *exclusive possession of a dialect and of a territory.* Aber *Tribe* u. *Nations* nicht genaue Equivalents; *unter gentile institutions* entspringt *nation* nur, wann d. *tribes*, united under the same government, have *coalesced into one people*, wie d. 4 Athenian tribes in Attica, 3 Dorian tribes in Sparta, 3 Latin u. Sabine tribes at Rome. *Federation* requires *independent tribes in separate territorial areas; coalescence unites them* by a higher process *in the same area*, obgleich *tendency to local separation by gentes u. by tribes* would continue. The *confederacy* is the nearest analogue of the *nation.*

Sehr selten Fälle unter d. American aborigenes, wo *the tribe embraced peoples speaking different dialects;* wo d. Fall, war's Resultat der Union eines schwächeren mit einem stärkeren *tribe speaking a closely related dialect*, wie d. *union der Missouris – after their overthrow –* mit *den Otoes.* D. great *body d. aborigenes* ward gefunden in *independent tribes;* nur wenige hatten es gebracht zu *confederacy of tribes speaking* dialects of the same stock language. *Constant tendency to disintegration* existed in the elements of gentile organization, *aggravated dch tendency to divergence of speech*, inseparable from their social state and the *large area of their occupation.* A *verbal language*, obgleich merkwürdig *persistent in its vocables* u. noch mehr *in its grammatical forms*, – is *incapable of permanence.* Der *Lokalen Separation* – in area – flgt im Lauf der Zeit *variation in speech;* dies leads to separation in interests u. to ultimate independence. D. *grosse Zahl von dialects u. stocklanguages* in *Nord- u. Südamerika* wahrscheinlich – save d. Eskimos – abgeleitet von *one original language*, erheischten für *ihre Bildung the time measured by 3 ethnic periods.*

New tribes u. new gentes were constantly forming by natural growth; der *process sensibly accelerated dch the great expanse d. American continent.* D. Methode war einfach. From *some overstocked geographical centre, possessing superior advantages in the means of subsistence*, a gradual outflow of people. Dies continued jährlich, so a *considerable population developed at a distance vom original seat des tribe;* im Lauf der Zeit d. *emigrants* werden distinct in

interests, strangers in feeling, *schliesslich divergent in speech; separation u. independence* follow, *though their territories were contiguous.* Dies repeated itself *von age zu age in newly acquired as well as in old areas* .... When *increased numbers pressed upon the means of subsistence, the surplus removed to a new seat* wo *sie sich mit Leichtigkeit etablirten, weil the government was perfect in every gens u. in any number of gentes united in a band.* [Dies was '*organized colonisation*'!] Unter d. *Village Indians* selber Process in etwas modificirter Form. When *a village* became overcrowded with numbers, *a colony* went up or down on the same stream u. *commenced a new village;* repeated at intervals, *several such villages* appear, each independent of the other and selfgoverning body; but *united in a league or confederacy* for mutual protection; *dialectical variation* finally springing up, completes their *growth into tribes.*

Tribes formed by the *subdivisions of an original tribe* possess a *number of gentes in common* u. speak *dialects of the same language;* have a number of gentes selbst nach *centuries of separation.* So die *Hurons*, jezt *Wyandotes*, haben *6 gentes desselben Namens* mit 6 *der gentes der Seneca-Iroquois*, nach at least 400 J. Trennung. Die *Potawattamies* haben *8 gentes selben Namens* mit *8 unter d. Ojibwas*, whd d. former 6 u. d. letzteren 14 different haben; showing dass *neue gentes formed in each tribe by segmentation* seit ihrer Trennung. Ein noch älterer Absetzer der *Ojibwas* – oder eines common parent tribe beider – die *Miamis*, haben nur 3 gentes in common mit den former, *Wolf, Loon* u. *Eagle.*

Illustrations from tribes in Lower State of Barbarism.

8 Missouri tribes, bei ihrer Entdeckung occupy the *banks des Missouri* über 1000 miles zus. mit d. *banks of its tributaries*, the *Kansas u. the Platte*, ebenso the *smaller rivers of Iowa;* ebenso *West Bank of Mississippi down to the Arkansas.* The *dialects* beweisen dass the people in *3 tribes* before the *last subdivisions*, nämlich:

1) *Punkas* u. *Omahas;* 2) *Iowas, Otoes u. Missouris;* 3) *Kaws, Osages, u. Quappas;* ihre *several dialects nearer to each other* than *to any other dialect der Dakotian stock language* to which they belong; also *linguistic necessity for their derivation von an original tribe*, wovon sie *subdivisions;* spreading *from a central point on the Missouri* along its banks, above u. below; *mit increase of distance between their settlements* – separation in interests, followed by *divergence of speech* u. finally by *independence.* Extending *along a river in a prairie country* such a people might separate *first in 3 tribes, dann in 8*, the *organization of each subdivision* remaining complete. *Division* meant a *separation into parts by natural expansion over a larger area*, followed *by a*
42 *complete segmentation.* Der *uppermost* | *tribe on the Missouri* – the *Punkas* at the *mouth of the Niobrara river;* the *lowermost* the *Quappas* at the *mouth of the Arkansas* on the *Mississippi;* near 1500 miles between them. The *intermediate region*, confined *to the narrow belt of forest upon the Missouri*, was held by *the* remaining *6 tribes.* They were strictly *River Tribes.*

Tribes of Lake Superior. 1) *Ojibwas;* 2) *Otawas* (= O-tä'-was); 3) *Pottawa-*

tamies subdivisions of an original tribe; die *Ojibwas der original tribe*, the *stem*, bleiben *am original seat at the great fisheries upon the outlet of the lake;* they are styled "*Elder Brother*" dch d. beiden andern, d. *Ottawas* "*next elder brother*", die *Pottawatamies* – "*Younger Brother*". Die letzteren separated *first*, die *Ottawas* last, as shown *by the relative amount of dialectical variation*, that of the Pottawattamies being greatest. Als entdeckt, *1614*, d. *Ojibwas* seated at the *Rapids* on the *outlet of Lake Superior*, from which point they had spread along the *southern shore of the lake* to the site of *Ontonagon*, along its northeastern shore and down *the St. Mary River* well *toward Lake Huron;* ihre position famos for *a fish and game subsistence* [They did *not cultivate maize and* plants]; zurückstehend keiner portion in Northamerica ausser dem *Valley der Columbia.* [D. *Ojibwas* manufactured *earthen pipes*, *water jars* u. *vessels* in ancient times, as they now assert. *Indian pottery* zu verschiednen Zeiten *dug up* at the *Sault St. Mary*, the work of their forefathers.] Mit such advantages certain to develop a *large Indian population* u. *send out successive bands of emigrants to become independent tribes.*

D. *Pottawa⟨ta⟩mies* occupied a region on the *confines of Upper Michigan u. Wisconsin*, woraus *1641 the Dakotas* were in act of expelling them. Zugleich d. *Ottawas*, deren earlier evidence supposed *on the Ottawa river of Canada*, had drawn westward; – damals seated upon the *Georgian Bay*, the *Manitouline islands* u. at *Mackinaw*, von welchen Punkten they were spreading südlich über Lower Michigan. – *Separation in place and distance* had long before their discovery resulted in the formation of dialects, u. in tribal independence. D. 3 *tribes*, deren territories contiguous, had formed an alliance for mutual protection, "*the Ottawa Confederation*" (offen⟨s⟩ive u. defensive league)

Vor diesen secessions *another affiliated tribe*, the *Miamis*, had broken off vom Ojibwa stock – the common parent tribe – u. migrated to *Central Illinois* u. *Western Indiana.* Folgend im track dieser migration were the *Illinois*, another u. later offshoot vom same stem, who *afterwards subdivided* in *Peorias*, *Kaskaskias*, *Weaws u. Piankeshaws.* Ihre *dialects* mit dem der *Miami* nearest affinity mit d. *Ojibwa* u. next mit the *Cree* [The Pottaw[at⟩-amie u. Cree have diverged about equally; whschlich *Ojibwas*, *Ottawas u. Cree* one people in dialect *nach d. detachment dr Potawattamies*]

Outflow aller dieser tribes from central seat at the great fisheries of Lake Superior – as a natural centre of subsistence. D. Algonkins v. *New England*, *Delaware*, *Maryland*, *Virginia u. Carolina* sehr whsclich derived von same stock. *Each emigrating band* in the nature of a *military colony*, seeking to acquire u. hold a new area, *preserving* at first, and *as long as possible*, a *connection with the mother tribe;* dch *these successive movements* they sought to *expand their joint possessions* u. afterward, to *resist the intrusion* of *alien people within their limits....* The *Indian tribes speaking dialects of the same stock language* have been *usually found* in *territorial continuity*, however extended their

common area. Dies gilt, *in the main*, von *all tribes of mankind linguistically united.... Spreading from one common centre* they have *preserved their connection with the motherland* as a means of succor in times of danger, and as a place of refuge in calamity.

Damit *an area initial part of migration* werde *dch gradual production of a surplus population* required *special advantages in the means of subsistence.* Solche *natural centres wenig zahlreich in Nordamerika* in fact, *nur 3.* An der *Spitze* the *Valley of the Columbia*, ausgezeichnetste region *on the face of the earth* in *the variety and amount of subsistence it afforded, prior to the cultivation of maize and plants. Excellent game country* as mixture of *forest u. prairie.* In the *prairies* wuchs a *species of bread-root*, the *Kamash* u. zwar abundantly; in these respects it was, however, *not superior to other areas;* was es *aus-⟨z⟩eichnet – inexhaustible supply of salmon im Columbia u. andern Küstenflüssen.* They crowded these streams in millions, were taken in the season mit facility u. greatest abundance. *After being split open u. dried in the sun, they were packed u. removed to the villages*, formed their principal food during the *greater part of the year.* Ausserdem d. *shell fisheries der Küste*, supplying *large amount of food during the winter months.* Ausserdem *Clima mild* u. *equable* throughout the year, abt that of *Virginia* u. *Tennessee*, was the *paradise of tribes ohne knowledge der cereals.* Es kann sehr whclich gemacht werden, dass d. *Valley of Columbia* the *seedland of the Ganowanian family*, wovon successive streams of migratory bands, bis *both divisions des Continent occupied*, u. dass *beide divisions*, bis zur Epoche der europ. Entdeckung replenished with inhabitants von dieser Quelle. D. *grosse Ausdehnung der* |
43 *Centralprairien*, spreading continuously more *than 1500 miles* v. Nord nach Süd u. *über 1000 miles von Ost nach West*, interposed a *barrier to free communication zwischen Pacific u. Atlantic sides des Continents in Nordamerika.* Whsclich daher, dass *an original family* commencing *its spread from the Valley of the Columbia*, u. migrating under the influence of physical causes, would *reach Patagonia eher als Florida.* Die *Entdeckung d. Maize* würde d. course of events nicht materially change, or suspend the action of previous causes. Nicht bekannt wo das *American cereal indigenous;* aber *Central America*, wo *vegetation intensely active*, wo *Maize peculiarly fruitful*, wo d. *oldest seats dr Village Indians found* probable *place of nativity of Maize.* Von Centralamerica die cultivation would have spread to *Mexico*, dann *Neu Mexico* u. *valley des Mississippi*, von da *östlich to the shores des Atlantic;* the volume of cultivation diminishing from the starting point to the extremities. It would spread independently von d. Village Indians, from the desire of more barbarous tribes to gain the new subsistence; aber *extended nie über Neu Mexico to the Valley of the Columbia*, obgleich cultivation practiced dch d. *Minnitarees u. Mandans des Upper Missouri*, die *Shyans* des *Red River* des North, by the *Hurons of Lake Simcoe in Canada*, the *Abenakies of the Kennebek*, wie generally by *all the tribes zwischen Mississippi u. Atlantic.* Migrating bands von d. Valley of Columbia would

press upon the village Indians of Neu Mexico u. Mexico, tending to force displaced u. fragmentary tribes *towards and through the Istmus* into *South America*, wohin diese would carry the first germs of progress developed by the Village Indians. Repeated at intervals of time it would tend to bestow *upon South America a class of inhabitants far superior to the wild bands formerly supplied*, and at the expense of the Northern section thus impoverished. *So South America would attain the advanced position* in development, even in an inferior country, which seems to have been the fact. The *Peruvian legend* of *Manco Capac* u. *Mama Oello*, children of the sun, *brother and sister*, *husband and wife* shows that a *band of village Indians*, migrating from a distance, *though not necessarily from North America direct*, had gathered together and taught *the rude tribes* of *the Andes* the higher arts of life *including the cultivation of Maize and plants;* legend dropped out the band, *retained only the leader and his wife.*

2)*tes* (*nach Valley of Columbia*) *natural initial centre:* the *peninsula between Lakes Superior, Huron u. Michigan*, the *seat of the Ojibwas* u. *nursery land of many Indian tribes.*

3*t*) *natural initial centre: the Lake region of Minnesota*, the *nursery ground der present Dakotian tribes.* Grund anzunehmen, dass *Minnesota was a part of the Algonkin area* vor Besetzg *dch d. Dakotas.*

Sobld *cultivation of maize u. plants* erschien, it *tended to localize the people* u. *support them in smaller areas*, as well as *to increase their numbers;* übertrug aber nicht *control des Continents to the most advanced tribes der Village Indians, die fast nur von Cultivation subsisted. Horticulture* spread unter d. principal tribes in the *Lower Status of barbarism*, improved greatly their condition. They *held*, mit den *non horticultural tribes, the great areas of North America* when discovered, u. v. ihren ranks the Continent replenished mit inhabitants. *Incessant warfare d. aborigenes* mit einander; als Regel the *most persistent warfare unter tribes speaking different stock languages*, wie z.B. zwischen *Iroquois* u. *Algonkin tribes* u. der ersteren ditto mit d. *Dakota tribes.* Daggen *Algonkin* u. *Dakota tribes* lived at peace mit each other, gezeigt dch *occupation* of *continuous areas.* Die *Iroquois* pursued a war of extermination gegen their *kindred tribes*, the *Eries, Neutral Nation*, the *Hurons* u. d. *Susquehannocks.* Tribes speaking *dialects derselben stocklanguage* können sich verständigen, compose their differences, u. lernen, in virtue of their common descent, sich als natural allies zu betrachten.

Bevölkerungszahl[121] in a *given area* limited by *amount* of the *subsistence it afforded;* when *fish u. game* the *main reliance for food, immense area* required to maintain a small tribe. Als *farinaceous food* hinzukam, *area* occupied by a tribe *still large in proportion to the number of the people. New York* – mit *47,000* □ *miles* hatte nie mehr als *25,000 Indians*, inclus. mit d. *Iroquois* d. *Algonkins on the eastside des Hudson* u. upon the *Long Island* u. d. *Eries u. Neutral Nation* in d. *westlichen* Seite des Staats. A *personal government, gegründet upon gentes*, unfähig hinreichde *central power* zu entwickeln to

control the increasing numbers des people, wenn sie nicht in reasonable
44 | distance von | einander blieben.
Unter d. Village Indians von *Neu Mexico, Mexico* u. *Centralamerica Wachsthum der Bevölkrungszahl upon a small area hielt nicht den Process* der *Disintegration* auf. Wo *verschiedne pueblos* seated nah bei einander am selben Strom, the people usually of *common descent* u. under a *tribal* or *confederate government.* [Each *pueblo* gewöhnlich an *independent*, selfgoverning *community*]. About *7 stock languages*, allein gesprochen in *New Mexico*, jede mit several dialects. Zur Zeit v. *Coronado's expedition – 1540-42 –* the villages found *numerous* but *small.* Es waren ihrer 7 of *Cibola, Tucayan* u. *Quivira* u. *Hemez* u. 12 of *Tiguex*, u. andre groups indicating a linguistic connection of their members. Unbekannt ob each group confederated. Die 1 *Moqui Pueblos* (die Tucayan villages of Coronado's expedition) sollen jetzt confederate sein, waren es wahrsclich zur Zeit ihrer Entdeckg.

D. *process of subdivision* operating unter d. American aborigenes für 1ooode v. Jah⟨r⟩en, hat in *North America allein an 40 stock languages* entwickelt, wovon jede gesprochen in Anzahl v. dialects dch gleiche Zahl unabhängiger tribes.

Für an *American Indian tribe* nur a *few hundreds* u. höchstens a *few 1000 people* erhe⟨i⟩scht, um ihn in a respectable position in *Ganowanian family* zu stellen.

Functions u. attributes of the Indian tribes. (*p. 112-121*)

1) *Possession of a territory and a name.*

The territory – their *actual settlement* u. so much of the *surrounding region* als tribe *ranged over in hunting u. fishing* u. could defend gegen andre encroaching tribes; darüber hinaus a *wide margin of neutral grounds*, separating them vom nächsten Tribe, *speaking* a *different language*, and claimed by neither; less wide and less clearly marked, when they spoke *dialects of the same language.* Die *names*, die nach u. nach d. tribes individualize, in vielen cases zufällig wie d. *Senecas* nannten sich selbst "*Great Hill People*" etc Nach *Beginn der europäischen Colonisation* im nördlichen Amerika erhielten d. Indian tribes *Namen von andern tribes* who had bestowed names upon them different from their own. Hence a *number of tribes* known in history *under names not recognised* by themselves.

2) *The exclusive possession of a dialect.*

Tribe and dialect substantially *co-extensive.* D. 12 *Dakota bands* jetzt properly *tribes*, aber found in vorzeitige Trennung dch advance of Americans upon their original area which forced them upon the plains. Früher war ihre connexion so intimate geblieben dass nur *one new dialect* was forming, the *Teeton*, on the Missouri; the *Isauntie* on the *Mississippi* being the original speech. Vor einigen Jahren d. *Cherokees* zählten *26,000*, largest number of Indians ever found within *U.St.*, *speaking the same*

dialect; in the *mountain districts of Georgia* a slight divergence of speech had occurred. D. *Ojibwas*, still in the main *non-horticultural*, about 15,000, speak the same dialect; d. Dakota tribes, *25,000*, 2 closely related dialects. Dies Ausnahmen. In *U. St.* u. *British America* zählt a tribe on average *less than 2000.*

3) *The right of investing Sachems u. Chiefs elected by the Gentes.*

4) *The right to depose Sachems and Chiefs.*

In the *Status of Savagery* and in the *Lower and also in the Middle Status of barbarism*, office was bestowed for life, or during good behaviour.

D. *Sachems u. Chiefs*, v. d. gentes gewählt, wden nach Tribe Bildung, *members d. Tribal Council;* hence d. Recht v. *Investitr* letzteren vorbehalten; (ebenso hatte er *auch* Absetzngsrecht; ging, nach Bildung v. Confederation auf *council of confederacy über.* The *offices of sachem and chief* universally *elective* north of Mexico; evidence in other parts of the Continent, *evidence*, dass sie es allgemein so ursprünglich gewesen.

5) *The possession of a religious faith and worship.*

"*After the fashion of barbarians the American Indians were a religious people*" (p. 115) *Medicine lodge – Dancing* form *of worship.*

6) *A supreme government through a council of chiefs.*

Gens represented by its chiefs. *Tribe* represented by the *council of the chiefs of the gentes.* Called together under circumstances known to all, held in
45 the midst of the people, open to their orators, it was certain to | act under popular influence. *Council* (tribal) had to guard and protect the common interests of the tribe. Questions and exigencies arising through their incessant warfare with other tribes. As a general rule, the council open to any private individual desiring to address it on a public question.

The *women allowed to express their wishes and opinions through an orator of their own election. Decision* given by the Council. *Unanimity was a fundamental law of its action among the Iroquois. Military questions* usually left to the *action of the voluntary principle.* Theoretically *each tribe at war with every other tribe* with which it had not formed *a treaty of peace.* Any person *at liberty to organize a war-party* and conduct an expedition wohin er wollte. Er *announced his project by giving a war-dance and inviting volunteers.* If he succeeded in forming a party, which would consist of such persons as joined him in the dance, they *departed immediately*, while enthusiasm was at its height. *When a tribe was menaced with an attack*, war parties were formed to meet it in much the same manner. Where forces so raised were united in one body, *each under its own war-captain* and *their joint movements* determined *by a council of these captains.* This *relates to tribes in the Lower Status of Barbarism.* The *Aztecs* u. *Tlascalans* went out *by phratries*, each *subdivision* under *its own captain*, u. *distinguished by costumes and banners.* *Confederation of Iroquois* u. *that of the Aztecs* were the most remarkable for *aggressive purposes.* Unter *Tribes in the Lower Status of Barbarism*, incl. the

Iroquois, the most destructive work performed by *inconsiderable war-parties*, beständig forming and making expeditions into distant regions. *Sanction of the Council* for diese expeditions weder sought, nor necessary.
Council of the tribe had power to *declare war* u. *make peace*, *send and receive embassies*, *make alliances; intercourse between independent tribes* conducted by *wise men* and *chiefs*, delegated dazu. When a tribe expected such a delegation, *a council was convened for its reception* and for the *transaction* of its business.
7) *A head chief of the tribe in some instances.*
Nämlich a *Sachem*, superior in rank to his associates. Der *Council* nur selten in session u. urgencies might arise *demanding* the *provisional action of someone* authorized to represent the tribe, subject to the ratification of his acts by the council. This only basis for the *office of head chief*. *Iroquois* had *none* u. their confederacy had *no executive officer*. Wo d. *head chief* in Indian tribes existed there, in *a form too feeble* to correspond *to the conception of an executive magistrate*. The *elective tenure of the office of chief*, and the *liability of the person to deposition*, settle the character of the office.
D. *Council of Indian Chief⟨s⟩* was a government of *one power*, prevailing generally among *the tribes in Lower Status of Barbarism*. Dies *erstes Stadium*. *Zweites Stadium:* a government coordinated between a *council of chiefs* and a *general military commander*, one representing the *civil*, the other the *military functions*. Dies form began to manifest itself in the Lower Status of Barbarism *after formation of Confederacies*, became *definite* in *Middle Status*. D. *office of general* – chief military commander – *was the germ of that of a chief executive magistrate*, king, emperor, president; a *government of 2 powers*.
Drittes Stadium: government of a people or nation by a *council of chiefs*, an *assembly of the people*, and a *general military commander*. Appears under tribes who had attained to the *Upper Status of Barbarism*, *Homeric Greeks* or *Italian tribes of the period of Romulus*. Large increase of people *united in a nation*, *their establishment in walled cities*, *creation of wealth in flocks*, *herds*, *lands*, brought in the *assembly of the people* as an instrument of government. *Councils of chiefs* became a *preconsidering council; popular assembly adopted or rejected public measures*, its action final; lastly a *general*. Dies blieb bis Eintritt v. *political society*, wenn unter Athenians z.B., *council of chiefs* became *Senate*, the assembly of the people the *ecclesia* or popular assembly. In *Middle Status of Barbarism* the *gentes organized into tribes* remained as before, aber *confederacies* more frequent. In some areas, as in the *Valley of Mexico*, keineswegs – no evidence dafür – dass *political society* established. It is *impossible* to *fo⟨u⟩nd* a *political society* or *a state upon gentes*.
Pt. II. Ch. V. The Iroquois Confederacy.
Verbindung for mutual protection erst[122] – einfach fact, hervorgerufen dch necessities (wie attack von aussen), dann *League*, dann *systematic confederacy*. Bei Entdeckung v. America existirten confederacies in verschiednen parts, u. a. namtlich: *Iroquois confederacy* of *5 independent tribes*, *Creek*

46 *Confederacy* of 6, *Otawa Confederacy* of 3, *Dakota League*[123] of the | "*Seven Council Fires*", d. *Moqui Confederacy* in *New Mexico of 7 Pueblos*, the *Aztec Confederacy of 3 tribes in the Valley of Mexico.* Am leichtesten Bildg v. confederacy (generally difficult wegen den "*unstable geographical relations*" für d. *Village Indians* im Middle Status of Barbarism) wegen der *nearness ihrer pueblos* zu einander u. d. *smallness ihrer areas.* Die berühmtesten Confederacies in Northamerica die der *Aztecs*, u. die der *Iroquois;* letztere genau bekannt; erstere *hatte whsclich denselben Charakter of systematic confederacy*, aber in d. historischen (span.) Berichten erscheint sie mehr od. minder als blosse *league of 3 kindred tribes*, offensive and defensive. *The Confederacy had the gentes for its basis and centre u. stock language* (wovon d. *dialects still mutually intelligible*) *and stock language for its circumference;* none found beyond the bounds of the dialects of a common language – otherwise heterogeneous elements would have been forced into the organisation. *Ausnahmsweis* wohl einmal die *remains of a tribe* not cognate in speech *admitted into an existing confederacy*, wie z.B. die *Natchez*, after their overthrow by the French, into the *Creek Confederacy.* There was *no possible way of becoming connected on equal terms with a confederacy* ausser dch *membership in a gens and tribe, and a common speech.*

Monarchy incompatible with gentilism. The *Grecian tyrannies* were *despotisms founded upon usurpation* – the *germ* out of which the later kingdoms arose; the socalled *kingdoms of the homeric age* were *military democracies*, and nothing more. Die *Iroquois* ursprünglich emigrants from beyond the Mississippi,[124] whclich a *branch* des *Dakota stock;* erst nach *valley d. St. Lawrence*, settled *near Montreal.* Dch d. hostility d. surrounding tribes gezwungen, sie nach d. central region of New York. Mit canoes coasting d. östliche Gestade des *See Ontario* (their numbers small).[125] Ihre *erste Niederlassung an Mündung des Oswego river*, wo sie nach ihren traditions lang blieben; waren damals wenigstens *3 distinct tribes*, 1) *Mohawks*, 2) *Onondagas* u. 3) *Senecas.* Ein tribe settled nachher at the head of the *Canandaigua lake*,[126] became the *Seneca;* andrer occupied the *Onondaga*[127] *valley*, wden die *Onondagas;* dritter passed östlich, settled erst at *Oneida*, bei site of Utica, removed then to *Mohawk Valley*, became the *Mohawks.* Die die blieben, wden die 4) *Oneidas.* Ein Theil der Senecas oder der Onondagas settled entlang dem *eastern shore des Cayuga* lake, wden d. *Cayugas.* Vor Besetzng dch d. Iroquois, scheint *New York* Theil der area der *Algon*[*kin*][128] tribes gewesen zu sein[128]; nach ihren traditions entsetzten d. Iroquois d. alten Bewohner wie sie gradually ihre Niederlassungen ausdehnten, *östlich* vom *Hudson*, u. westlich vom *Genesee.*

[Also bis dato 5 tribes: 1) *Seneca* 2) *Cayuga*, 3) *Ononondaga*, 4) *Oneidas* 5) *Mohawk*)]

Nach ihrer tradition lange Zeit nach ihrer Niederlassung in New York, whd der sie common cause against their enemies machten, aber ehe sie Confederacy bildeten. Residirten *in villages*, gewöhnlich umgeben *mit*

stockades, lebten von *fish u. game*, u. d. *products* of *a limited horticulture.* Ihre
Anzahl nie über 20,000. Precarious subsistence u. incessant warfare repressed numbers in all the aboriginal tribes, inclus. *the Village Indians.* The Iroquois enshrouded *in great forests*, then overspreading New York. Zuerst sie entdeckt *1608;* um *1675* culminating point ihrer dominion über weite Area, covering grösseren Theil v. *New York*, *Pennsylvania* u. *Ohio.* [(*1651-5* expelled sie their *kindred tribes*, d. *Eries*, *von Area zwischen Genesee river u. Lake Erie*, kurz nachher d. *Neutral Nations* vom *Niagara river*, kamen so in Besitz des Rests von New York, mit Ausnahme des Lower Hudson u. Long Island)] u. *portions of Canada*, north of lake Ontario. Zur Zeit ihrer Entdeckg waren sie d. highest representatives of the Red Race im Norden v. ⟨New⟩[129] Mexico in Intelligenz u. advancement, obgleich inferior to the Gulf tribes in arts of life. Noch 4000 Iroquois in New York, abt 1000 in Canada u. ebenso viel im Westen.
Confederation formed about *1400-1450* (früher nach den generations of Sachems in the *history* of *David Cusick*,[130] a Tuscarora.) The Iroquois lebten – die 5 tribes – in contiguous territories, sprachen einander verständliche dialects derselben Sprache u. hatten certain *common gentes* in the several tribes. Andre tribes in selben Umständen, aber d. Iroquois, dch Bildung der confederacy, zeigten ihre superiority. Nach ihrer Sage d. *confederacy formed dch a council of wise men and chiefs* der 5 tribes, meeting for d. purpose on the *north shore of the Onondaga lake*, *near the site of Syracuse*, perfected in ihrer session d. organization u. set in immediate operation. D. origin d. plan zugeschrieben einer traditionary person *Hä-yo-went'-hä*, der *Hiawatha* Longfellow's. D. formation d. Confederation still celebrated unter ihnen as a masterpiece of Indian wisdom, nach d. *Iroquois selbst* bis jetzt ftexistirende Form ihrer Organisation mit kaum irgend einem change. |

47 D. *general practices* der *Iroquois confederacy* sind:

1) *A union of 5 tribes*, *composed* of *common gentes*, under one government on the basis of equality; jeder tribe remaining independent in all matters pertaining to local self-government.
2) A *general Council of Sachems*, limited in number, equal in rank u. authority, invested with supreme powers in all matters relating to the Confederacy.
3) *50 Sachemships* were created and *named in perpetuity in certain gentes of the several tribes;* with *power in these gentes to fill vacancies* occurring, by election from among their respective members, u. mit *power to depose from office for cause;* the *right to invest these Sachems with office* reserved to the General Council.
4) The Sachems of the Confederacy also *Sachems in their respective tribes*, and *with the Chiefs of these tribes formed the Council of each*, which *tribal council* supreme over all matters pertaining to the tribe exclusively.

5) *Unanimity in the Council made essential to every public act.*
6) In the *General Council* the *Sachems voted* by *Tribes*, each tribe had so a *negative upon the others.* (*Poland!*)
7) *Council of each tribe had power to convene the general council;* the *latter had no power to convene itself.*
9) The *Confederacy had no chief Executive Magistrate, or official head.*
8) The *General Council was open to the orators of the people for the discussion of public questions;* but *the Council alone decided.*
10) *Experiencing the necessity for a general military commander they created* the *office in a dual form*, that one might neutralize the other. The *2 principal warchiefs* created were made *equal in power.*

When the *Tuscaroras* später admitted, they allowed by courtesy to sit as equals in the General Council, but the *original number of Sachems* wde nicht increased.

The *Sachemships were distributed unequally among the 5 tribes*, but without giving to either a preponderance of power, and unequally *among the gentes of the last three tribes.*

Mohawks had 9 Sachems, *Oneidas* 9, *Onondagas* 14, *Cayugas* 10, *Senecas* 8.

D. Sachems waren arrangirt in Klassen to facilitate the attainment of unanimity in the Council

1) Mohawks. 1ste class. 3 (Turtle tribe). 2t class 3. (Wolf tribe). 3t Classe 3 (Bear tribe)
2) Oneidas „ 3 (Wolf tribe) 3 (Turtle tribe) „ 3 (Bear tribe)
3) Onondagas. 1st class. 3 (1ster Bear tribe. 3ter Bear tribe. Dieser u. 2ter were hereditary councillors of the To-do-dä-ho, who held the most illustrious Sachemship.)
   2te Class 3. (1ste (Snipe tribe) (2t. Turtle tribe)
   3te Class. 1 (Wolf tribe) This sachem was hereditary keeper of the wampum.
   4te class. 4. (1ster Deer tribe; 2t. Deer tribe. 3t Turtle tribe. 4ter Bear tribe.)
   5t class. 3. (1ster Deer tribe. 2ter Turtle tribe. 3t Turtle tribe.)
4) Cayugas. 1ste class. 5. (1ster Deer tribe. 2t Heron tribe. 3t Bear tribe. 4t Bear tribe. 5t Turtle tribe.)
   2t Class 3. (2t. Turtle tribe. 3t Heron tribe.)
   3 Class 2 (beide Snipe tribe.)
5) Senecas. 1st class 2. (Turtle tribe und Snipe tribe)
   2 class 2 (Turtle tribe u. Hawk tribe)
   3 class (2) (Bear tribe u. Snipe tribe)
   4 class. 2. (Snipe tribe u. Wolf tribe)

In fact besteht d. General Council nur aus 48. *Hä-yo-went'-hä* u. *Da-gä-no-we'-da* d. 2 legendären Gründer consented to take the office unter d.

Mohawk Sachems u. to *leave their names in the list* unter Bedingung *that after their demise* the 2 should remain thereafter vacant. At all councils for the investiture of Sachems their names are still called. (Candidatures
48 mortes) | Jeder Sachem hat einen *aid elected by the gens of his principal* from among its members, was installed mit same forms u. ceremonies; had to *stand behind his superior* on all occasions of ceremony, act as his messenger, in general subject to his directions; er hatte (d. aid) *office of chief*, machte seine Wahl nach Tod des Sachem an dessen Stelle wahrscheinlich; diese aids heissen: "*Braces in the Long House*" (dies "*Long House*" symbolized the Confederacy)

The *names* bestowed upon the original Sachems wden d. Namen ihrer resp. successors in perpetuity. Z.B. bei Tod v. *Gä-ne-o-di'-yo*, einem der 8 Seneca Sachems, sein successor gewählt dch d. *Turtle gens*, worin *Sachemship erblich* u. when "raised up" by the General Council, his own name would be "taken off" u. jener ihm gegeben, was part der ceremony. Ihr jetziger Council noch fully organised,[131] except d. Mohawk tribe, removing to Canada about 1775. Vacancies occurring their places are filled u. a general council is convened to install the new Sachems u. their aids.

For *tribal purposes* the 5 tribes independent of each other, their territories separated by fixed boundary lines, their tribal interests distinct. Als organisation *d. tribe* weder weakened noch impaired dch den Confederate compact; noch in vigorous life. D. Iroquois recommended to the forefathers der Americans (Engl.) *1755 a union of the colonies similar to their own.* They saw in the common interests u. common speech der several colonies elements for a confederation.

The *Onondagas* were made "*Keepers of the Wampum*" u. "*Keepers of the Council Brand*", the *Mohawks* "*Receivers of Tribute*" *from subjugated tribes*, the *Senecas* "*Keepers of the Door*" des Long House. Diese u. ähnliche Provisions were made for the common advantage.

D. confederacy *rested upon the tribes* ostensibly, but *primarily upon common gentes*. All the members of the *same gens*, whether *Mohawks*, *Oneidas*, *Onondagas*, *Cayugas*, or *Senecas were brothers and sisters to each other* in virtue of their descent von the same ancestor. When they met, the first inquiry was the name of each other's gens, and next the immediate pedigree of their respective sachems; dann able under their system of consanguinity to find ihre wechselseitige relationship.

3 gentes, – Wolf, Bear, Turtle – common to the 5 tribes; diese u. 3 others were common to 3 tribes: the Wolf gens, dch division of an original tribe into 5, nun in 5 divisions, wovon one in each tribe; selber mit Bear u. Turtle gentes. *Deer*, *Snipe* u. *Hawk* gentes were common to *Senecas*, *Cayugas* u. *Onondagas*. [Das *Erblichmachen* d. Wahl d. Sachems in certain gentes, does it not spring davon, dass *certain gentes* most common allen tribes?] Der Mohawk des *Wolf gens* recognised an Oneida, Onondaga,

Cayuga od. Seneca von selben gens, though its members spoke different dialects of the same language, as a *brother* etc. In the estimation of an Iroquois every member of his gens in whatever tribe was as certainly a kinsman as an other[132] brother; dies *noch in its original force; explains the tenacity*, womit d. old confederacy zusammenhielt. Had the 5 tribes fallen in collision, it would have turned Wolf agst Wolf, Bear agst Bear etc, brother agst brother. So lang d. confederacy dauerte, nie Anarchie nor rupture der Organisation. Such persistency d. *bond of kin.*

The "*Long House*" (Ho-dé-no-sote" wde Symbol d. Confederacy; sie nannten sich selbst the "People of the Long House" (Ho-dé-no-sau-nee), der einzige Name, den sie sich gaben.

Coalescence höhere Stufe des Processes. Z.B. d. 4 Athenian tribes *coalesced* in Attica into a nation by the *intermingling of the tribes in the same area* u. *the gradual disappearance der geographical lines between them.* D. tribal names u. organizations remained in full vitality, aber *without the basis of independent territory.* When political society was instituted on *the basis of the deme or township*, u. all the residents of the deme became *a body politic*, irrespective of their gens u. tribe, the *coalescence* became complete.

The Valley of the Onondaga as the seat of the central tribe, and the place where the *Council Brand* was supposed to be perpetually burning, the usual aber keineswegs exclusive place for holding the councils of the confederacy etc.

Ursprünglich the Hauptobject des Council *to raise up sachems* to fill vacancies (von death od. deposition), but transacted all other business mit Bezug auf common welfare. Nach u. nach the *Council* fell into 3 distinct *kinds* (nach d. *functions*, die er abwechselnd übt); *Civil* (declares war,
49 makes peace, send u. receives | embassies, enters treaties mit foreign tribes, regulates the affairs of subjugated tribes etc); *Mourning Council* (raises up Sachems, invests them mit Office); *Religious Council* (held for the observance of a general religious festival.). Nach u. nach Mourning Council for both purposes; jetzt d. einzige, da d. civil powers of the Confederacy terminated with the supremacy over them of the State.

An Overture made by a foreign tribe to either of the 5 tribes; d. tribal council entschied ob d. affair worth while to require a *council of the confederacy;* if so, a herald sent to the nearest tribes (v. d. 5) in position, on *east* u. *west*, with *a belt of wampum*, containing a message to the effect that a *civil council* (Ho-de-oś-seh) at *specified* place, time u. object; der tribe, der d. message empfing, musste es senden dem next in position, bis d. notification complete. Council assembled nie unless summoned under the prescribed forms. Wenn d. Council was to meet for *peaceful purposes*, then *each sachem* was to bring with him a *bundle of fagots of white cedar*, typical of peace; if for *warlike* purpose, *fagots of red cedar*, emblematical of war.

Gesetzt d. *Onondagas* seien d. tribe, der d. *General Council* had summoned.

Am appointed day the *Sachems of the several tribes*, with their followers, who usually arrived a day or 2 before u. remained encamped at a distance, were received in a formal manner by the Onondaga sachems at the rising of the sun. They marched in separate processions *from their camps* to the *council grove*, each bearing his skin robe and bundle of fagots, wo d. *Onondaga Sachems* awaited them with a concourse of people. *The Sachems then formed themselves in a circle*, an Onondaga sachem, acting by appointment as master of the ceremonies, occupying the side towards the rising sun. At a signal they marched round the circle moving by the North. The rim of the circle toward *the North* called "*the cold side*", that on the west "*the side toward the setting sun*", that *on the south* "the side of the high sun", *that on the east* "*the side of the rising sun*". After marching 3 times around on the circle single file, the head and foot of the column being joined, the leader stopped on the rising sun side, and *deposed before him his bundle of fagots*. In this followed by the others. XX After this each sachem *spread his skin robe* in the same order and sat down upon it, *crosslegged, behind his bundle of fagots*, with his assistant sachem standing behind him. [to XX formed an inner circle of faggots.] After a moment's pause, the master of the ceremonies arose, drew from his pouch *2 pieces of dry wood and a piece of punk* (Zündschwamm) with which he *proceeded to strike fire by friction.* When fire obtained, he stepped within the circle u. set fire to his own bundle, and then to each of the others. When diese well-ignited, and at a signal from the master of the ceremonies, the sachems arose and *marched 3 times around the Burning Circle*, going as before by the North. Each turned v. time to time as he walked so as to expose all sides of his person ... then reseated themselves, each upon his own robe. Master of the ceremonies again rising to his feet, filled and lighted the *pipe of peace* from his own fire; drew *3 whiffs*, the *first* toward the *Zenith* (bdtet thanks to the Great Spirit for his preservation during the last year u. for being permitted to be present at this council); the *second toward the ground* (means thanks to *his Mother*, the *Earth*, for the various productions which had ministered to his sustenance; *third* toward the *Sun* (means thanks for his never-failing light, ever shining upon all.) Then he *passed the pipe* to the first upon his right toward the North, who repeated the same ceremonies u. so on around the burning circle. The *ceremony of smoking the calumet* bdtete auch mutual pledg⟨ing⟩ of their faith, friendship, honour. Mit dieser ceremony opening of the council completed, u. dieser d⟨arau⟩f declared *ready for business.*

Auf d. *opposite sides* d. Council fire, sassen, auf d. einen: *Mohawk, Onondaga u. Seneca Sachems;* ihre *tribes*, wenn in council, were *brother tribes to each other* u. *father tribes to the two other;* they constituted, by extension of the principle, *a phratry of tribes u. sachems.*

On the *opposite side of the fire* the *Oneida* u. *Cayuga* u. später *die Tuscarora Sachems;* a second tribal phratry; *brother tribes* to each other and *son tribes* of those opposite.

D. *Oneidas*, being a subdivision of the *Mohawks*, u. d. *Cayugas* a *subdivision* of the *Onondagas or Senecas*, they were in reality *younger tribes*, hence their relations of *juniors u. seniors* u. *application of* the *phratric principle.*
When the tribes named in Council, the *Mohawks* named first, their *tribal epithet: "The Shield"; next* the *Onondagas*, under epithet of "*Name-Bearer*", because they had been appointed *to select and name the 50 original sachems.* Nach d. tradition d. Onondagas deputed a wiseman to visit the territories of the tribes and select and name the new Sachems je nach circumstances; which explains the *unequal distribution of office* among the several gentes; *next in order* the *Senecas*, the "*Doorkeeper*", were made perpetual keepers of the western door of the Long House; dann d. *Oneidas*, the "*Great Tree*" u. d. *Cayugas* the "*Great Pipe*"; the Tuscaroras named last ohne distin-
50 guishing epithet. | D. Foreign tribe represented at the Council dch a delegation of *wise-men u. chiefs* who bore their proposition and presented it in person. Nach ihrer introduction, macht einer d. Sachem short address, thanking the Great Spirit etc, dann informing the delegates dass Council prepared to hear them. One of the delegates submits the proposition in form, sustains it by arguments;[133] nach conclusion der address, the delegation withdraws vom Council to wait at a distance. Nun Debate unter d. Sachems; when decision come to, a speaker appointed to communicate the *answer of the council* zu deren Empfang the delegation were recalled. Als Speaker des Council meist chosen einer von *tribe*, der had convened the council; macht förmlichen speech reviewing the whole question, theilt dann *rejection* (mit reasons) mit od. *acceptance* (völlig od. in part). Im letzteren Fall *belts of wampum exchanged as evidence of the terms* of the agreement.
"*This belt preserves my words*", common remark of an Iroquois chief in council, often *delivering the belt* as evidence of what he had said. *Several such belts* given in the course of a negotiation to the opposite party. In *the reply of the latter* a *belt would be returned for each proposition accepted.*
Unanimity of the Sachems required upon all public questions u. essential to the validity of every public act; it was a fundamental law der confed-
| eracy; *kannten nichts von majorities u. minorities in the action of councils;* zur Erreichg d. votes die oben angeführten *classes. Kein Sachem allowed to express an opinion in council in the nature of a vote* bevor er nicht had *first agreed with the sachem or sachems seiner class* upon the opinion to be expressed, and had been appointed to *act as a speaker for the class.* So d. 8 Seneca sachems in 4 classes konnten nur 4 opinions haben, u. d. 10 Cayuga sachems, in selber number of classes, konnten auch nur 4 opinions haben. Dann *a cross*[134] *consultation* zwischen d. 4 sachems appointed to speak for the 4 classes; when they had agreed, *they designated one of their number to express their resulting opinion, which was the answer of their tribe.* Wenn so d. Sachems jedes-der tribes separately had become of one mind, their several opinions compared u. if they agreed the decision of the council

was made. The *5 persons appointed to express the decision of the 5 tribes* erklärt vielleicht d. functions u. appointment der *6 electors in d. Aztec confederacy*. War any sachem obdurate u. unreasonable, influences brought to bear upon him, which he could not well resist. Seltner Fall auch.
Beim Beginn der Amerik. Revolution konnten d. Iroquois, wegen want of unanimity im confederate council, nicht übereinstimmen über *Kriegserklärg* gegen d. neue American confederacy. Theil *der Oneida Sachems* refused. As *neutrality* was impossible with the *Mohawks* u. d. *Senecas* were determined to fight, it was resolved *that each tribe* might engage in the war upon its own responsibility or remain neutral. The *war agst the Eries*, the *Neutral Nation* and *Susquehan⟨n⟩ocks*, u. d. *several wars gegen French*, were resolved upon in General Council. "Our *colonial records* largely filled mit negociations mit d. Iroquois Confederacy."
The *induction of new Sachems* into office great interest to the people u. to the Sachems selbst. Für d. ceremony of raising sachems the general council primarily instituted; in this capacity called *Mourning Council*, weil had to *lament* the deceased u. to *install* his successor. Bei death of a Sachem, der *tribe* der ihn had lost had power to summon a General Council, name time u. place for meeting; a herald sent out *with* a *belt* of *wampum*, meist the *official belt of the deceased sachem* which conveyed the message: "*the name* (der des defunct's) *calls for a council*", announced also the day u. place of convention. *Mourning Council* mit d. *festivities that followed* Hptattraction für d. Iroquois, flocking to attendance from the most distant localities with zeal u. enthusiasm. Bei der *lamentation* (womit proceedings opened), a *procession formed, and the lament was chanted in verse*, with *responses, by the united tribes*, as they marched vom place of reception to the place of council. Dies *1st day's* proceeding; *2nd day: installation ceremony*, lasts meist bis 4th day.
U. a., for d. *instruction d. newly raised sachem*, the *ancient wampum belts*, into which, nach their expression, the structure and principles of the confederacy "*had been talked*", were produced u. *read i.e. interpreted.* A *wiseman*, not necessarily one of the Sachems, *took these belts* one after the other u. walking to and fro between the 2 divisions of sachems, read from them
51 the facts which they recorded. | Nach der *Indian conception, these belts can tell*, by means of an interpreter, *the exact rule, provision or transaction talked into them at the time, and of which they were the exclusive record.* A *strand* [Germ. *strahn*, one of the *twists of which a rope is composed, Strähn* = hank, *skein*[135] (Gebind] of *wampum* bestehend aus *strings von purple u. white shell beads*, or a *belt woven with figures formed by beads of different colour*, operated on the principle of associating a particular fact with a particular string; thus giving a serial arrangement to the facts as well as fidelity to the memory. These *strands* u. *belts* of *wampum* were *the only visible records der Iroquois;* aber they required *trained interpreters* who could draw from their strings and figures the records locked up in their remembrance. One of

the *Onondaga Sachems* was made "*Keeper of the Wampum*", and *2 aids were raised up with him* who were required to be versed in its interpretation as well as the sachem. The interpretation dieser several belts u. strings brought out, in the address of the wise-men, a connected account of the occurrences at the formation of the confederacy. *The tradition was repeated in full*, and fortified in its essential parts by reference to the records contained in diesen belts. Thus the council to raise up sachems *became a teaching council* which maintained in perpetual freshness in the minds of the Iroquois the structure and principles dr confederacy, as well as *the history* of its formation. These proceedings occupied the council until noon each day; the afternoon being devoted to games u. amusements. At twilight each day *a dinner in common* served to the entire body in attendance; consisted of *soup* and *boiled meat* cooked near the *council-house*, and served directly from the kettle in *wooden bowls, trays and ladles. Grace was said* before the feast commenced; it was a prolonged exclamation by a single person on a high shrill note, falling down in cadences into stillness, followed by *a response in chorus by the people.* The evenings devoted to dance. After these ceremonies u. festivities – for several days – their sachems inducted into office.

Ob d. right d. council to "*invest*" Sachems nur functional? Jedenfalls no case of rejection mentioned. Obgleich in form an oligarchy, this *ruling body of sachems* a *representative democracy* of the archaic type. Right of gentes to elect u. depose sachems u. chiefs, right of the people to be heard in council dch orators of their election, and the voluntary system in the military service. In diesem *lower u. middle ethnical period democratic principles were the vital* element of gentile society.

Ho-yar-na-gó-war, the Iroquois name for a *sachem*, means: "*a counselor of the people*"; analog bei d. members of the Grecian council of chiefs; so *bei Aeschylus, The Seven against Thebes, 1005*:[136]

δοκοῦντα καὶ δόξαντ' ἀπαγγέλλειν με χρὴ
δήμου προβούλοις τῆσδε Καδμείας πόλεως.

Chief of the second grade heisst: "*Ha-sa-no-wä'-na*", "*an elevated name*", indicates appreciation dr Barbaren of the ordinary motives for *personal ambition.* Fst ohne Ausnahme d. *celebrated orators, wise-men* und *war-chiefs* der Iroquois – *chiefs of the 2nd grade. Office of chief* bestowed for merit, fell necessarily auf d. ablest men (diese also excluded von *General Council*, aus dem so d. *ambitious* element entfernt). In *American* (European) annals fst nur berührt solche chiefs; none of the long lines of sachems ausser *Logan* (einer dr Cayuga sachems), *Handsome Lake* (Seneca sachem, *Gründer der New Religion* dr Iroquois) u. at a recent day *Ely S. Parker* (Seneca sachem)

Ind. *confederacy of tribes* taucht zuerst auf the *office of General* (*Hos-gä-ä-geh'-da-go-wä* = "*Great War Soldier*") Entstanden von cases, when *the*

several tribes in their confederate capacity would be engaged in war. So want felt *for a general commander* to *direct the movements of the united bands.* D. *introduction of this office as a permanent feature verhängnisvoll event* in human history. *Beginn der differentiation of the military von d. civil power*, which, *when completed*, changed essentially the external manifestation of the gvernment. Aber *gentilism arrested usurpation;* government of one power became nun one of 2; the *functions of gvt* became in time *co-ordinate* between the two. This *new office* – the *germ of a chief executive magistrate;* out of the general came the king etc *The office sprang v. d. military necessities of society.* –
52 *The Great War Soldier* dr *Iroquois* (*lower status of barbarism*), der *Teuctli* der *Aztecs* (*middle status of barbarism*), der βασιλεύς der *Griechen u. rex d. Römer* (*Upper Status of barbarism*) – three successive ethnic epochs – selbes office, das *eines Generals in a military democracy.* Bei *Iroquois*, *Aztecs*, *Romans* d. office *elective u. confederative* dch a constituency; wahrscheinlich auch bei d. *Griechen whd d. traditionary period;* auf nichts gegründet d. Behptg, dass es *erblich* bei d. homerischen *tribes* v. *father to son;* widerspricht dem groundwork of gentile institutions. Wenn in *zahlreichen Fällen* d. office passed von father to son, dies might have suggested the *inference* – unbegründete – *of hereditary succession*, now adopted as historically true. *Hereditary succession*, when first established, *came from force* (usurpation), nicht *by the free consent of the people.*

Nach Stiftng d. Iroquois confederacy two *permanent war-chiefship⟨s⟩* created u. nam⟨e⟩d, *both assigned to the Seneca tribe.* One of them – *Tawan'-ne-ars*, signifying *needle breaker*) made *hereditary* in the *Wolf gens* u. the other – *So-nó-so-wä* = "*great oyster shell*" – in the *Turtle gens.* Senecas erhielten beide offices, weil the *greater danger of attack at the westend of their territories;* were *elected* in same manner as the *sachems*, "raised up" by a general council, u. *both equal in rank u. power.* As general commanders they had *charge of the military affairs* of the confederacy u. the *command of its joint forces when united in general expedition. Governor Blacksnake*, recently deceased, held the office first named, showing that the succession has been regularly maintained. *2 gewählt to prevent the domination of a single man even in their military affairs;* so d. *2 Romans consuls*, nach Abscffg des rex.

The *Iroquois conquered other tribes* and held them in subjection, z.B. d. *Delawares*, aber d. *letztern blieben unter dem government of their own chiefs*, and added nothing to the strength of the confederacy. It was impossible in this state of society to *unite tribes under one government who spoke different languages*, and to hold conquered tribes under tribute *with any benefit but the tribute.*

The Iroquois brain approached in volume the Aryan average; eloquent in oratory, vindictive in war, indomitable in perseverance, they have gained a place in history. They had urged the *Eries* and the *Neutral Nation* to become members of their confederacy, and for their refusal expelled them from their borders. In the *competition between English u. French* for supremacy

in North America – as the 2 were nearly equal in power and ressources during the first century of colonization – the French Scheitern in no small degree to be ascribed to the Iroquois

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Pt. II. *Ch. VI Gentes in other tribes of the Ganowanian Family.*
Bei Entdeckung von America in several regions, the *aborigines* found in 2 dissimilar conditions: 1) *The Village Indians*, abhängig fst ganz upon *horticulture* für Subsistence; such the tribes in this status in *New Mexico*, *Mexico*, *Central America* u. auf *dem Plateau der Andes;* 2) d. *non-horticultural Indians*, depending *upon fish*, *bread-roots* u. *game;*[137] such those of the *Valley of Columbia*, of the *Hudson Bay Territory*, *parts Canada* etc Zwischen diesen tribes, u. *connecting the extremes by insensible gradations*, 3) the *partially Village u. partially Horticultural Indians;* such: *Iroquois*, *the New England u. Virginia Indians*, the *Creeks*, *Choctas*, *Cherokees*, *Minnitarees*, *Dakotas*, *Shawnees*. *W*eapons, arts, usages, inventions, dances, house architecture, form of government, plan of life, all bear *impress of a common mind;* über wide range zeigen sie the successive stages of development of the same original conceptions.
Es wd nun (v. Europas u. American writers) erst *overrated the comparative advance der Village Indians*, *underrated* der der *non-horticultural*,[138] hence betrachtet als *2 different races*. Aber Anzahl d. *non-horticultural tribes* were in *Upper State of Savagery;* the *intermediate tribes* in the *Lower Status of barbarism*, d. *village Indians* in *Middle Status of Barbarism*. D. evidence of their *unity of origin* now so accumulated that *settled; Eskimos* belong to a
53 different family. | In d. "*Systems of Consanguinity* etc" Morgan presented selbiges von 70 American Indian tribes; selbes system nachgewiesen bei ihnen mit *evidence of its derivation von common source;* er nannte sie allzusammt d. *Ganowanian Family* ("*Family of the Bow and Arrow.*")
Giebt nun mit Bezug auf d. Gentes d. different tribes dieser Ganowanian Family: (nach *Nomenclatur in "Systems of Consanguinity"*)

I) Hodenosaunian Tribes.

1) *Iroquois. Gentes:* 1) Wolf. 2) Bear. 3) Beaver. 4) Turtle. 5) Deer. 6) Snipe. 7) Heron. 8) Hawk.
2) *Wyandotes;* remains of the ancient *Hurons*, separated v. Iroquois at least 400 years.
Gentes. 1) Wolf, 2) Bear, 3) Beaver, 4) Turtle, 5) Deer, 6) *Snake*, 7) *Porcupine*, 8) Hawk.

Hawk no⟨w⟩extinct;[139] noch 5 gentes in common mit Iroquois, *names* nun changed.
Descent in female line; marriage in gens prohibited; *office of sachem* (civil chief) *hereditary in gens*, *elective* among its members; office of Sachem passes von brother to brother or v. uncle to nephew; that of *warchief*

bestowed for merit, haben *7 sachems* u. *7 warchiefs; property hereditary in gens, children inherit their mother's* (nothing from father) *effects*, w⟨h⟩ether married or unmarried; each gens has power to *depose and elect* its chiefs. The *Eries, Neutral Nation, Nottoways, Tutelos* u. *Susquehannocks*, now extinct, or absorbed in other tribes, belong to same lineage.

II) Dakotian Tribes

Z. Zeit ihrer Entdeckung in zahlreiche groups zerfallen, ebenso ihre Sprache in viele Dialekte; aber dr Hauptsache nach bewohnten sie continuous areas; occupied the *head waters d. Mississippi* u. *beide banks d. Missouri* für mehr als 1000 miles in extent; Iroquois u. their cognate tribes whsclich offsho⟨o⟩t of this stem.

1) *Dakotas or Sioux; jetzt about 12 independent tribes; gentile organization* in decadence, aber *their next congeners, the Missouri tribes* possess it; have *societies named after animals* analogous to gentes, aber letztre jezt verschwunden.

Carver, Travels in North America Philad. ed. 1796, p. 164, war bei ihnen *1767;* he visited the *Eastern Dacotas on the Mississippi.* Giebt *exacte tribe u. gentes Beschreibung derselben*, stimmt auch ganz mit sachem u. warchief etc. *Morgan* besuchte *Eastern Dacotas 1861, Western 1862*, also beide fast a *century* nach Carver, fand nichts mehr v. gentes; a change of life den Dakotas aufgezwungen im Interval when *they were forced upon the plains* u. *fell into nomadic bands.*

2) *Missouri tribes.*

a) *Punkas. Gentes: 1) Grizzly Bear; 2) Many People. 3) Elk. 4) Skunk. 5) Buffalo. 6) Snake; 7) Medicine;* 8) *Ice.*

Hier *descent in male line*, the children belonging to the gens of the father; *office of Sachem hereditary in gens, choice elective*, but sons of a *deceased Sachem eligible; change vom archaic* whsclich *recent*, da descent noch in female line bei 2 der 8 Missouri tribes, *Otoes* u. *Missouris* u. unter d. *Mandans (Upper Missouri tribes). Property hereditary in the gens*, worin *intermarriage prohibited.*

b) *Omahas. gentes: 1) Deer 2) Black 3) Bird 4) ⟨Turtle⟩* [140] *5) Buffalo 6) Bear 7) Medicine 8) ⟨Kaw⟩ 9) Head 10) Red. 11) Thunder 12) ⟨Many Seasons⟩*

Descent, inheritance, marriage same wie bei Punkas.

c) *Iowas. gentes: 1) Wolf 2) Bear. 3) Cow Buffalo 4) Elk 5) Eagle. 6) Pigeon. 7) Snake. 8) Owl* | *Beaver gens existed unter Iowas u. Otoes*, extinct. Anything else as before.

d) *Otoes u. Missouris. Diese tribes have coalesced, into one, mit following 8 gentes.*

1) *Wolf* 2) *Bear* 3) *Cow Buffalo* 4) *Elk.* 5) *Eagle.* 6) *Pigeon* 7) *Snake.* 8) *Owl.* } *Descent in female line. Office of Sachem u. property hereditary in gens, wo intermarriage prohibited.*

e) *Kaws (Kaw-za)*

Gentes 1) *Deer*	2) *Bear*	3) *Buffalo*	}	*Descent, inheritance, marriage regulations wie bei Punkas*
4) *Eagle(white)*	5) *Eagle(black)*	6) *Duck*		
7) *Elk*	8) *Raccoon*	9) *Prairie Wolf*		
10) *Turtle*	11) *Earth*	12) *Deer Tail*		
13) *Tent*	14) *Thunder*			

D. *wildest der American aborigenes;* intelligent; 1869 the Kaws, much reduced, about *700*, giebt 50 per gens. *Osages u. Quappas* (tribes) hat Morgan nicht besucht. – *Home country* aller dieser tribes *along* the *Missouri and its tributaries*, von *Mündung des Big Sioux to the Mississippi* u. down the west bank des letzteren *bis Arkansas* river. Alle speak closely related dialects of the Dakotian stock language. |

54 6) *Winnebagoes. Gentes. 1) Wolf 2) Bear 3) Buffalo. 4) Eagle 5) Elk. 6) Deer*[141] *7) Snake 8) Thunder.*

When first discovered tribe resided *near the lake* of same name in Wisconsin; offshoot of the Dakotian stem, flgten in track d. Iroquois nach *valley of St. Lawrence*, progress arrested dch d. *Algonkin tribes* zwischen *lake Huron u. Lake Superior.* Ihre nächste affiliation mit. d. Missouri tribes. *Descent, inheritance, marriage*, wie bei Punkas. Sonderbar dass so many tribes of this stock *changed female ⟨to⟩ male line of descent*, da, wenn entdeckt, *property* bei ihnen nur slightly über germinating stage. Whsclich all dies recent *under American u. missionary influence.* Carver fand bei d. *Winnebagoes* traces of descent in the female line in *1787.* Sieh "*Travels l.c. p. 166*) Er sagt: "Some nations, when the dignity is hereditary, *limit the succession in the female line.* On the death of a chief *his sister's son* succeeds *in preference to his own son;* and if he happens to have no sister *the nearest female relation* assumes the dignity. *This accounts for a woman being at the head of the Winnebago nation,*[142] which before I was acquainted with their laws, appeared strange to me."

1869 the Winnebagoes numbered 1400, per gens average of 150 persons.

3) *Upper Missouri Tribes.*

1) *Mandans. Gentes. 1) Wolf 2) Bear 3) Prairie Chicken 4) Good Knife. 5) Eagle. 6) Flat head. 7) High Village.*

In intelligence u. arts of life the Mandans ahead of all their kindred tribes, dafür probably indebted to the *Minnitarees. Descent in female line*, office and property hereditary in the gens, worin intermarriage prohibited. Zeigt, dass *originally* female descent in Dakotian stock.

2) *Minnitarees. This tribe u. the Upsarokas or Crows subdivisions of an original people, doubtful members of this branch of the Ganowánian family,*

placed in there from number of words common mit denen d. Missouri u. Dakota tribes placed with them. They carried *horticulture*, the *timber-framed house* u. a *peculiar religious system* into this area which they taught the Mandans; können sein descendants der *Moundb⟨u⟩ilders.*

Minnitarees u. Mandans live now in the same village; among the finest specimens of red men now in North America.

3) Upsarokas[143] or Crows. Gentes: *1) Prairie Dog. 2) Bad Leggins. 3) Skunk. 4) Treacherous Lodges. 5) Lost Lodges. 6) Bad Honors. 7) Butchers. 8) Moving Lodges. 9) Bear's Paw Mountain. 10) Blackfoot*[144] *Lodges. 11) Fish Catchers. 12) Antelope. 13) Raven. Descent, inheritance, marriage etc wie bei Minnitarees.*

If a person to whom any article of property had been presented *died with it in his possession,* and *the donor was dead,* it reverted to the gens of the latter. Property made or acquired by a wife descended after her death to her children, that of a husband to his gentile kindred. If a person made a *present to a friend* and died, the *latter must perform some recognized act of mourning,* such as *cutting off the joint of a finger at the funeral* or *surrender the property to the gens of the donor.* This act of mourning very common unter d. Crows, auch *as a religious offering* when they hold "*Medicine lodge*", a great religious ceremonial.

The *Crows* haben einen Ehegebrauch, den Morgan bei mindestens 40 andern Indian tribes gefunden: *when a man marries the oldest daughter in a family he is entitled to all her sisters when they attain maturity. (Survival of custom of punalua)*

Polygamy allowed *generally by usage unter allen American aborigenes,* never prevalent in irgd bdtenden Mass wegen *inability of persons to support more than one family.*

III) Gulf Tribes.

1) *Muscokees or Creeks. The Creek Confederacy consisted of 6 tribes, viz: Creeks; Hitchetes; Yoochees;*[145] *Alabamas; Coosatees* u. *Natches.* Mit Ausnahme der letzteren, admitted in ihre confederacy after their overthrow dch French, *spoke all dialects der same language.*

Descent unter d. Creeks in female line, sachemship u. property of deceased persons hereditary in gens, worin intermarriage prohibited; *d. andren tribes* hatten auch gentile organization; jetzt d. *Creeks* partially civilized, political system, in a few years traces of their gentile organization will
55 have disappeared. | *1869 Creeks* numbered abt *15,000,* average von 550 persons to gens.

Gentes der Creeks. (22) *1) Wolf.* *2) Bear.* *3) Skunk.* *4) Alligator* *5) Deer* *6) Bird.*

7) *Tiger.* 8) *Wind.* 9) *Toad.*
10) *Mole* 11) *Fox* 12) *Raccoon*
13) *Fish* 14) *Corn* 15) *Potatoe*
16) *Hickory Nut.* 17) *Salt.* 18) *Wild Cat.*
19), 20) 21) 22) *signification lost.*

2) *Choktas. Bei ihnen each phratry named; 2) phratries mit je 4 gentes, wie bei Iroquois.*

Ist Phratry Divided People gentes: 1) *Reed.* 2) *Law Okla.* 3) *Lulak.* 4) *Linoklusha.*

IInd " Beloved People. 1) *Beloved people.* 2) *small people.* 3) *Large People.* 4) *Cray Fish.*

Gentes of same phratry could not intermarry, but jede mit gentes d. other; zeigt, dass wie bei Iroquois, the *Choktas* commenced mit 2 gentes, jede[146] davon nachher *subdivided* into 4. *Descent in female line*, Property and Sachemship hereditary in gens. *1869* – some *12,000*, gives average per gens = 1500. *1820* residirten sie noch in their *ancient territory, east of Mississippi;* immigrated dann in *Indian territory.* – Nach Chocta usages, *property* after the death of a man distributed unter his *brothers and sisters* and *the children of his sisters*, nicht under his children; *could give his property to his children in his lifetime*, then they could hold it against his gens. *Viele Indian tribes haben jezt considerable property in domestic animals, houses u. lands, owned by individuals;* unter ihnen common *practice to give it to their children during their life*[147] *time. Im Mass wie property wuchs, dis⟨in⟩heritance of children* began to arouse *opposition to gentile inheritance* u. in *some of the tribes*, u. a. bei den *Choctas old usage abolished a few years since, right of inheritance exclusively vested in the children of defunct owner.* Dies came, however, dch *substitution of a political system in the place of gentile system, and elective council* u. *magistracy substituted to the old gvt by chiefs.* Under previous usages wife inherited nothing from her husband and vice versa, nor he from her; but the wife's effects divided *among her children* u. in default of them *her sisters.*

3) *Chickasas.* 2 phratries, Iste 4 gentes, IIe 8.

Ist Pant⟨h⟩er Phratry. *IInd Spanish Phratry.* *Gentes.* 1) *Wild Cat.* 2) *Bird.* 3) *Fish.* 4) *Deer.* 1) *Raccoon.* 2) *Spanish.* 3) *Royal.* 4) *Hush-ko-ni.* 5) *Squirrel.* 6) *Alligator.* 7) *Wolf.* 8) *Blackbird.*

Descent in female line, intermarriage in gens prohibited, sachemship und property hereditary in gens.
1869 they numbered *5000*, average per gens about 400.

4) *Cherokees*, ursprünglich 10 gentes, wovon *Acorn* u. *Bird* now extinct.

Gentes: 1) *Wolf* 2) *Red Paint* 3) *Long Prairie* } *Descent in female line; intermarriage in gens forbidden.*
4) *Deaf (A Bird)* 5) *Holly.* 6) *Deer.*
7) *Blue* 8) *Long Hair*

1869: 14,000, average per gens = 1750.[148] Jezt *Cherokees u. Ojibwas* exceed all the remaining Indians in U. St. in Anzahl of persons *speaking the same dialect.* Nicht wahrscheinlich, dass jemals in *any part of North America* 100,000 spoke same dialect; dies nur bei *Aztecs, Tezcucans* u. *Tlascalans* (tribes) u. selbst dies schwer zu beweisen upon Spanish evidence. The *unusual numbers of Creeks u. Cherokees due to possession of domestic animals* u. *welldeveloped field agriculture;* now *partially civilized,* having substituted an *elective constitutional gvt* to the *ancient gentes,* unter dessen influence diese in raschem Verfall.

5) *Seminoles:* of Creek descent, said to be organized into gentes.

IV Pawnee Tribes.

Die *Pawnees* sollen nach Aussage des missionary *Rev. Samuel Allis* in *6 gentes* organisirt sein: *Bear, Beaver, Eagle, Buffalo, Deer, Owl.* If so, auch d. *Arickarees* (deren village near dem der *Minnitarees* u. die d. *next congeners der Pawnees*), d. *Huecos* u. 2 od. 3 andre small tribes residing on the Canadian river; haben *alle stets west von Missouri* gelebt u. sprechen an *independent stocklanguage.* |

56

V. Algonkin Tribes.

Bei Entdeckung dieses *great stock* der American *aborigenes* nahmen sie ein *Area v. Rocky Mountains bis Hudson's Bay südlich von Siskatchewun,* u. dann *östlich zum Atlantic,* einschliesslich *beider Ufer des Lake Superior* except at its head u. *beide Seiten d. St. Lawrence,* below[149] *Lake Champlain. Südlich* extended their area *entlang* der *atlantischen Küste* bis *Nord Carolina* u. *down the East Bank des Mississippi v. Wisconsin, Illinois bis Kentucky.* Innerhalb *der östlichen Section* dieser immense region waren d. Iroquois u. their affiliated tribes an *intrusive people,* einzige conkurrenten der Algonkins innerhalb der boundaries dieser Section.

a) *Gitchigamian Tribes* (From the *Ojibwa, gi-tchi'* (*great*) u. gä-me (*lake*), the aboriginal name of *Lake Superior* u. *other great lakes.*

1) *Ojibwas.* Sprechen selben Dialekt, organized in gentes, wovon Morgan 23 gefischt. In ihrem dialect the symbol or devise of *gens* heisst *totem* (ebenso oft pronounced *dodaim*); z.B. a Wolf das totem der Wolf Gens. Hence hat *Schoolcraft* ("*History of Indian Tribes*") d. gentile organization "totemic organization" getauft.

23 gentes (bekannt)[150] 1) *Wolf,* 2) *Bear,* 3) *Beaver* | 4) *Turtle* (*mud*) 5) *Turtle* (*Snapping*) 6) *Turtle* (*little*) 7) *Reindeer.* 8) *Snipe* 9) *Crane* | 10) *Pigeon Hawk* 11) *Bald Eagle.* 12) *Loon* | 13) *Duck* 14) *Duck.* 15) *Snake* |

16) Muskrat. 17) Marten. 18) Heron | 19) Bull Head. 20) Carp 21) Cat Fish | 22) Sturgeon. 23) Pike.

Descent in male line, children belonging to their father's gens. *Ursprünglich female.* Denn 1) d. *Delawares*, anerkannt dch alle Algonkin tribes als einer der ältesten, von allen "*Grandfathers*" genannt, *haben noch descent in female line*, wie ditto etzliche andre Algonkin tribes; 2) *Evidence*, dass noch 1840 descent in the female line with respect to the *Sachem*. 3) *American u. missionary influence;* d. Missionaries, schien Erbfolge die d. Sohn enterbte, ungerecht. Wo wir d. Wort "hereditary" anwenden, z.B. für nephew (seiner Schwester Sohn) eines Sachem, folgt nicht, dass letzterer "*hereditary right*" hatte im modernen Sinn, sondern dass er *in line of succession* (in dr gens) u. his *election* substantially secured.

Property u. office hereditary *in gens* (worin intermarriage verboten); jetzt bekommen Kinder d. meiste to the exclusion ihrer gentile kindred. Property u. effects der mother pass to the children, u. in their default to her sisters, own u. collateral. Ein Sohn kann jetzt seinem Vater flgen in office; wo *several sons choice determined by election;* the *gentiles* kann nicht nur *elect*, sondern auch depose.

Jetzt *Ojibwas* some 16,000; gibt *average für gens* about 700.

2) *Potawattamies.* 15 Gentes. Alles andre wie bei Ojibwas. Die gentes sind: *1) Wolf. 2) Bear 3) Beaver | 4) Elk. 5) Loon 6) Eagle | 7) Sturgeon. 8) Carp. 9) Bald Eagle. 10) Thunder. 11) Rabbit. 12) Crow | 13) Fox. 14) Turkey. 15) Black Hawk.* } *Loon = Taucher-sorte*

3) *Ojibwas, Otawas, u. Potawat⟨t⟩amies* subdivisions of an original tribe, when first known – *confederated.*

4) *Crees;* when discovered held *northwest shore of Lake Superior*, spread v. da zu *Hudson's Bay* u. dann westlich to the *Red River of*[151] *the North;* occupy später *the region of the Siskatchewun,*[152] ihre *gentile organization lost;* nearest related to the *Ojibwas, gleichen ihnen closely in manners, customs, personal appearance.*

b) *Mississippi Tribes. Western Algonkins*, occupied *eastern banks of Mississippi* in *Wisconsin*[153] *u. Illinois* u. *südlich bis Kentucky.*

1. *Miamis. 10 gentes. 1) Wolf. 2) Loon. 3) Eagle. 4) Buzzard. | 5) Panther. 6) Turkey. 7) Raccoon 8) Snow | 9) Sun. 10) Water |*

Ihre immediate congeners – *Weas, Piankeshaws, Peorias, Kaskaskias*[153] early known unter collective name of *Illinois*, jetzt wenige, haben ihre alte Lebensart verloren for settled agricultural life.

D. *Miamis* declining in numbers, changed condition, *gentile organization* quickly disappearing. *When decline* commenced, *descent in male line*, sonst wie vorher. |

57 2) *Shawnees* (highly advanced); haben noch *ihre gentes*, obgleich sie substistuted ⟨for⟩ die gentile-*civil organization.* – Ihre gentes erhalten sie für genealogical u. social purposes, sind: [*Shawnees* formerly worshipped *a*

female deity – Go-gome-tha-mä' (our grandmother]

1) Wolf 2) Loon 3) Bear 4) Buzzard | 5) Panther 6) Owl, 7) Turkey, 8) Deer | 9) Raccoon. 10) Turtle. 11) Snake. 12) Horse | 13) Rabbit.

Descent etc wie bei Miamis. *1869*[154] ihrer nur 700, about 50 per gens; früher *3-4000*, was *above the average* of American Indian tribes. *Shawnees* hatten a custom – wie auch d. *Miamis*, ditto *Sauks u. Foxes* – of *naming children in gens v. Vather od. Mutter od. any other gens* under certain restrictions. Unter d. *Iroquois*, sieh oben, hatte *jede gens its own special names für persons which no other gens had a right to use;* in *every tribe* daher *the name* (special, personal) *indicated the gens.* So unter d. *Sauks u. Foxes* "Long Horn" is a name belonging to the *Deer Gens: Black Wolf* to the Wolf Gens; in the *Eagle gens* the following are specimen[155] *names: Ka-po-nä* ("Eagle drawing his nest"); *Ja-ka-kwä-pe* ("Eagle sitting with his head up"); *Pe-ă-tä-na-kä-hok* ("Eagle flying over a limb)

Unter d. *Shawnees* these names carried mit sich the rights of the gens to which they belonged, so that *the name determined the gens of the person.* Der *Sachem* musste in allen Fällen zu *seiner gens* gehören; whsclich d. *change von female to male line* commenced thus: in erster Instanz to *enable a son* (der zur gens der Mutter gehörte) *to succeed to his father*, u. zweitens, to *enable children to inherit property from their father.* Empfing ein *Sohn den Namen seines Vaters*, so konnte er ihn *in office nachfolgen*, subject to election. Aber d. father had no control over the question; it was left by the gens to certain persons, mostly *matrons* to be consulted when children were to be named, with *power to determine the name*[156] *to be given.* Dch dies arrangement between the Shawnee gentes these persons had this power, *could so carry the person into the gens to which the name belonged.* [*Eingeborne casuistry of man* to *change things by changing names*! u. Schlupfwinkel zu finden um innerhalb der Tradition die Tradition zu durchbrechen, wo *actual interest* powerful motive dazu gab!] *Traces der archaic rule of descent existiren unter den Shawnees.*

3) *Sauks u. Foxes: diese tribes consolidated into one; alles andre wie Miamis;* 1869 nur 700, abt 50 per gens. Noch 14 gentes.

1) Wolf 2) Bear 3) Deer. 4) Elk | 5) Hawk. 6) Eagle. 7) Fish. 8) Buffalo. | 9) Thunder 10) Bone 11) Fox. 12) Sea | 13) Sturgeon. 14) Big Tree |

4) *Menominees u. Kikapoos.* Diese tribes independent of each other, *organized in gentes;* property hereditary in the gens, but restricted to the *agnatic kin* in the female line.

c) *Rocky Mountain tribes.* 1) *Blood Blackfeet* u. 2) *Piegan Blackfeet.* Jeder dieser 2 tribes in gentes getheilt, erster in 5, 2ter in 8. Namentlich unter d. letzteren *Namen (von gens)*, die mehr nach *Bands* als gentes riechen, wie *Web Fat, Inside Fat, Conjurers, Never Laugh, Starving, Half Dead Meat;* aber *nicknames for gentes* superseded in some cases the original names. *Descent in male line, intermarriage in gens prohibited.*

d) *Atlantic Tribes.*

1) Delawares, one of the oldest of the Algonguin Tribes; when discovered, their home country region around and North of Delaware Bay

haben *3 gentes:* 1) *Wolf;* 2) *Turtle.* 3) *Turkey;* aber jede dieser gen⟨te⟩s a *phratry*, da *Wolf* getheilt in *12 subgentes*, each having some of the attributes of a gens; *Turtle* in 10 subgentes (*2 fernere extinct*), *Turkey* in 12 subgentes. The *names* der *subgentes are personal*, u. *meist*, wenn nicht alle, *female;* sind betrachtet by the Delawares selbst (jezt at the *Delaware Reservation in Kansas*) betrachtet als their *several eponymous ancestors.* Dies zeigt zweierlei: 1) wie d. *ursprünglichen Thiernamen der gentes* Platzmachen können *Personennamen.* [D. Namen der ursprünglichen *Gentes* bleiben wie *Wolf, Turtle, Turkey;* aber d. Segmentation der *gens* in subgentes nach d. *specific* (personal) *Namen* der *Stamm*mütter der Theile (Unterabtheilgen der Gensfamilien); so werden d. ursprünglichen Thiernamen der gentes *Namen von Phratries* u. die der *subgentes von Personen* (Müttern) ohne dass dieser Change (wie bei male descent d. Antiken) anything mit hero worship (als Urahnen) zu thun hätte.] *Zweitens:* zeigt sich hier *natural growth* von *Phratry dch segmentation einer gens in several subgentes.*

Descent bei *d. Delawares in female line* u. alles andre archaisch. (So d. 3 *original gentes* could not intermarry innerhalb selber gens); in *recent years* the *prohibition limited to the subgentes;* so in *Wolf gens*[157] z.B. die *of same name* cannot intermarry, wohl aber die of *different names.* Auch d. practice
58 *of naming children* into the gens | *of their father* aufgekommen bei d. Delawares, has *introduced the same confusion of descents* wie unter *Shawnees* u. *Miamis.* [Dies scheint der natürliche Übergang von female to male line; der *confusion* konnte nur dch den Change Ende gemacht werden.] *American civilization u. intercourse gave shock* to *the institutions der Indians*, ihr *ethnic life so gradually breaking down.*

Weil descent in *female line*, bei d. Delawares wie Iroquois, office of Sachem v. Bruder to Bruder od. von (mütterlichen) Onkel to Nephew (Schwesterssohn)

2) *Munsees:* offshoot der Delawares, haben dieselben gentes: Wolf, Turtle, Turkey; *female descent* etc

3) *Mohegans: form part of the New England Indians, south of river Kennebeck, die all closely related in language*, could understand each others' dialects. *Mohegans* haben, wie Delawares u. Munsees – the *Wolf, Turtle* u. *Turkey, each of which composed of a number of gentes*, also *break up* v. *original gens into several which remain united in a* phratry. D. *phratries bei d. Mohegans* cover the gentes of each u. d. phratries must be stated, to explain the classification of the gentes. *Descent in female line* [auch so unter *Pequots u. Narragansetts*]

I) Wolf Phratry 1) Wolf 2) Bear 3) Dog 4) Opossum
II) Turtle 1) Little Turtle 2) Mud Turtle 3) Great Turtle
4) Yellow Eel.[111]

III) Turkey „ „ 1) Turkey 2) Crane

4) *Abanakis (bdtet "rising sun". Dies tribe more closely connected mit d. Micmacs als den New England Indians south of the Kennebeck. 14 gentes*, worin verschiedene the same as among the *Ojibwas. Descent nun in male line*, prohibition of intermarriage in gens now much weakened, office of Sachem hereditary in gens.

VI) Athapasco-Apache Tribes

Ob d. *Athapascans der Hudson's Bay Territory* u. d. *Apaches of New Mexico*, die *subdivisions eines original stock*, sind organized in gentes, nicht definitely ascertained. – *Hare and Red Knife Athapascans* (in Hudson's Bay Territ.) – *Slave Lake Athapascans* in ditto.

D. *Kutchin* (Louchoux) der *Yukon river Region* [*Northwest Territories, British Northamerica*, südlich von den ex-russischen Küstenniederlassungen] sind *Athapascans* und bei ihnen (nach Brief of late *George Gibbs* an Morgan): unter d. *Kutchin "3 grades or classes of society* (soll heissen *totem*, die aber *in rank* verschieden sein mögen) [u. in d. Art, namtlich wie[158] zum gensprincip Eroberung hinzukömmt, können nach u. nach *d. gentes* zur *Kastenbildung* Anlass geben? wo dann d. Verbot d. *intermarriage zwischen verschiedenen gentes* ganz verkehrt die *archaische rule* der intermarriage *innerhalb the same gens;*]; *a man does not marry into his own class, but takes a wife from some other; and that a chief from the highest may marry with a woman of the lowest without loss of caste.* [D. Begriff *der caste* trägt d. Briefschrieber hinein u. interpretirt sich so, dass ein Mann *nicht in seiner eignen gens heirathen* kann, wohl aber in gens seiner andren brother— od. cousin phratry; zeigt aber, dass sobald *difference of rank zwischen blutsverwten of*[159] *gentes* entsteht, dieses in conflict mit d. *gentilen Princip* geräth u. d. *gens* in ihr Gegentheil, *caste*, versteinern kann.][160] *The children belong to the grade of the mother* [welches also d. Rangunterschied *zwischen gentes, Brüder u. Schwester aller gentes* finden sich in gentes jedes Rangs. D. Verwandtschaftsband lässt keine finirte Aristokratie aufkommen, fraternity bleibt in Gleichheitsgefühl] *The members of the same grade in the different tribes do not war with each other."*

Kolushes d. Nordwestküste, linguistisch closely related[161] mit d. *Athapascans*, haben *gens organization; Gentes haben Thiernamen, descent in female line; right of succession in female line von uncle to nephew*, except the *principal chief*, who is generally the most powerful of the family. |

59 *VII) Indian Tribes of the Northwest Coast.*

In einigen dieser tribes – ausser d. Kolushes – prevails gentile organization. See: *Dall: "Alaska and its resources,"* u. namtlich *Bancroft: Pacific States, I, 109.*

VIII) Salish, Sahaptin u. Kootenay Tribes.

Dies d. principal stock der tribes des *Valley of the Columbia, ohne gentile*

organization. Dies war d. initial point der migrations der Ganowánian family, spreading over both divisions des Continent; their possessors besassen daher gentile organization, fell into decay and finally disappeared.

IX) Shoshonee Tribes.

Die Comanches of Texas, zusammen mit *Utah tribes*, *Bonnaks*[162] (Panacks?), *Shoshonees* u. some other tribes gehören dazu.
1859 (berichtet by Mathew Walker, a *Wyandote* halfblood, lived among the Comanches) hatten d. *Comanches 6 gentes:*
Comanche tribe. Gentes. 1) Wolf. 2) Bear. 3) Elk. | 4) Deer. 5) Gopher. (amerik. Erdeichhörnchen) 6) Antelope |
Da d. Comanches gentes, so presumption, dass auch d. other tribes dieses stock.
Hiermit schliesst Morgan ab mit d. Indians *North of New Mexico.* Ihre grössere Anzahl zur Zeit der europ. Entdeckung in *Lower Status of Barbarism*, d. remainder in *Upper Status of Savagery.* Organization into gentes u. descent in female line erschien ursprünglich universal. Ihr system *purely social; unit* d. gens, *phratry, tribe, confederacy* the remaining members der organic series. Selber bei *Aryan* u. *Semitic* tribes, when emerging from barbarism; also *system universal in ancient society;* inferentially had *a common origin* – the *punaluan group, giving origin to the gentes;* all – the *Aryan, Semitic, Uralian, Turanian u. Ganowanian families of mankind* point to a *common punaluan*[163] *stock* – with *organization of gentes* engrafted upon it – of which all were derived, and finally differentiated into families.

X) Village Indians

1) Moqui Pueblo Indians; still *possessed of their ancient communal houses*, 7 in number, near the Little Colorado in *Arizona, once a part of New Mexico;* living under their ancient institutions, represent *type of Indian life* von *Zuñi* (pueblo) (Neu Mexico) bis *Cuzco* (*North Peru*) *Zuñi, Acoma, Taos* u. several other *New Mexico pueblos* haben selbe Struktur, worin gefunden von *Coronado* (*1540-1542*). Bisher nichts Nennenswerthes studirt über ihre innere Organization.
Die *Moquis* organized in gentes: (9), as follows:
1) Deer. 2) Sand. 3) Rain. | 4) Bear. 5) Hare. 6) Prairie Wolf. | 7) Rattlesnake. 8) Tobacco Plant. 9) Reed Grass |
Dr. Ten Broeck, Assistant Surgeon, U. S. A., lieferte dem Mr. Schoolcraft d. *Moqui Legend* über origin[164] of their villages. Ihre *Grandmother*[165] brought from her home, the West, 9 races of men, *first the Deer* u. so weiter d. übrigen gentes (cf. über d. *Grandmother* der[166] *Shawnees*, oben p. 57). Nachdem sie selbe gepflanzt on the spot wo nun die villages, *verwandelte sie selbe* (nämlich Deer,[141] Sand, Rain, Bear etc) in *men* u. *diese built up the different pueblos* u. d. distinction of races, *Deer race, Sand race*, etc is still kept up. They believe in *Metempsychosis* u. say, nach Tod werden

sie *rückverwandelt wden in bears, deer*[167] etc.; government hereditary, aber *nicht necessarily to the son of the incumbent;* for if the⟨y⟩ prefer any other blood relative, he is chosen." Here *also gentile organization* found in *lower state of barbarism*, aber *von diesem Punkt* an, sowohl im *remainder des North* als im *ganzen Süden* keine definite information except in regard to the *Lagunas*. Aber still *traces left* in the *Early Spanish writers* u. *direct knowledge of it in a few later writers*.

There are *current traditions in many gentes*, wie bei d. *Moquis*, von *transformation ihrer ersten progenitors aus dem animal*, or *inanimate object*, which became the symbol of the gens (*totem*), *into men and women*. (So bei den *Crane gens* unter d. Ojibwas). Ferner *Anzahl von tribes*, die abstain | 60 *from eating the animal, whose name they bear*, doch dies far from universal.

2) *Lagunas*. (New Mexico). Aus *Address von Rev. Samuel Gorman* an d. "*Historical Society of New Mexico*" *1860:*

"*Each town* is classed into *tribes or families* (read gentes), and *each of these groups* named after some animal, bird, herb, *timber, planet, or one of the 4 elements*. In *pueblo of Laguna*, mit about 1000 inhabitants, 17 dieser tribes; some are called *deer*, some *rattlesnake*, some *corn*, some *wolf*, some *water* etc *Children of same tribe as their mother*. And, according to ancient custom, *2 persons of the same tribe are forbidden to marry;* recently diese Gewohnheit nicht mehr so rigurös beobachtet wie anciently. *Their land is held in common*, but *after a person cultivates a lot*, he has a *personal claim to it, which he can sell to anyone of the same community;* or else when he dies it belongs to his widow or daughter; or, *if he were a single man*, it remains[168] *in his father's* family." That wife and daughter *inherit from the father is doubtful.*

3) *Aztecs, Tezcucans u. Tlacopans, ditto the remaining Nahuatlac tribes in Mexico* – figdes chapter.

4) *Mayas of Yucatan.*

Herrera: "*General History of America*" spricht oft von "*kindred*" mit regard to the *tribes in Mexico, Central America* u. *South America*, dass *gens* daraus hervorguckt. Er u. d. andern early Spanish observers noticed that *large numbers of persons were bound together by the bond of kin* u. mention daher *the group* als "*kindred*", weiter forschten sie nicht.

Herrera sagt u. a. von d. *Mayas* (*Lond. ed. 1726, Stevens transl. III, 299*): "they were wont to *observe their pedigrees very much*, and *therefore* (!) *thought themselves all related and were helpful to one another* They did not marry *mothers*, or *sisters-in-law, nor any that bore the same name as their father*, which was looked upon as unlawful." The pedigree of an Indian *under their system of consanguinity* could have no significance apart from a gens. Sagt *Tylor* in his: "*Early History of Mankind*": "The *analogy of the North American Indian custom* is therefore with *that of the Australian* in *making clanship on the female side a bar to marriage*, but if we go further down into *Central America*, the reverse custom, as in China, makes its appearance. *Diego de Landa* says of the *people of Yukatan* that *no one took a wife of his name*, on the father's

side, for this was a very vile thing among them; but they might marry cousins German on the mother's side."

XI.) The South American Indian Tribes.

Traces of the gens found in *all parts of South America*, as well *as the actual presence of the Ganowánian system of consanguinity*, aber the subject nicht fully inves⟨tiga⟩ted.

Sprechend von den *nume⟨r⟩ous tribes der Andes* sagt *Herrera* (*General History of America*): "this *variety of tongues* proceeded from the nations being divided in *races*, *tribes* or *clans*" (d. *clan* = *gens*). Jene tribes of the Andes, von denen er spricht, *brought by the Incas* under a *species of confederacy*. – Nachdem *E. B. Tylor* gesprochen v. Yukatan wo d. *Descendenz in männlicher Linie u. entsprechendem* Ehverbot, sagt er: "*Weiter südlich, unterhalb der Landenge, erscheint* d. "*clanship* u. *prohibition*" *wieder* (reappears) *auf weiblicher* Seite, so in Brit. Guiana bei d. *Arrawaks*, bei d. *Guaranis* u. *Abiponen in Paraguay* (*Dtsche Uebersetzg* (363, 64.) – *Brett* (*Indian Tribes of Guiana*) remarks v. d. *Indian Tribes in Guiana:* these *tribes divided* into *families* (read *gentes*), each of which has a *distinct name*, *as the Siwidi*, *Karuafudi*, *Onisidi* etc ... these all *descend in the female line*, and *no individual of either sex* is *allowed to marry another of the same family name*. Thus a woman of the Siwidi family bears the same name as her mother, but neither her father nor her husband can be of that family. Her children and the children of her daughter are prohibited from an alliance with any individual bearing the same name; though they may marry into the family of their father, if they choose etc."

Mit Ausnahme der *Andeans*, die *South American tribes*, when discovered, either in *lower status of barbarism* or in *Status of Savagery*. Many of the *Peruvian tribes* concentrated unter *the government established bei the Inca*
61 *village Indians* were in *Lower State of Barbarism*, if zu conclude von der imperfect | description des *Garcillasso de la Vega*.

Wurzel der Gens in status of savagery; letzte Entwicklungsphase bei Greeks u. Romans (*Upper Status of Barbarism*). Wo d. *gentes* bei einem tribe of mankind gefunden in *their last form*, their remote ancestors must have possessed them *in the Archaic form*. D. Wichtige wäre d. *Middle Phase* (in *Middle Status of Barbarism*) genau zu kennen; existirte im 16^{t} Jhdt bei d. *Village Indians*, aber Spanish colonists lost the golden opportunity – to understand *a condition of society*, deren *unit* (d. gens) sie unfähig to pick up.

Pt. II. Ch. VI. ⟨*VII*⟩ *The Aztec Confederacy.*

Einziger stronghold der Aztecs was d. *Pueblo de Mexico*, mit its capture *their governmental fabric destroyed* u. substituted d. *Rule der Spaniards*. Diese sahen im Aztec government Analogon europ. Monarchie, fälschten so their whole historical narrations; sind nur "historisch" mit Bezug auf *acts* der Spanier, *acts* u. *personal characteristic der Aztecs;* mit Bezug auf

deren *Waffen, implements* u. *ustensils, fabrics, food and raiment* u. d. gl. Taugen nichts mit Bezug auf *Indian society u. gvt.* "They learned nothing and *knew nothing* of either."

Aztecs u. their confederate tribes in *middle Status of Barbarism;* ohne *iron u. iron tools; ohne money; traded by barter of commodities;* sicher, dass sie prepared *one meal each day*, erst assen *Männer* für sich, dann *Weiber u. Kinder* für sich, hatten *weder tables noch chairs.*

Commune tenure of lands; Life in large households composed of a number of related families u. reasons for believing that they *practiced communism in living in the household.* Andrerseits: *they worked the native metals, cultivated by irrigation, manufactured coarse fabrics of cotton, constructed joint-tenement houses of adobe-bricks and of stone*, made *earthenware* of excellent quality. Es existirte kein "*Kingdom of Mexico*", wie es in d. älteren descriptions heisst, noch "*Empire of Mexico*" wie in d. späteren getauft. Was d. Spanier fanden, simply "*Confederacy of 3 Tribes*", dessen counterpart existirte in all parts of the continent. D. government administered by a *Council of Chiefs* mit cooperation eines *General Commander of the military bands (principal war-chief)*. Die *3 tribes* were: 1) *Aztecs or Mexicans;* 2) *Tezcucans;* 3) *Tlacopans.* D. *Aztecs* gehörten zu *7 tribes*, migrated vom *North, settled in u. near the valley of Mexico*, were among the historical tribes dort at time of Spanish Conquest. Alle diese *tribes* nannten sich *collectively* "*Nahuatlacs*" in their traditions, sprachen *dialects* der Nahuatlac common (*stock*) language. *Acosta* (1585 auf visit in Mexico) erzählt d. *current tradition ihrer successiven Niederlassungen.*

1) *Sochimilcas* "*Nation of the Seeds of Flowers*", settled beim *Lake Xochimilco*, auf *südlichem slope* d. valley of Mexico.
2) *Chalcas* "*People of Mouths*", kamen viel später, settled neben den 1) on *Lake Chalco.*
3) *Tepanecans.* "*People of the Bridge*", settled at *Azcopozalco, west* of *Lake Tezcuco*, on the western slope of the valley.
4) *Culhuas.* "*A Crooked People*", settled *on east side* of *Lake Tezcuco* – afterwards known as *Tezcucans.*
5) *Tlatluicans.* "*Men of the Sierra*", finding the *valley appropriated around the Lake*, passed *over the Sierra, südlich* u. *settled on the other side.*
6) *Tlascalans.* "*Men of Bread*", lebten zeitlang mit d. *Tepanecans*,[169] settled dann *beyond* the valley, eastward *at Tlascala.*
7) *Aztecs*, came last, occupied the site of the present city of Mexico.

Acosta bemerkt, dass sie (die Aztecs!) came from *far countries lying toward the North*, wo sie *nun* ein kingdom gestiftet, das sie *Neu Mexico* nennen. Selbe Tradition bei Clavigero u. Herrera.

Die *Tlacopans* nicht mentioned, wahrscheinlich *subdivision* der *Tepanecans*, remaining in the original area of that tribe, whd der remainder to a territory immediately South of the *Tlascalans*, wo gefunden under name of *Tepeacas.*

Die tradition enthält 2 facts: 1) *7 tribes of common origin*, speaking *related dialects*, 2) that *they came from the North*. They were originally *one people*, dch segmentation naturally fallen into *several tribes*.

D. Aztecs fanden d. best situations des Thals occupirt u. nach verschiedentlichem Ortswechsel *settled upon* a *small expanse of dry land in Mitte of marsh* bordered with *fields of pedregal*[170] u. mit *natural ponds*. (Teich, Weiher). Hier gründeten sie d. *Pueblo of Mexico* (*Tenoch⟨t⟩itlan 1325* (nach *Clavigero*), 196 J. vor Span. Conquest. Waren schwach in number u. poor in condition. Aber entlang ihrem site flossen in Lake Tezcuco *rivulets v. d. Western Hills* u. d. outlets der *Lakes Xochimilco* u. *Chalco*. Vermittelst
62 *causeways* (Chausseen, *Fahrdämmen*) und | *Deichen* umgaben sie ihr *Pueblo* mit *artificial Teich* (pond) von large extent, d. *Wasser being furnished by the named sources*. Da d. *Niveau* d. *Lake Tezcuco höher als jezt* war, gab es ihnen, nach vollendetem Werk, d. *sicherste position* aller pueblos im Thal. Ihr *mechanical engineering* wdch sie dies Resultat erreichten, one of the greatest achievements der Aztecs.

Zur *Zeit der span. Eroberung, 5 der 7 tribes – Aztecs, Tezcucans, Tlacopans, Sochimilcans* u. *Chalcans* residirten im valley; dies of limited area, *about equal to the State of Rhode Island;* es war a *mountain or upland basin ohne outlet*, oval in Form, längest von Nord to Süd, 120 miles in circuit, *embracing about 1600* □ *miles*, excluding the surface covered by water; d. *valley selbst surrounded by a series of hills*, one range rising above mit depressions between, *encompassing the valley with a mountain barrier*. D. tribes residirten *in some 30 Pueblos*, wovon *Mexico the largest*. Abundant evidence, dass der Rest des modernen Mexico's besetzt[171] dch zahlreiche tribes, die vom Nahuatlac verschiedne Sprachen redeten, in deren *Majorität unabhängig*. Die *remaining Nahuatlac tribes*, die *ausserhalb d. Thals v. Mexico* lebten, waren d. *Tlascalans*, d. *Cholulans* (supposed *subdivision* der former), d. *Huexotzincos*, d. *Meztitlans* (supposed subdivision der *Tezcucans*) *die alle unabhängig*, endlich d. *Tepeacas* u. *Tlatluicans, die abhängig*. Bedtende Anzahl *andrer tribes*, bildend *about 17 territorial groups* mit *ebensoviel stock languages*, hatten diese d. *Rest v. Mexico*, fst dies genaue Wiederholung – in their *state of disintegration u. independence* der *tribes der U. States u. British Americas, zur Zeit ihrer Entdeckung* ein Jahrhundert od. mehr später.

1426 d. Aztec Confederacy formed; vorher wenig historisch wichtige events unter d. *valley tribes;* uneinig, belligerent, ohne Einfluss jenseits ihrer unmittelbaren Lokalitäten. Um jene Zeit bei *Aztecs* preponderance of numbers u. strength. Unter ihrem *war chief Itzcoatl* overthrown d. *frühere supremacy der Tezcucans* u. *Tlacopans* u. als Folge d. früheren wars gegen einander errichtet *league* oder aber *confederacy*. Es war *Defensiv – u. Offensive Alliance zwischen d. 3 tribes*, mit *stipulation für Vertheilung unter ihnen der spoils* in festgesetzten Proportionen u. der *tributes of subjugated tribes*. Jezt schwierig zu bestimmen, ob d. Verbindung *League* (at pleasure verlängerbar u. auflösbar) od. *confederacy*, i.e. *consolidated organization wie*

der Bund der Iroquois. Jeder tribe blieb *independent in seinem local selfgovernment;* die 3 *ein Volk nach aussen* mit *Bezug auf Angriff u. Vertheidigung. Jeder tribe* hatte seinen eignen *council of chiefs* u. its *own head war-chief*, aber der *Aztec war-chief* war *commander-in-chief der confederate bands;* to be inferred davon, dass *Tezcucans* u. *Tlacopans* had a *voice* in *election* u. *confirmation des Aztec war-chief;* zeigt dass *Aztec influence* predominated *bei Gründung der Confederacy.*

1426-1520 – 94 Jahre – d. Confederacy had *frequent wars mit adjacent tribes* u. besonders mit d. feeble *Village Indians, südlich vom Thal v. Mexico to the Pacific* u. *östlich bis Guatemala.* Sie begannen mit d. nächsten, overcame them; the *villages* in dieser area were *numerous*, aber *small*, oft nur *a single large structure of adobe – brick* or of *stone, in some cases – several mit structures grouped together.* Diese *forays*[172] wiederholt mit *avowed object of gathering spoil, imposing tribute, capturing prisoners for sacrifice*, bis d. *principal tribes* in dieser area *subdued* (mit some exceptions) u. *tributary gemacht*, incl. d. *scattered villages der Totonacs* nahe bei present *Vera Cruz.*

D. *Aztecs*, wie d. *northern Indians*, neither *exchanged* ⟨n⟩or *released prisoners;* the *stake* their doom bei the Northern Indians unless *saved by adoption.* Unter d. erstern – unter *Pfaffeneinfluss* – offered as *sacrifice* to the principal god worshipped. *Unter d. American aborigenes* erscheint *organized priesthood* erst im *Middle Status of Barbarism*, connection *mit der invention of idols* u. *human sacrifices* as a means of acquiring authority over mankind. Whsclich *selbe Geschichte* in the principal tribes of mankind.

Mit Bezug auf Gefangne 3 successive usages, in d. *3 sub-periods of Barbarism;* in *1st Period* burned at the *stake*, in *2ter* den *gods geopfert*, in *3ter wden sie zu Sklaven gemacht;* bei allen 3 das zäh bis tief in s.g. Civilisation sich erhalt⟨en⟩de Princip, dass *prisoner forfeited to his captor.*

D. *Aztec confederacy* versuchte nicht *in selbe* d. subdued tribe zu absorbiren, unter gentile institutions macht das *barrier of language* impossible. They were left to the *government of their chiefs* u. ihren alten customs. Manchmal a *collector of tribute resided* amongst them. Member of government konnte
63 man | nur dch *gens* wden, aber *Aztecs* nicht far advanced enough – wie *Romans* z.B. – to remove the gentes of the subdued tribes in ihren eignen Sitze u. incorporating them. Aus demselben Grund – u. wegen d. Sprachhindernisses – konnten *Colonists* of Aztec confederacy nicht assimilate the conquered tribes – *Aztec confederacy* gewann daher nicht Kraft dch ihren terrorism od. *by holding these tribes* under burdens, inspired mit enmity u. stets ready for revolt. Eben d. *remaining Nahuatlac tribes nicht in d. confederacy;* d. *Xochimilcans* u. *Chalcans* waren *nominell unabhängig*, keine members der confederacy, aber *tributary.*

D. *confederacy* was confronted dch *hostile* u. *independent tribes*, so d. *Mechoacans im Westen*, die *Otomies* im *Northwest* (scattered bands dieser near the valley had been placed under tribute), die *Chichimecs* or *wild tribes* im *North der Otomies*, die *Meztitlans* im *Nordosten*, d. *Tlascalans im Osten*, die

Cholulans u. Huexotzincos im *Südosten*, u. über diese hinaus, d. *tribes der Tabasco*, der *Chiapas*, u. der *Zapotecas* (*Zapotecs*). In diesen verschiednen Richtungen erstreckte sich d. *dominion der Aztec Confederacy* nicht *100 miles beyond the valley of Mexico* u. a portion *der surrounding area* unzweifelhaft *neutral ground* trennend d. confederacy von perpetual enemies. Aus diesen limited materials fabricated the *Kingdom of Mexico* der spanischen Chroniken, später *magnified* in d. *Aztec Empire of*[101] *current history*.

D. *Bevölkerung* der valley u. *Pueblo of Mexico* excessiv angeschlagen auf *250,000 Persons;* gäbe *fur* □ *mile* about *160 persons*, fst 2^{173} *mal d. present average population des State of New York* u. about *equal to the average population of Rhode Island.* Sie hatten *weder flocks noch herds, noch field agriculture.* Von jener Population für *Pueblo v. Mexico* vielleicht to be assigned *30,000.* *Phantasiezahlen: Zuazo* (visiting *Mexico* in *1521* giebt ihm *60,000 Einwohner*, ebenso der *Anonymous Conqueror*, who accompanied Cortes (*H. Ternaux-Compans*, X, 92); *Gomora u. Martyr* verwandeln d. *60,000 Einwohner* in *60,000 Häuser* u. dies angenommen dch *Clavigero*, *Herrera* u. last, *Prescott* ("*Conquest of Mexico.*") *Solis* macht aus d. *60,000 Einwohner – des Zuezo – 60,000 families*, würde geben population of 300,000, whd *London* damals nur *145,000 Einw.* hatte (*Black's London*). *Torquemada*, cited by *Clavigero*, macht aus 60,000 houses – *120,000*! The *houses* in *Pueblo of Mexico* were zweifelsohne in general *large communal or joint-tenement houses* wie die in *Neu-Mexico* zur *selben Period*, gross genug zu *accom⟨m⟩odiren* von *10 bis 50 u. 100 families in each.*

D. *Aztec confederacy* – in plan and symmetry – *unter* der der *Iroquois.*

D. *Pueblo of Mexico* war *largest in America;* romantisch gelegen mitten in einem künstlichen See, *large joint-tenement houses* plastered over mit gypsum, wdch sie *brillant weiss*, schlug es v. weitem span. Imagination; hence d. extravagance of opinion.

Bei d. Aztecs found: *ornamental gardens, magazines of weapons u. military costumes, improved apparel, manufactured fabrics of cotton* of superior workmanship, *inproved implements u. ustensils u. increased variety of food;picture writing*, mainly to indicate the *tribute in kind* every subjugated village had to pay (these *tributes* enforced mit system u. rigour of execution were *manufactured fabrics* u. *horticultural products*); *a calendar* for measuring time, *open markets* for barter of *commodities*, ferner *Administrative offices* to meet the demands of a growing municipal life; *priesthood*, with a *temple worship* u. a *ritual* including human sacrifices. *Office of head war-chief* had risen into increased importance etc.

I. *Gentes u. Phratries*

Spanish writers (contemporär d. Erobng) sahen d. *Aztec Gentes* nicht; aber for *more than 200 years* sahen d. *Anglo-Americans* sie nicht bei d. *Iroquois;* sie bemerkten früh Existenz of clans mit besdrn Thiernamen, aber nicht als *social unit*, wf *tribe* u. *confederacy* aufgebaut. *Herrera* (etc) spricht of a "*kindred*" als of *group* (*gens*) u. "*lineage*" (dies *phratry* bei einigen

writers, bei andern *gens*) D. *pueblo of Mexico* geographisch getheilt in *4 quarters*, jedes occupied by a "*lineage*" (phratry) u. jedes *quarter* "*subdivided*"; each *subdivision* occupied by a *community of persons* bound together by some *common tie* (gens). [In *Mexico* nur 1 tribe; der der *Aztecs.*]
Selber erzählt v. *Tlascalans* (*Herrera*, *Clavigero*); their pueblo divided in *4 quarters*, each *occupied by* a "*lineage*"; each had its own *Teuctli* (head war chief), distinctive military costume, its own standard u. blazon. "The *four warchiefs*" were *ex officio members of the Council.* (*Clavigero*) Ebenso *Cholula* getheilt in 6 quarters.
Da d. Aztecs in their *social subdivisions* had arranged unter sich selbst the *parts of the pueblo* they were severally to occupy, from this their mode of
64 settlement resulted *geographical districts.* | Nach *Acosta* giebt *Herrera* short sketch of the *building of Mexico*, erst "*a chapel of lime and stone for the idol*". *Idol* befiehlt dann d. Priester, dass *sein* (das idol's) *Haus* in *Mitte* bleiben soll; die *chief men* soll divide themselves, with their kindreds und followers, into 4^{174} *wards* or *quarters*, and each party to build as they liked best; dies d. 4 *quarters of Mexico*, nun called *St. John*, *St. Mary the round*, *St. Paul* u. *St. Sebastian.* Nachdem diese divisions made, befahl *d. idol* wieder unter sich zu distribuiren d. gods he should name, and *each ward to appoint peculiar places* where the gods should be worshipped. So *every quarter had several smaller wards* in it according to the number of their gods this idol called them to adore.... Nach dieser partition, die, die sich injured dachten, mit kindred und followers, went away to seek some other place, nämlich *Tlatelueco*, das in der Nähe.
Diese Erzählung procedirt, wie Mode, nach *fertigen Resultat;* erst *kin* in 4 divisions getheilt u. diese in *smaller subdivisions. The actual process ist genau d. Gegentheil;* erst each *body of kindred* gens located into an area by themselves, u. d. *several bodies* (*phratries*) in such a way as to bring *those most nearly related* in geographical connection mit einander. Also wenn lowest division a *gens*, each *quarter* occupied by a *phratry*, *composed of related gentes.* (*Grecian u. Roman tribes* settled in dieser Art in *towns or cities*) Each *gens of the same phratry* (die 4 quarters v. Mexico) in the main locally by itself. Da husband u. wife of different gentes u. d. children of gens d. Vaters od. d. Mutter, je nachdem gens in male or female line, the *preponderating number in each locality would be of the same gens.*
Their *military organization* based upon these *social divisions.* In d. *Mexican Chronicles* by the native author *Tezozomok* (Morgan erhielt dies von *A. F. Bandelier*, of *Highland*, *Illinois*, engaged upon translation dieses Buchs), referring to a proposed invasion of *Michoacan*, sprach *Axaycatl* zu d. 2 Mexican captains etc u. all d. andern u. fragte *ob alle* "Mexicans were prepared, *after the usages u. customs of each ward;* if so, they should begin to march u. that all were to unite at *Matlatzinco Toluca;*" dies indicates *military organisation nach gentes u. phratries.*
Auch d. *land tenure* zeigt hin auf *gentes. Clavigero* sagt: "*the lands* called

Altepetlalli (*altepetl* = *pueblo*), that is those of the communities of cities and villages, were *divided into* as *many parts as there were districts in a city*, and *every district possessed its own part* entirely distinct from, and independent of every other. *These lands could not be alienated by* any means whatever."

Jede dieser *communities* war a *gens*, whose *localization* war nothwendig. Consequenz ihres socialen systems. D. *community machte d. District* (*Clavigero* puts the district for the community) and *which owned the lands in common.*

Das *element of kin*, which united the community, ausgelassen v. Clavigero, ist ergänzt dch *Herrera.* Er sagt: "There were other *lords*, called *major parents* [*Sachems*] whose *landed property all belonged to one lineage* [*gens*], which lived *in one district*, and there were many of them when the lands were distributed at the time New Spain was peopled; and *each lineage received its own*, and have possessed them until now; and these *lands did not belong to anyone in particular*, but to *all in common*, and he who possessed them *could not sell* them, *although he enjoyed them for life* and *left them to his sons and heirs;* and *if a house* (*alguna casa*, feudal expression d. Spaniers) died out, they were left to the nearest parent to whom they were given and to no other, who administered the same district or lineage."

D. *feudalen Vorstellungen d. Spaniers* u. d. *indianischen Verhältnisse*, die er sah, laufen hier durch einander – aber trennbar. Der Aztec "*Lord*" was der *Sachem*, civil chief of *a body of consanguinei* of whom he is called "the *major parent.*" D. lands gehörten jenem body (*gens*) in common; when the *chief* died, his place (according to Herrera) ging über auf seinen Sohn; was überging war in diesem Fall d. *office of Sachem*, nicht d. land, das *niemand in trust "possessed";* hatte er keinen Sohn "the lands were left to the nearest major parent", d. h. *another person* was elected *Sachem.*

"*Lineage*" kann hier nichts andres sein wie *gens* u. *office hereditary in the gens*, wie bei d. andern Indians, *selective* unter d. members der gens; wenn descent in male line, choice would fall on one of the sons of the defunct Sachem, own or collateral, or upon a brother, own or collateral etc

The "*lineage*" of Herrera u. "the *communities*" of Clavigero offenbar selbe
65 organisations- *gentes.* Der *Sachem* | had no title over lands u. konnte sie transmit to nobody. Spanier betrachteten d. Sache so, weil he held an office perpetually maintained u. weil there was a *body of lands* perpetually belonging to a *gens* over which he was a *sachem;* dieser (ausser seinen functions of chief der gens) hatte so wenig *authority über die persons* (die ihm d. Spanier zuschreiben) wie über d. lands.

Was sie über inheritance sagen, ebenso confus u. contradictory; nur wichtig hier, soweit sie show *bodies of consanguinei* u. the inheritance of the children from their fathers, in welchem Fall *descent in male line.*

II) *Existence u. Functions des Council of Chiefs.*

Für Existenz eines *Aztec Council* – evidence; fast nichts über seine Functions u. Anzahl seiner Glieder.

Brasseur de Bourbourg sagt "nearly *all the towns or tribes* divided into *4 clans or quarters*, whose *chiefs* constitute the *great council*"; später sagt er, der *Aztec Council* habe aus 4 bestanden. (*Bourbourg, Popul Vuh*).
Diego Duran – (schrieb seine "*History of the Indies of New Spain and Islands of the Main Lands*" *1579-1581*, also *vor Acosta* u. *Tezozomoc.*) – sagt: "In Mexico, nach *Wahl eines Königs* wählten sie *4 lords of the brothers* or *near relations of this king* whom they gave the *titles of princes*, and *from whom they had to choose the king*.... These 4 lords or titles after being elected princes, they made them the *royal council*, like the presidents and judges of the supreme council, *without whose opinion nothing could be done.*" *Acosta*[175] nennt d. same 4 offices [Tlacachcalcatl, Tlacatecal, Ezuau⟨u⟩acatl, u. Fillancalque], nennt d. tenants dieser officers "*electors*" u. "all these 4 dignities were of the great council, without whose advice the king might not do anything of importance."
Herrera places dies officers in 4 grades, sagt dann: "These 4 sorts of noblemen were of the supreme council, without whose advice the king was to do nothing of moment, and *no king could be chosen but what was one of these 4 orders.*" "King "für *principal war chief* u. "*princes*" für *Indian chiefs.* Als d. *Huexotzincos* delegates nach Mexico sandten zum Vorschlag einer Allianz gegen d. Tlascalans, sagte ihnen – nach Tezozomoc – *Montezuma:* "Brothers and sons, you are welcome, rest yourselves awhile, for although I am king indeed *I alone cannot satisfy you*, but *only together with all the chiefs of the sacred Mexican senate.*" Hier *material point*, wie in d. obigen accounts: *Existence of a supreme council, with authority over the action of the principal warchief.* D. *limitation des Council to 4* unwahrscheinlich; *so* würde der *Council represent* nicht den *Aztec tribe*, sondern the *small body of kinsmen* aus welchen d. *military commander* was to be chosen. Aber im *indianischen* System (u. everywhere else unter gentile institution) jeder *chief represents a constituency* u. d. *chiefs together represent the tribe.* Manchmal gemacht *election from them* to form a general council; dann aber stets dch an *organic provision* fixing the number, and providing for their perpetual maintenance.
D. *Tezcucan Council* of 14 members (*Ixtlilxochitl, Hist. Chichimeca*, Kingsborough, Mexican Antiq. IX, p. 243); d. *Council at Tlascala* was *a numerous body;* wir finden ebenso a *Cholulan* u. a. *Michoacan council*, aber *Clavigero* sagt mit *Bezug auf Aztecs:* "In the history of the conquest we shall find *Montezuma* in *frequent deliberation* with *his council* on the pretensions of the Spaniards. *We do not know the number of each Council, nor do histories furnish us with the lights to illustrate such a subject.*"
Sofern d. *Aztec Council* limited *to 4 members, all of the same lineage*, it is presented in *unwahrscheinlicher* Form. [Mögen Spanier dem *Tribal Council*, aus d. Chief der gentes bestehend, nicht fälschlich untergeschoben haben d. *gens aus der principal war chief u. vielleicht 4 andre offices zu wählen?* Ganz wie z.B. d. wampum keeper aus bestimmter gens bey Iroquois zu wählen? Amt konnte hereditary *an gens* gekommen sein.]

Jeder tribe in *Mexico* u. *Central America had its Council of chiefs.*
Die *Aztec Confederacy* scheint keinen *General Council* gehabt zu haben, *composed of the principal chiefs of the 3 tribes*, im Unterschied v. d. separate council jedes tribes. In diesem Fall wäre *Aztec Confederacy* nur *League* gewesen, offensive u. defensive, u. *as such under the primary control of the Aztec tribes.* Dies noch to elucidate.
3) Tenure u. Functions des Office of Principal War chief.
D. Name des office d. Montezuma – *Teuctli*, war chief, als member d. *Council of chiefs* er manchmal genannt *Tlatoani* (= speaker). This office of a *general military commander* the highest known to the Aztecs, war sonst same als d. Haupt *war-chief* der *Iroquois Confederacy*. D. office machte seinen Träger ex officio *member of the Council of chiefs.* The title of *Teuctli* added als a sort of surname wie: *Chichimeca-Teuctli*, *Pil-Teuctli* etc. |
66 Bei *Clavigero* heissts: "The teuctli took *precedency* of all others in the *Senate*, both in the order of sitting and voting, and were permitted to have a *servant behind them* (der *subsachem* dr Iroquois) with a seat, which was esteemed a privilege of the highest honour." D. *Spanish writers* brauchen nie d. Wort "*teuctli*", verwandeln es in *king* für Montezuma u. dessen successors. *Ixtlilxochitl*, of mixed Tezcucan u. Spanish descent nennt d. *head warchiefs* of *Mexico*, *Tezcuco* u. *Tlacopan* nur "*warchief*" *teuctli* u. andrem Wort to *indicate the tribe* (*teuctli* = warchief = general). Obiger *Ixtlilxochitl* sagt, sprechend von der *division* of power zwischen d. 3 chiefs, when the confederacy was formed etc:
"The king of *Tezcuco* was saluted [dch d. assembled chiefs der 3 tribes] by the title of *Aculhua Teuctli*, also by that of *Chichimecatl Teuctli* which his ancestors had worn and which was the mark of the empire [das Beiwort tribal designation]; *Itzcoatzin* (Itzcoatl), his uncle, received the title of *Culhua Teuctli*, because he reigned over the *Toltecs-Culhuas* [war warchief of the Aztecs, when the confederacy was formed]; and *Totoquihuatzin den of Tecpanuatl Teuctli*, which had been the title of Azcaputzalco. Since that time their successors have received the same title."
[176]Die Spanier stimmen überein, dass d. office Montezuma held was *elective* with the choice confined to a particular family, u. was sie wundert, *nicht von Vater auf Sohn*, sondern v. *Bruder zu Bruder*, oder von *Onkel auf Neffen.* Unter d. immediate notice der conquerors fanden 2 Wahlen statt; die d. *Montezuma* folgte sein *Bruder* (unbekannt, ob own od. collateral) *Cuitlahua;* nach Tod dieses elected[177] *sein Neffe Guatemozin* (own or collateral nephew?) Schon bei früheren *Wahlen* Bruder dem Bruder gefolgt od. Neffe dem Onkel (*Clavigero*). Aber wer wählte? *Duran* (sieh oben) bringt 4 *chiefs* as *electors*, denen zugefügt 1 *elector* von *Tezcuco* u. 1 von *Tlacopan*, zus. 6, invested with power to choose from a particular family the principal war-chief. Dies entspricht nicht dem system of an *elective Indian office.*
Sahagun ("*Historia General* etc" ch. XVIII) sagt: "When the king or lord

died, *all the senators* called *Tecutlatoques*, and the *old men of the tribe* called *Achcacauhti*, and also the *captains and old warriors* called *Yautequioaques*, and other prominent captains in warlike matters, and *also the priests* called *Tlenamacaques*, or *Papasaques – all these assembled* in the royal houses. Then they deliberated upon and determined who had to be the lord, and chose out of the most noble *of the lineage* of the past lords, who should be a valiant man, experienced in warlike matters, daring and brave... When they agreed upon one they at once named him as lord, but *this election was not made by ballots or votes*, but all together conferring at last agreed upon the man ... *the lord once elected* they also elected *4 others* which were like senators, and had to be always with the lord, and be informed of all the business of the kingdom." Hatten d. *Aztec gentes*, the office hereditary in a particular gens, but elective among its members; would pass (wie der *Sahagun* v. d. Aztecs oben erzählt) by *election within the gens*, von *brother to brother* od. von *uncle to nephew*, aber nie von Vater to son (nämlich bei descent in *female line*, wie bei d. Iroquois) Diese *succession* bei der Wahl d. Aztecs v. head *warchiefs* beweist dass sie *gentes* hatten u. with *respect to this office* wenigstens noch descent in female line.

Morgan conjectuirt: office held by Montezuma hereditary in a gens (the *eagle* was the blazon or *totem* on the house occupied by Montezuma), deren members ihn aus ihrer Zahl wählten; diese *nomination* then submitted *separately* to the *4 lineages* (*phratries*) of the *Aztecs* for acceptance or rejection; auch den *Tezcucans* u. *Tlacopans*, direct interested in Wahl des general commander. Nachdem sie severally considered u. confirmed the nomination *each division appointed* a *person* to *signify their concurrence;* hence the 6 miscalled "electors"; d. *4 high chiefs* der Aztecs, mentioned as electors, wahrscheinlich the *4 war-chiefs* of the 4 lineages od. phratries der Aztecs, like the 4 war-chiefs of the 4 lineages of the Tlasculans; ihre function nicht to elect, sondern to ascertain dch Conferenz mit einander, ob d. choice made by the gens had been concurred in, and if so to announce the result. *Absetzungsrecht* folgt v. *Wahlrecht*, where the term was for life. Als Montezuma, dch intimidation, sich von seiner Residenz nach Quartier v. Cortez geleiten lässt, wo er placed under confinement, the *Aztecs zunächst paralysed.* – In d. *West Indies* hatten d. Herrn Spanier entdeckt, dass wenn der *cazique eines tribe* caught u. als *Gefangner gehalten,*
67 d. *Indians paralysed* refused to fight. Im Besitz dieser Kenntniss, | sobald sie auf's Festland kamen, suchten sie *d. principal chief to entrap*, by *force* or *fraud*, u. hielten ihn gefangen bis ihr Zweck erreicht war. So *Cortez* mit *Montezuma;* so *Pizaarro* when he seized *Atahuallpa.* Unter d. Indians selbst *prisoner put to death;* if a *principal chief*, the *office reverted to the tribe* u. was at once filled. The Action des people (dch Spaniards) paralyzed by novel circumstances; *prisoner hier alive* u. in *possession of his office.* Cortez put *the Aztecs in this position.* Erst warteten sie einige Wochen, hoffend d. Spaniards would retire; dann aber setzten sie *Montezuma* ab *for want of*

resolution, wählten seinen Bruder an seine Stelle, *assaulted gleich d⟨arau⟩f d. Spanish quarters* mit great fury u. *vertrieben* sie schliesslich aus *ihrem Pueblo. Cortez* sent Marina zu Montezuma ihn zu fragen ob er glaube, sie hätten government in hands von new commander gegeben? (Alles dies *Herrera*) Der replied: "they would not presume to choose a king in Mexico whilst he was living", geht dann auf's Dach des Hauses, addressirt his countrymen, u. (nach *Clavigero*) er hielt Antwort von an *Aztec warrior:* "Hold your peace, you effeminate scoundrel, born to weave and spin; these dogs keep you a prisoner, you are a coward"; sie schiessen dann mit arrows auf ihn u. stoned ihn, er starb kürz nachher von der Demüthigung; d. *warchief*, in diesem assault der Aztecs commandirend, war sein Bruder *Cuitlahua.*
Kein Grund anzunehmen, vielmehr alles daggen, dass *Montezuma* had any power on the *civil affairs der Aztecs.* Aber *functions of a priest* u. wie *Herrera* sagt, auch of a *judge*, attached to *his office* of *principal war chief*.... *Council* hatte also Recht, wie to elect, so to *depose.* – D. Spanier selbst erst anerkennen, dass d. *Aztec confederacy* – a *league or confederacy of tribes.* Wie konnten sie daraus *Aztec monarchy* fabriciren?

Pt. II. Ch. VIII. The Grecian Gens.
About *850* B.C. begins civilization unter *Asiatic Greeks* mit Homeric poems; unter d. *European Greeks* about *century* later mit *Hesiodic* peoms. Period vorher von several 1ooonds years, während deren Hellenen advancing dch lower Status of Barbarism; ihre ältesten traditions finden sie schon established in Grecian peninsula, auf eastern border of Mediterranean u. d. intermediate u. adjacent islands. *Aeltere branch derselben Stock*, wovon *Pelasgians* die chief representatives, hatten vorher grösseren Theil derselben Area occupirt, in time either *hellenized* od. *forced dch Hel⟨e⟩enen into emigration.*
Pelasgians u. Hellenes organized in *gentes*, *phratries* (nicht common to the Dorian tribes. *Müller's "Dorier"*) u. *tribes;* in einigen Fällen d. organic series nicht complete, aber überall *gens* die *unit of organization; Council of chiefs; agora* od. *assembly of the people;* βασιλεύς or military commander. *Modifications* mit Entwicklung forced upon *gens*, nämlich: 1) *change von female to male descent;* 2) *intermarriage in gens permitted in case of female orphans u. heiresses;* 3) *children* had *gained an exclusive inheritance of their fathers* ⟨property⟩. Hellenes were in *fragmentary tribes* analog to Indians etc.
Griechische society comes first under notice about *1st*[178] *Olympiade* (*776 B.C.*) u. von da *bis legislation of Cleisthenes* (509 B.C.) vorgehend Uebergang von *gentile* in *political* (*civil*)*Organisation.* [Er hätte sagen sollen dass *political* hier *Sinn des Aristoteles* hat = *städtisch* u. *politisches animal* = *Stadtbürger.*] D. *Township, mit d. fixed property it contained* u. the people who inhabited for the time being, was to become the unit of organization; *gentilis*

transformed into *civis*. The *re'ations of the individual to his gens*, which were *personal, had to be transferred to the township* and become *territorial;* der *demarch* (Vorsteher der deme) der township taking in some sense *the place of the chief of the gens.*

Property was the *new element that had been gradually remoulding Grecian institutions* to prepare for this *change;* nachdem several centuries elapsed in Versuche ihn auf *Basis der gens* auszuführen. *Distinct schemes verschiedner Art of legislation* tried in the various Grecian communities who copied more or less each other's experiments, all heading to the same result.

Unter *Athenians legislation of Theseus* (Tradition); *624 B.C. Draco; 594 B.C. Solon; 509 B.C. Cleisthenes.*

Bei Beginn d. historischen Periode d. *Ionians of Attica* divided in *4 tribes: Geleontes, Hopletes, Aegicores* u. *Argades.*

[*Stamm* φυλή; dann φρατρία od. φρατορία; φράτωρ Glied einer phratry; Γένος *Geschlecht* (*auch: Nation u. Stamm.*)] "D. *Geschlechterphylen* gewöhnlich in Unterabtheilungen – *Phratrien*, diese wieder in *Geschlechter* [ausser Γένος (τὸ) γένω) kommt aber bei *Homer* Γενεά, *ion.* γενεή u. zwar für *Stamm, Geburt, Familie*, Nachkommenschaft.)] D. *Geschlechter* wieder abgetheilt in οἶκοι (*Häuser od. Familien*); d. *Unterabtheilungen* dagegen der *topischen Phylen* sind *Gaue* (δῆμοι) od. *Ortschaften* (κῶμαι) ... *ursprünglich*, auch wo
68 Geschlechterphylen waren, | *wohnten d. Genossen eines Stammes zusammen im selben Theil des Landes*, ebenso d. *Genossen einer Phratrie* u. *eines Geschlechts*, so dass auch hier, mit d. *Eintheilung d. Volks* zugleich eine Eintheilung d. Landes in grössere od. kleinere Districte verbunden war. – Bei d. *topischen Phylen kamen lediglich d. Wohnsitze in Betracht.* Später dies doch nicht so streng gehalten, dass *Verlegung d. Wohnsitzes aus einem Phylen-district in anderm* nothwendig auch Versetzung in andere Phyle herbeigezogen hätte [*134, 135. Schoemann, I. Einer Phyle* u. in derselben *einer Phratrie* od. δῆμος (*Gau*) anzugehören war überall *wesentliches Merkmal u. Bedingung des Bürgerthums* ... wovon *die nicht in jenen Abtheilungen begriffenen Landeseinwohner ausgeschlossen.* Nähres über letztere ib. p. 135 sq.]

Die 4 attischen tribes – *Geleontes, Aegicores, Hopletes, Argades* – selben Dialekt sprechend, occupying a common *territory*, had *coalesced* into a nation, waren vorher aber whsclich blosse *confederacy*. [*Hermann* (*Political Antiquities of Greece*) mentions the *confederacies* of *Athens, Aegina, Prasia, Nauplia* etc Each *Attic tribe* composed of *3 phratries*, each *phratry* of *30 gentes*, hence 4 (tribes) × *3 phr.* od. *12* × *30* = *360 gentes;* phratries u. tribes constant, aber Anzahl d. gentes variirt.

Dorians generally found in *3 tribes – Hylleis, Pamphyli*[179] u. *Dymanes*, at Sparta, Argos, Sicyon,[180] Corinth, Troezen etc wo sie verschiedne nations bildeten u. *jenseits d. Peloponnes* in *Magareis* etc. 1 or more non-*Dorian tribes* in some cases united mit ihnen, wie in *Corinth, Sicyon,*[180] *Argos.*

In all cases d. *Grecian tribe* presupposes *gentes*, selben Dialekt redend;

Phratria kann fehlen. Zu *Sparta* 3 ὠβη(ὠβάζω lak⟨onian⟩ in ὠβές *eintheilen*, ὠβάτης *Glied einer* ὠβή). Jeder tribe enthielt *10* ὠβαι (?) Phratrien? Von ihrer Function nichts bekannt; in d. ancient *Rhetra* d. Lykurg d. tribes in obês directed to be maintained unaltered.

Local system d. Athenians; 1) Γένος *gens*, founded upon *kin;* dann φρατρία, auch φράτρα, from segmentation of an original gens, brotherhood of gentes; dann φῦλον, später φυλή, *tribe* composed of several phratries; dann *people* or *nation* composed of several tribes. *Confederacy of tribes* kommt früh vor (d. *tribes occupying independent territories*) led to no important results. Likely dass d. 4 tribes, erst confederated, dann *coalesced*, after *having collected in one territory under pressure from other tribes.*

Grote, in his "*History of Greece*" stellt Sache so dar: "*Phratries* u. *gentes* seem aggregations of *small primitive unities into larger* ... independent of, and do *not presuppose the tribe* ... *Basis of the whole* the *house*, *hearth or family* (οἶκος), a *number of which*, greater or less, composed the *Gens* (Γένος) *clan*, *sept* or enlarged, and partly fictitious,[181] brotherhood, bound together by:

1) *common religious ceremonies*, and *exclusive privilege of priesthood*, in honour of the *same god supposed to be the primitive ancestor, characterized by a special surname;*

2) *common burial place.* ——— ⟨ καίτοι τίς ἔστιν ὅστις ἂν εἰς τὰ πατρῷα ⟩ μνήματα τοὺς μηδὲν ἐνγένει τιθέναι εἴασεν

[182] *Demosth. Eubulides.*

3) *mutual rights of succession to property.*

4) *reciprocal obligations of help, defence, and redress of injuries;*

5) *mutual right and obligation to intermarry in certain determinate cases, especially where there was an orphan daughter or heiress.*

6) *Possession in some cases at least of common property;* an archon and treasurer of their own.

Phratric union, binding together several gentes, less intimate ... doch auch mutual rights u. obligations of an analogous character; especially *a communion of particular sacred rites*, and *mutual privileges of prosecution in the event of a phrator*[107] *being slain* .... All the *phratries of the same tribe* enjoyed a certain *periodical communion of sacred rites under the presidency* of a magistrate called the *Phylo-Basileus* or *tribe-king* selected from the *Eupatrids.*"

Dch d. *Grecian gens* guckt d. *Wilde* (Iroquois z.B.) aber auch unverkennbar durch.

Sonst *eigenthümlich* to the *Grecian* gens:

7) *limitation of descent to male line;* 8) *prohibition of intermarriage in the gens ausser in case of heiresses;* 9) *Right of adopting etrangers in the gens;* 10) *right of electing u. deposing its chiefs.*

ad 7. In unsrer eignen modernen Familie, those *descended from males* bear the *family name*, constitute a *gens*, obgleich in a *state of dispersion* u. *ohne bond of union* ausser d. nearest in degree. D. *females* lose mit Heirath their family name, werden mit *their children transferred* to other gens. *Herrmann*

sagt: "Jedes Kind wurde *einregistrirt* in d. Phratrie und Geschlecht [Γένος] *seines Vaters.*" |

69 *ad 8*) [Introduction of *intermarriage in gens* geht hervor schon aus d. *Ausnahme*, for heiresses, wo dies erlaubt.]

Wachsmuth: "Die Jungfrau, die ihres Vater's Haus verlässt, ist nicht länger *Theilnehmer am väterlichen Opferherd*, sondern *enters* the *religious communion ihres Mannes*, u. this gave sanctity to the marriage tie." *Hermann* sagt: "Jedes neu verheirathete Frauenzimmer, *herself a citizen*, was on this account *enrolled in the phratry of her husband.*" *Sacra gentilicia* common in griech. u. röm. gens. Scheint nicht, dass bei Griechen – wie bei Römern – the wife *forfeited her agnatic rights by marriage;* sie doubtless counted herself *of the gens* of her father.

Rule, die *intermarriage in gens* verbietet, dauert fort, selbst nach Gründung der monogamian Ehe [die solche *limits* auf nearest degrees to limit sucht], so lang gens basis des social system bleibt. *Becker* sagt in *Charicles:* "*relationship* was, with trifling limitations, *no hindrance*[183] *to marriage*, which could take place with all degrees of ἀγχιστεία, or συγγένεια, *though naturally not in the* γένος *itself.*"

ad *9*) *Adoption* später practicirt, mindestens in families, doch mit public formalities u. limited to special cases.

ad 10) D. *right to elect and depose its chiefs* gehörte unbedingt d. *Grecian gentes* in early period; each gens had its ἀρχός, the common name for a *chief.* Dass d. office erblich *auf son in homeric period* nicht anzunehmen, considering the free spirit der Athenian gentes *down to Solon u. Cleisthenes.* Presumption stets *gegen hereditary right*, wo nicht *decisive evidence*, da d. stärkste Widerspruch gegen d. archaic rule.

Was abgeschmackt bei *Grote*, dass d. Basis d. social system der Greeks d. οἶκος "*the house, hearth, or family.*" Er verlegt offenbar d. *Roman family under the ironclad rule of a paterfamilias* in's homerische *Zeitalter der griech. Familie.* Gens in origin älter als *monogamian* u. *synd⟨y⟩asmian families*, essentially contemporaneous mit *punaluan family;* aber gens nicht *founded upon either.* – Jede *family, archaic or not*, ist halb *in*, halb *ausser* gens, weil *husband u. wife belong to different gentes.* [Aber *gens*[184] entspringt nothwendig aus einer *Promiscuous group;* sobald *innerhalb dieser* schon *intermarriage zwischen Brüdern u. Schwestern* entfernt (stopped) zu werden beginnt, kann gens gepfropft werden auf d. group, nicht vorher; *Voraussetzg d. gens*, dass Brüder u. Schwestern (own u. *collateral*) bereits von andern consanguinei geschieden sind. Die *gens* einmal da, bleibt sie *unit* des social system, whd *d. Familie grosse changes dchläuft.*

Gens geht *ganz* ein in phratry, diese in *tribe*, diese in *nation*, aber *family* geht nie ganz ein in *gens*, sobld letztere einmal existirt; sie geht immer nur halb ein in *gens d. Mannes* u. halb in *gens der Frau.*

Nicht nur *Grote*, sondern *Niebuhr, Thirlwall, Maine, Mommsen* etc – alle

von klassischer Schülergelehrsamkeit – nehmen selben Stand mit *Bezug auf monogamische Familie of patriarchal type als integer around which society integrated in the Grecian u. Roman systems. Family* konnte ebensowenig – selbst d. monogamische – *natural basis of gentile society* bilden, wie heutzutage in bürgerlicher Gesellschaft *the family is not the unit of the political system.* D. Staat recognizes the *counties* woraus er zusammengesetzt, diese its *townships*, but the township takes *no note of the family;* so d. *nation recognized its tribes*, the *tribes its phratries*, the *phratries its gentes*, but the gens took *no note of the family.*

Herrn Grote ferner zu bemerken, dass obgleich d. Griechen ihre *gentes* aus d. *Mythologie* herleiten, jene *älter* sind als d. von ihnen selbst geschaffne *Mythology* mit ihren Göttern u. Halbgöttern.

In the organization of gentile society, the *gens is primary*, forming both the *basis* u. *unit d. systems;* d. *family* auch *primary* u. *älter als d. gens;* the *consanguine u. punaluan families* having *pre-existed* in time; but it is not a member of the organic series.

Grote[185] *sagt:* "*Primitive religious and social union* der attischen Bevölkg – im Unterschied v. d. *political union, die wahrscheinlich* (!) späterer introduction, *represented at first* dch d. *trittyes u. naukraries*, u. *später d. 10 Kleisthener tribes, subdivided into trittyes u. demes.* In the former *personal relation* is the essential u. predominant characteristic – *local relation* being subordinate; in the latter, *property and residence* become the *chief considerations* u. d. *personal element* counts only as *measured along with these accompaniments*.... The *festival of Theoenia* (Attic) u. *Apaturia* (common to all the *Ionian race*) annually brought together the members of these phratries u. gentes for
70 worship, festivity u, maintenance of special sympathies." | "The *gentes*, both at *Athens* u. in *other parts of Greece bore a patronymic* name, the stamp of their *believed common paternity* .... *Asklepiadae* in many parts of Greece; *Aleuadae* in Thessaly; *Midylidae*, *Psalichydae*, *Belpsiadae*, *Euxenidae*, at *Aegina; Branchidae* at *Miletus; Nebridae* at *Kos*, *Iamidae* u. *Klytiadae* at *Olympia*, *Akestoridae* at *Argos*, *Kinyradae* at *Cyprus*, *Penthilidae* at *Mitylene*, *Talthybiadae* at *Sparta* –, *Kodridae*, *Eumolpidae*, *Phytalidae*, *Lykomêdae*, *Butadae*, *Euneidae*, *Hesychidae*, *Brytiadae* etc in Attica. To each corresponded *a mythical ancestor passing for the first father of all* as well as *the eponymous hero of the gens – Kodrus*, *Eumolpus*, *Butes*, *Phytalus*, *Hesychus etc* In *Athen*, mindestens nach der Revolution des Kleisthenes, der *gentile name nicht employed;* a man described first by his own single name, dann by *name of his father* u. next by *that of the deme to which he belonged*, wie *Aeschines son of Atromêtus*, a *Kothôkid* ... gens a *close corporation*, both as to property and to persons. Bis *Solon's Zeit keine power of testamentary disposition.* Wenn er ohne Kinder starb, succeeded *his gennêtes* in sein Eigenthum, u. dies *selbst nach Solon, if he died intestate*.... If a man murdered, first *his nearest relations*, dann his *gennetes* u. *phrators* beide allowed u. required to *prosecute the crime at law;* while *his fellow demots*, or inhabitants

of the same deme, did not possess the like right of prosecuting.[186] *All that we hear* of *the most Ancient Athenian laws based upon the gentile and phratric divisions* which are treated throughout as *extensions of the family* (!?) ... this *division is completely independent of any property qualification – rich men as well as poor being comprehended in the same gens .... Different gentes unequal in dignity*, arising chiefly *from the religious ceremonies* of which each possessed the *hereditary and exclusive administration*, and which, being in some cases considered of *pre-eminent sanctity*, were therefore *nationalized.* Thus the *Eumolpidae and Kêrykes*, who supplied the *hierophant* and *superintendent* of the mysteries of the Eluesinian Demeter – and the *Butadae*, who furnished the priestess of Athene Polias, as well as the priest of *Poseidon Erechtheus* in the Acropolis – seem to have been reverenced above all the other gentes."

Gens existed in the *Aryan family* when the *Latin, Greek* u. *Sanskrit speaking tribes one people* (*gens*, Γένος *u. ganas*); derived it from their *barbarous ancestors* u. more remotely from their *savage progenitors.* If the *Aryan family* became as *early separated as the Midlde Period of Barbarism*, u. dies wahrscheinlich, *the gens must have been transmitted to them in its Archaic form....* Cf. *gens of the Iroquois*, in the *lower Status of Barbarism* mit *gens d. Grecian in Upper Status*, schlagend *dieselbe organization*, dort in its *archaic form*, hier in *its ultimate form.* The differences between them *forced upon the gens* by the exigencies of human progress.

Mit diesen *mutations in gens parallel mutations in the rule of inheritance ....* When *Solon allowed the owner of property to dispose of it by will*, in case he had no children, *he made the first inroad upon the property rights of the gens.*

Herr Grote, nachdem er remarked that "*Pollux* informs us distinctly that *the members of the same gens at Athens were not commonly related*" erklärt d. *Ursprung d. Gens* als Schulgelehrter Philister so: "Gentilism is a tie by itself; distinct from the *family ties*, but *presupposing* their existence and extending them *by an artificial analogy, partly founded in religious belief*, and *partly on positive compact*, so as to comprehend strangers in blood. *All the members of one gens*, or even of one phratry, *believed themselves to be sprung ... from the same divine or heroic ancestor* ... Doubtless *Niebuhr* is right in supposing the *a⟨n⟩cient Roman gentes were not real families, procreated from one common historical ancestor.* Still it is not less true ... that the *idea of the gens* involved the *belief in a common first father*, divine or heroic – a *genealogy... fabulous*, but consecrated and accredited[187] among the members of the gens itself; it served as one important bond of union between them ...

71 The *natural families* of course | *changed from generation to generation*, some extending others diminished, or *died out;* but the *gens* received no alterations, except through the procreation, extinction and subdivision of these component families. Accordingly the relations of the families mit d. gentes in perpetual course of fluctuation, *and the gentile ancestral genealogy*, adapted as it doubtless was to the early condition of the gens, became

in progress[188] of time partially obsolete and unsuitable. We *hear of this genealogy but rarely ... only brought before the public* ⟨*in*⟩ *certain cases* preeminent and venerable. But *the humbler gentes had their common rites* (Sonderbar dies, Mr. Grote?), and common *superhuman* ancestor and genealogy, as well as the more celebrated: (how very strange this on the part of humbler gentes! Is it not, Mr. Grote?) The scheme and *ideal* (Dear Sir, not *ideal*, but *carnal*, *Germanice* fleischlich) *basis* was the same in all."
The system of consanguinity pertaining to *gens* in its *archaic form* – u. d. Griechen hatten diese once besessen like other mortals – *preserved* a *knowledge of the relationships of all the members of the gentes to each other.* [Lernten dies für sie entscheidend Wichtige dch Praxis v. Kindesbeinen.] *This fell into desuetude with the monogamic family.* The *genteel name* created a *pedigree* beside which *that of a family was insignificant.* It was *the function of this name* to preserve the fact of the common descent of those who bore it; but the *lineage of the gens so ancient* that its members could *not prove the actual relationship* between them, ausser in beschränkter Zahl von cases through recent common ancestors. D. *name itself evidence* of a common descent and conclusive, except as it was *liable* to interruption *through the adoption of strangers in blood* into the previous history der gens. Dahingegen d. *practical denial aller relationship zwischen its members* à la *Pollux* u. *Niebuhr*, *changing the gens into a purely fictitious creation* würdig idealer, i.e. stubenhockerischer Schriftgelehrter. [Weil d. *Verkettung der Geschlechter*, namentlich mit Anbruch d. Monogamie, in d. Ferne gerückt u. d. *past reality* in *mythological Phantasiebild* reflectirt erscheint, hence schlossen u. schliessen Philister-Biedermän⟨n⟩er, dass d. *Phantasiegen⟨e⟩alogie* wirkliche gentes schuf!] Grosse Proportion v. Gliedern der Gens konnten ihre Abstammung weit züruck nachweisen u. bei d. remainder *the gentile name they bore* sufficient evidence of common descent for practical purposes. *The Grecian gens meist small body;* 30 families to a gens, abgesehen v. den wives der Familienhäupter, would give *average of 120 persons by gens.*
In *gens* the religious activity der *Greeks* originated, expanded over the phratries, culminated in periodical festivals common to all. (*De Coulanges*) [Das lumpige *religiöse* Element wd Hauptsache bei gens, im Mass wie *real cooperation* u. *common property* alle werden; d. Weihrauchsduft, der übrig bleibt.]

Pt. II) Ch. IX The Grecian Phratry, Tribe and Nation.
D. *griech. phratry* its natural foundation in *bond of kin*, gentes die *subdivisions einer common gens* gebildet. Says *Grote*: "*All the contemporary members* of the phratry of Hekatäus had a common god for their ancestor *at the 16th degree*"; the gentes were *brother gentes* literally [originally] u. hence their organization – phratry. D. Existenz d. letzteren erklärt sich

schon *Dikaearchus* rationalistisch so: *the practice of certain gentes in supplying each other with wives led to the phratric organization for* (!) *the performance of common religious rites.* A *fragment* dieses *Dikaearchus* preserved dch *Stephanus of Byzantium.* Er braucht πάτρα für *gens*, wie Pindar oft u. *Homer* manchmal. *Stephanus* berichtet so:

"*Patry* is *one of 3 forms of social union among Greeks*, according to *Dikaearchus*, which we call respectively *patry*, *phratry* and *tribe.* The *patry* comes into being when relationship, originally *solitary*, passes over into the *second stage* [relation of parents with children and children with parents], and derives its *eponym* from the oldest and chief member of the patry, as
72 *Aicidas*, *Pelopidas.* But it came to be called *phatria* or | *prahtria when certain ones gave their daughters to be married into another patry.* For the woman who was given in marriage *participated no longer in the paternal sacred rites, but was enrolled in the patry of her husband;* so that for the union, formerly existing by *affection between sisters and brothers*, there was established *another union based on community of religious rites*, which they *denominated a phratry;* and so that again, while the *patry* took its rise in the way we have previously mentioned, from the *blood relation between parents and children, and children and parents*, the *phratry took its rise from relationship between brothers.* But *tribe* and *tribesmen* were so called *from the coalescence into communities and nations so called, for each of the coalescing bodies was a tribe.*" (*Wachsmuth: Hist. Antiquitäten der Griechen*")

Marriage out of the gens here anerkannt als *custom*, u. wife enrolled in the *gens* (patry) rather than the *phratry* of her hu⟨s⟩band.

Dikäarchus, ein Schüler d. *Aristoteles*, lebte zur Zeit wo *gens* existed chiefly as a *pedigree of individuals*, its powers having been transferred to new political powers. Intermarriages, mit common religious rites, konnten nicht gründen, wohl aber *cement* the *phratric union.* Griechen wussten v. ihrer eignen Geschichte nichts ausser bis in *Status of Upper Barbarism* hinein.

Sieh in *array of military forces* phratries u. tribes bei *Homer.* (Sieh oben!) Aus d. advice d. *Nestor* an *Agamemnon* geht hervor, dass the organization of armies by *phratries* u. *tribes* had then *ceased to be common.* [*Gens* v. vorn herein too *small a basis* for organization of an army.] [*Tacitus, De moribus Germaniae*, sagt v. d. Germanen im Krieg, *caput 7:* nec *fortuita conglobatio turmam aut cuneum facit*, sed *familiae et propinquitates.*"][189]

Obligation of blood revenge – turned später in *duty of prosecuting the murderer before the legal tribunals* – rested primarily *upon the gens of the slain*, aber stand auch by phratry, u. *became a phratric obligation.* The extension der obligation d. gens zu phratry *implies a common lineage of all the gentes in a phratry.* – Unter d. Athenern *überlebte phratric organization the overthrow of the gentes* as the basis of a system; retained, in d. new polit. society, *some control over the registration of citizens, the enrollment of marriages* u. the *prosecution of the murderer of a phrator before the courts.* Greek *gentes u. phratries* liessen *als by*

aim to the new society they were destined to found: their *institutions, arts, inventions u. mythological(polytheistic) system.*
Wie an Spitze der gens ἀρχός, so an Spitze der *Phratry Phratriarch* (φρατριάρχος), *presided at its meetings* u. *officiated in the solemnization of religious rites.* Sagt *Coulanges:* "The *phratry* had its assemblies and its tribunals, and could pass decrees. In it, as well as in the family there was a god, a priesthood, a legal tribunal and a government." The *religious rites of the phratries* were an expansion of those of the gentes of which it was composed.
A *number of phratries* composed the *tribe*; the persons in each phratry, of same common lineage, *spoke the same dialect.* The *concentration of such Grecian tribes as had coalesced into a people*, in a small area, *tended to repress dialectal variations*, which a *subsequent written language* tended *still further to arrest.*
When d. several phratries of a tribe united in the commemoration of their religious observances, so in ihrer quality *qua tribe;* as such under the presidency of a *phylo-basileus, the principal chief of the tribe;* he possessed *priestly functions*, always inherent in the *office of basileus*, u. übte a *criminal justice* aus in cases of murder; daggen *absence of civil functions;* also *King* schlechter misnomer für "*basileus.*" Unter d. Athenern d. *tribe-basileus*, dann selber term for *the general military commander of the 4 tribes. Gentile institutions* essentially *democratical, monarchy incompatible with gentilism.* Every gens, phratry, tribe a *completely organized self-governing body;* wo *several tribes coalesced into a nation*, the *resulting government* constituted in *harmony with* the principles *animating its constituent parts.*
Tribes, coalesced into a *nation*, wie d. tribes d. Athenians u. Spartans, simply a *more complex duplicate of a tribe.* There was no *name* (*social one*) for the *new organism* [wo tribes took the same place in the nation as phratries in the tribe, gentes in the phratry]; *Aristoteles, Thucydides* u. andre "moderne" nennen d. *governments der heroic period* – βασιλεία; statt dessen
73 sprang up *name for the people or* | *nation.* So bei *Homer Athenians, Locrians, Aetolians* etc, aber auch v. *city* od. *country* they came from. So, *vor Lykurg* u. *Solon*, 4 stages of social organization: *gens, phratry, tribe u. nation.* So gentile Grecian society a *series of aggregates of persons*, with whom the government dealt through *their personal relations to* a *gens, phratry or tribe.*
Im *heroic age* bei *Athenian nation* 3 *coordinate departments or powers:* 1) *the council of chiefs* (βουλή); 2) ἀγορά, assembly of the people; 3) βασιλεύς, general military commander.
1) *Council of chiefs*, βουλή. Had *permanence as a feature of their social system;* its *powers ultimate and supreme;* wahrscheinlich auch hier composed of the *chiefs of gentes; selection* must have been made, da ihre *Anzahl* meist kleiner als die der gentes; *Council* auch *legislative body* representing the principal gentes; seine *importance* mag abgenommen haben mit wachsender Wich-

tigkeit des office of βασιλεύς u. the new offices created in their military u. municipal affairs with their increase in numbers u. wealth; *but it could not be overthrown without a radical change of institutions.* Hence every *office of the government* muss d. Council accountable geblieben sein for its *official acts.*

Dionysius, 2, XII[190] sagt: Ἑλληνικὸν δὲ ἄρα καὶ τοῦτο ‹τὸ› ἔθος ἦν. τοῖς γοῦν βασιλεῦσιν, ὅσοι τε πατρίους ἀρχὰς παραλάβοιεν καὶ ὅσους ἡ πληθὺς αὐτὴ καταστήσαιτο ἡγεμόνας, βουλευτήριον ἦν ἐκ τῶν κρατίστων, ὡς Ὅμηρός τε καὶ οἱ παλαιότατοι τῶν ποιητῶν μαρτυροῦσι· καὶ οὐχ ὥσπερ ἐν τοῖς καθ' ἡμᾶς χρόνοις αὐθάδεις καὶ μονογνώμονες ἦσαν αἱ τῶν ἀρχαίων βασιλέων δυναστεῖαι.

In *Aeschylus* "Ἑπτὰ ἐπὶ Θήβας" ("Seven against Thebes"), *wo beide fallen, Eteokles* in command von *Thebai* u. sein Bruder *Polynices* als einer der 7 chiefs, die d. Stadt belagern, kommt Herold des Raths u. theilt dem Chorus [sonst *answered* Antigone u. Ismene] mit das *Gutachten u. Schluss d. Raths* δοκοῦντα (was Rath facienda esse censuit) u. δόξαντα (quae *decrevit*): δημοῦ τῆς Καδμειὰς πόλεως πρόβουλοι, d. Stadtrath von Theben zusammengesetzt aus d. chiefs seiner vornehmsten gentes. Die Stelle bei Aeschylus:

v. 1007-10:

"Δοκοῦντα καὶ δόξαντ' απαγγελλειν με χρή
Δήμου προβούλοις. τῆς δε Καδμείας πόλεως
Ἐτεοκλέα μὲν τούδ' ἐπ' ευνοία χθονός
θάπτειν ἔδοξε γῆς φίλαις κατασκαφαῖς etc."[191]

2) ἀγορά established in der heroic period – an *assembly of the people.* In *Agora* gehn u. in *Krieg;* bei *Homer* heisst's vom grollenden *Achilles: I, 490, 91 Il.:* "Οὔτε ποτ' εἰς ἀγορὴν πωλέσκετο κυδιάνειραν, (d. Mann ehrend) οὔτε ποτ' ἐς πόλεμον,"

„Er *ging weder in d. ruhmvolle (den Mann ehrende) Agora*
Noch in die Schlacht." [Iliad, book I, v. 490-491]

D. *Agora* – spätere Einrichtg als der Council of chiefs [der früher wie bei Iroquois mit ἀγορά so far verbunden als die Volksleitg (auch Weiber) dort *reden* konnten u. immer Masse anwesend], hatte power to adopt or reject public measures submitted by the council. D. *agora* – bei Homer u. in Greek Tragedians – has some characteristics which it afterwards maintained in the ecclesia dr Athenians u. d. comitia curiata dr Romans. Im heroic age *agora* a constant phenomenon among the Greek tribes [ditto *Germans* in Upper Status of Barbarism]. Jeder konnte sprechen in Agora; sie machte in ancient times meist ihre decision kund durch *show of hands.*

In d. "*Schutzflehenden*" *des Aeschylus* fragt χορός:[192]

δήμου κρατοῦσα χεὶρ ὅπῃ πληθύνεται.

Antwortet ΔΑΝΑΟΣ:

v. 605 ἔδοξεν 'Αργείοισιν οὐ διχορρόπως,....

v. 607-614 πανδημία γὰρ χερσὶ δεξιωνύμοις
ἔφριξεν αἰθὴρ τόνδε κραινόντων λόγον· etc.

3) *Der Basileus.* [D. europäischen Gelehrten – meist geborne Fürstenbediente, machen aus d. βασιλεύς Monarch im modernen Sinn. Dagegen *Morgan*, Yankee Republican; er sagt sehr ironisch, aber true, vom öligen *Gladstone:* "Mr. Gladstone ... presents to his readers [in "*Juventus Mundi*"] the Grecian chiefs of the heroic age as kings and princes, with *the superadded quality of gentlemen*," selbst er muss aber zugeben (der "Gut-
74 stein") "on the whole we seem to have *the custom or law of primogeniture* | sufficiently, but not oversharply defined."]

Mit Bezug auf d. *Agora* bei Homer sagt *Schoemann* I, 27:[193] "Von *förmlicher Abstimmung* des Volks ist *niemals*[194] *d. Rede;* nur durch lautes Geschrei ⟨...⟩ giebt d. Versammlung ihren Beifall oder ihr Missfallen über d. Vorgetragene zu erkennen, u. wenn es sich um eine Sache handelt zu deren Ausführung d. Mitwirkung des Volkes erforderlich ist, *so verräth uns Homer kein Mittel, wie dasselbe gegen seinen Willen dazu gezwungen werden könne* ⟨...⟩"

Frage: ging d. office of basileus dch *hereditary right* von Vater auf Sohn über? Im Lower *Status of Barbarism* d. *office of chief hereditary in a gens*, d.h., vacancy, when occurring, *filled from the members of the gens.* When *descent in female line* – wie bei d. Iroquois – an *own brother* meist elected to succeed the deceased chief; wenn in d. *male line* – wie bei *Ojibwas u. Omahas – the oldest son.* In the *absence of objections to the person such became the rule;* aber d. *elective principle* remained. Also blosse *faktische Nachfolge* d. *ältesten Sohns* od. *eines der Söhne* (wenn mehre) beweist also nicht "*hereditary right*"; because by usage he *was in the probable line of succession* by a free election from a constituency. Presumption daher f. d. *Grecians*, entsprechend ihren gentile inst⟨it⟩utions, either for *free election* od. a *confirmation of the office* by the people through their recognized organisations, wie bei Roman rex. In diesem Fall konnte der s.g. Nachfolger office nicht antreten ohne Election od. confirmation, u. d. *power* (Seitens d. Volks) to elect or confirm schloss ein *right to depose.*

Was d. berühmte Stelle in *Ilias*, 1. II, v. *203-6* angeht (worauf auch *Grote* seine "royalistische" Anschauung gründet):

"οὐ μέν πως πάντες βασιλεύσομεν ἐνθάδ' 'Αχαιοί.
οὐκ ἀγαθὸν πολυκοιρανίη· εἷς κοίρανος ἔστω,
εἷς βασιλεύς, ᾧ δῶκε Κρόνου πάις ἀγκυλομήτεω
[σκῆπτρόν τ' ἠδὲ θέμιστας, ἵνα σφίσι βασιλεύῃ]."[195]

So *erstens zu bemerken: Agamemnon*—für den *Odysseus* in obiger Stelle spricht – erscheint in *Ilias* nur als d. *principal warchief, commanding an army before a besieged city.* Der *Vers in brackets* not found in several Ms., z.B. nicht im commentary v. *Eustathius.*[196] Ulysses hält hier keine Vorlesung über eine Regierungsform, kgliche od. andre, sondern verlangt "Gehorsam" an chief warrior im Kriegsdienst. Considering dass Griechen vor Troja *nur qua Heer* erscheinen, geht's in der *agora* demokratisch genug zu. *Achilles*, wenn er von "Geschenken", i.e. Austheilung d. Beute spricht, macht stets zum Vertheiler weder d. Agamemnon, noch einen andern βασιλεύς, sondern "d. *Söhne der Achäer*", d. Volk. D. Prädicate "διογενεῖς" od. "διοτρεφεῖς" beweisen auch nichts, da *jede gens* von einem Gott herstammt. Die *tribe-chiefs* gens schon von "vornehmerem" Gott. (hier Zeus); selbst die *persönlich Unfreien* – wie der *Sauhirt Eumäus* u. *Rinderhirt Philoitios* sind δῖοι od. δεῖοι, u. dies in *Odyssee*, also in viel späterer Zeit als die der *Ilias;* d. Name ἥρως wird in selber *Odyssee* auch d. *Herold Mulios*, den blinden Sänger *Demodokos* beigelegt; etc. Κοίρανος, was Odysseus Agamemnon neben βασιλεύς anwendet, heisst noch nur *Befehlshaber im Krieg* dort. βασιλεία, angewandt v. d. griech. Schriftstellern für d. homerische Königtum (weil *generalship* his chief feature) mit βουλή u. *agora* ist – Sorte *militairischer demokratie.*

Im *homerischen Zeitalter* lebten d. Grecian tribes in walled cities; *Bevölkerungszahl* stieg dch *field agriculture, Manufactur-industrie, flocks u. herds;* new *offices* required u. *some separation of their functions; new municipal system* was growing; *period* of *incessant military strife for the possession of the most desirable areas;* mit *increase of property* wuchs *the aristocratic element in society*, war *Hauptursache der disturbances* in *Athenian Society von Zeit d. Theseus bis zu Solon u. Cleisthenes.*

Whd dieser Periode u. bis zur *final abolition des* βασιλεύς *office* einige Zeit *vor der 1sten Olympiade (776 B.C.) wde office d.* βασιλεύς more prominent u. powerful than das irgend einer andren Person in ihrer früheren Erfahrung. *Functions of Priest u. Judge* attached to or inherent in the office; er scheint *ex officio* a *member of the council of chiefs.* Powers of general in Feld u. Garrison in d. walled city, gab ihm Mittel ebenso Einfluss in *civil affairs* zu gewinnen; scheint aber nicht dass er *civil functions* besass. Auf Seite d. βασιλεύς entwickelt sich nothwendig *tendency to usurp additional*
75 *powers*, in beständigem | Kampf mit d. *council of chiefs*, representative of the gentes. [Hence endlich d. office abgeschafft v. d. Athenern.]
Unter d. *Spartan tribes* früh *Einrichtung d. Ephorats to limit power of* βασιλεύς.
[D. βουλή blieb d. supreme power, unterstützt dch *agora* im homer. Zeitalter.]

Thucydides sagt I, c. 13: Δυνατωτέρας δὲ γιγνομένης τῆς Ἑλλάδος καὶ

τῶν χρημάτων τὴν κτῆσιν ἔτι μᾶλλον ἢ πρότερον ποιουμένης τὰ πολλὰ τυραννίδες ἐν ταῖς πόλεσι καθίσταντο, τῶν προσόδων (Einkünfte) μειζόνων γιγνομένων (πρότερον δὲ ἦσαν | ἐπὶ ῥητοῖς γέρασι (mit festgesetzten powers) πατρικαὶ (gentiles) βασιλεῖαι), ναυτικά τε ἐξηρτύετο ἡ Ἑλλὰς καὶ τῆς θαλάσσης μᾶλλον ἀντείχοντο.[197]

Aristoteles. Politics, III, c. X: "βασιλείας μὲν οὖν εἴδη (Arten) ταῦτα, τέτταρα τὸν ἀριθμόν, μία μὲν ἡ περὶ τους ἡρωϊκοὺς χρόνους (αὕτη δ'ἦν ἑκόντων (von Freien, over a free people) <μέν,> ἔπι τισὶ δὲ (in einigem aber) ὡρισμένοις. στρατηγὸς γὰρ ἦν καὶ δικαστὴς ὁ βασιλεύς, καὶ τῶν πρὸς <τοὺς> θεοὺς κύριος (*Hauptpriester*); δευτέρα δ'ἡ βαρβαρική (αὕτη δ'ἐστὶν ἐκ γένους ἀρχὴ δεσποτικὴ κατὰ νόμον). τρίτη (d. 3te Form) δὲ ἔν αἰσυμνητείαν προσαγορεύοσιν (αὕτη δ', <ἐστίν> αἱρετὴ τυραννίς (*Wahltyrannei*). τετάρτη δ' ἡ Λακωνικὴ <τούτων> (αὕτη δ'ἐστὶν ὡς εἰπεῖν ἁπλῶς στρατηγία (generalship). κατὰ γένος ἀίδιος)" (erbliche generalship).[198]

Aristoteles giebt dem βασιλεύς *keine civil functions*. [Was d. *richterliche function* angeht, muss sie wie bei d. alten Germanen gedeutet werden, als Vorsteher d. Gerichts, welches Versammlung ist; d. Vorsitzer stellt d. Frage, ist aber nicht der *Urtheilfinder*.]

D. *Tyrannis* war usurpation, erhielt nie a permanent footing in Greece, galt stets ihnen als illegitim; seine *Tödtung* galt für verdienstvoll.

Cleisthenes rejected the βασιλεύς office; hielt *council of chiefs* bei in *elective senate* u. d. *agora* im *people* (*ecclesia*); *elective archon* folgte bei d. Athenern dem βασιλεύς; dieser selbst, in *Upper Status of Barbarism*, was in dessen *Middle Status Teuctli* (*Great War Soldier verbunden mit functions of Priest*) in d. *Aztec Confederacy;* dieser hinwiederum in *Lower Status of Barbarism* der *Great War Soldier* wie z.B. der *Iroquois Confederacy, u. dieser selbst entsprang aus d. common warchief des tribe.*

Pt. II. Ch. X. Institution of Grecian Political Society.

Aus der *failure der gentile institutions* to meet the now complicated wants of society, *gradually all civil powers entzogen d. gentes, phratries u. tribes* u. diese *übertragen auf new constituencies.* D. eine system went gradually out, d. andere gradually in, *the two for a part of the time existing side by side.*

Stockaded village usual home of the tribe in *Lower Status of Barbarism;* im *Middle Status joint-tenement houses* of *adobe brick and stone*, in the nature of *fortresses;* im *Upper Status cities surrounded mit ring embankments*, schliesslich mit *walls of dressed stone*, mit *towers, parapets, gates*, designed to protect all alike and to be *defended by the common strength.* Cities of this grade imply the *existence of a staple u. developed field agriculture, possession of domestic animals in flocks and herds*, of *merchandise in masses* u. of *property in houses u. lands.* A necessity generally arose for *magistrates* u. *judges, military u. municipal offices* of *different* grades, with a *mode of raising and supporting*

military levies which would require *public revenues*. Dies alles machte dem "*council of chiefs*" d. Regieren schwer. – D. *Militairgewalt*, erst devolved upon βασιλεύς jezt auf *general;* d. *captains* under greater restrictions; *judicial power* jezt bei Athenians exercised dch *archons u. dicasts;* d. *magisterial powers* devolved upon *municipal magistrates*. Nach u. nach *several powers by differentiation taken von der sum of powers* des *original council of chiefs*, so weit sie vom Volk auf letzteren übergegangen waren. Diese *Zeit d. Uebergangs* erscheint bei *Thucydides* (lib. I, 2-13) u. other writers als *Zeit* ftwhder ⟨fortwährender⟩ *disorders* von conflict of authority u. abuse of powers not yet well defined u. als failure d. old systems of government, auch Bedürfniss v. *written law* für blosse *usages u. customs* ddch nöthig
76 geworden. Diese transition | dauerte centuries.
D. *Theseus* v. d. Athenern first attempt to *subvert the gentile organization* zugeschrieben; man muss ihn betrachten als *Namen für eine Periode od. Series of events*.

Die *Bevölkerung v. Attica* (*Böckh*) in seiner blütenden Zeit about ½ Million; davon mehr als ⅔, nämlich *365,000 Sklaven*, ausserdem etwa *45,000* angesiedelte Fremde, bleibt für *d. freie bürgerliche Bevölkerung – 90,000*! Nach Schömann: *Attika in mehre kleine Fürstenthümer* getheilt; d. Alten (*Strabo*, b. IX, *Plutarch: Theseus* c. 24, 32, 36) *nennen 12 Staaten;* in manchem dieser 12 nicht eine, sondern mehrere *Stadt u. Städtchen*. Die Sage lässt *d. Theseus* Land u. Volk unter d. *Regierung eines einzigen Fürsten* vereinen, *Athen zum Sitz der Centralgewalt* machen, d. *Theilregierungen* Ende machen. *Theseus* angeblich *Basileus v. Athen* in d. *2. Hälfte d. 13 Jhdts B.C.*

Vor Theseus (sie⟨h⟩ *Schoemann*) lebte Attic Volk in *cities* [12 angegeben nach *Schömann*, als ebensoviel independent *Wohnsitze* u. Territorien der *12 phratries*], bildeten *independent tribes*, jeder mit eignem *Territorium* wo the people localised, eignen *council houses* u. *prytaneums*, aber confederated for mutual protection, u. *elected Basileus* als general *commander of their common forces*. Aber (sieh *Thucydides*, u. ähnlich bei *Plutarch*), sobld Theseus *Basileus* wurde, überredete er sie to *break up the council-houses* u. magistracies ihrer verschiednen Städte, u. come in to relation with *Athens*, mit einem *council-house* (βουλευτήριος) u. einem πρυτανεῖον. [Letzteres ein *öffentliches Gebäude*, worin d. *heilige Feuer* unterhalten wurde, u. d. *Prytanen* od. Vorsitzenden des Senats wohnten.] So d. 4 tribes brought unter Theseus to *c⟨o⟩alesce into one people* [Sagt *Plutarch* in "*Theseus*" *c. 24:* "Die *Bewohner Atticas* wohnten bisher zerstreut u. konnten nur mit Mühe für *gemeinsame Angelegheiten zusammengebracht werden* (dies zeigt, dass sie *confederirt* waren, bevor sie coalesced), ja bisweilen waren sie in *Streit u. Fehden mit* einander gerathen. Theseus vereinigte nun alle in einer Stadt u. bildete aus ihnen eine einzige Gemeine eines einzigen Staats. Zu diesem Zweck reiste er bei d. einzelnen *Gemeinen u. Geschlechtern* umher, u. suchte ihre Einstimmung zu erhalten etc] Den Mächtigen versprach er Aufhebung der *kgl. Gewalt* etc u. *c. 25:* "Um d. Stadt noch mehr zu vergrössern, rief er

Jedermann unter der Zusicherung gleicher Rechte hinzu, u. erliess dabei, wie man sagt, den bekannten *Heroldsruf: "Hieher kommt, all' ihr Völker!"* verkünden; denn er wollte in Athen einen *allgemeinen Völkerverein* (lies *Verein d. Attischen tribes*) stiften.[199] Damit aber d. herbeigeströmte gemischte Menge [*Phantasie des Plutarch*, gab damals keine solche "Mengen"] nicht Unordnung u. Verwirrung in den Freistaat brächte, *theilte er d. Volk zuerst* in *Edle*, *Landbauern* u. *Handwerker*. Den *Edlen* übertrug er die Aufsicht über d. religiösen Angelegheiten u. d. *Recht*, *öffentliche Aemter zu besetzen* (?), er ernannte sie zu Lehrern der Gesetze, zu Auslegern d. göttlichen u. menschlichen Rechte, stellte sie aber d. übrigen Bürgern gleich, indem d. *Edlen* zwar durch Ansehen, die *Landbauern* aber durch Nützlichkeit u. d. *Handwerker* dch Menge den Vorzug zu haben schienen. Dass er *zuerst*, wie *Aristoteles* sagt, "*sich zum Volk hinneigte*," u. d. Alleinherrscft aufgab, scheint auch *Homer zu bezeugen*, *welcher im Schiffsverzeichniss* (2' Buch der Ilias) d. *Athener eine Gemeine*, *Demos*, *nennt.*"]

Theseus theilte Volk in *3 classes*, *irrespective of gentes*, *Eupatridae* (well-born), *Geomori* (husbandmen) u. "*Demiurgi*" artisans. D. principal offices assigned to first class, both in the *civil administration* u. *priesthood.* Diese *classification* nicht nur *recognition of property* u. *aristocratic element* in government der society, sondern *direct movement gegen d. governing power der gentes.* Intention offenbar *to unite the chiefs of the gentes mit ihren Familien* u. d. *men of wealth in the several gentes in a class by themselves*, with the right to hold the principal offices in which the powers of society were lodged. D. *separation ds remainder in 2 grosse classes* wieder Verletzung der gentes. Aber gelang nicht. Die jetzt s.g. *Eupatrides* waren whsclich d. men der gentes vorher called into office. Dies scheme brach down, weil es in fact *no transfer of power* von gentes, phratries u. tribes zu d. classes u. weil such classes inferior den gentes as a basis[200] of a system.

[D. Aeusserung v. Plutarch, dass "d. *Niedrigen u. Armen bereitwillig der*
77 *Aufforderung des Theseus | folgten*" u. der von ihm citirte Ausspruch d. *Aristoteles*, dass Theseus "*sich zum Volk hinneigte*" scheinen aber trotz Morgan darauf hinzuweisen, dass d. *chiefs d. gentes* etc dch Reichthum etc bereits in *Interessenconflict* mit der *Masse der gentes* gerathen, was unvermeidlich bei *Privateigenthum* in *Häusern*, *lands*, *Herden* verbunden mit *monogamischen Familie.*]

Vor *776 B.C.* (erste Olympiade) *Amt d. Basileus* in Athen *abgeschafft*, an dessen Stelle *archonship*, wie es scheint *erblich in gens*, d. ersten 12 archons genannt *Medontidae*, von *Medon*, angeblichem Sohn des *Kodrus*, des letzten Basileus. (Nach *Morgan lebenslänglich* d. archonship, hereditary in gens, also nicht *hereditary* im modernen Sinne.)

711 B.C. Archonship beschränkt auf *10 Jahre*, bestowed by free election auf d. würdigst gehaltne Person; hier *Anfang d. historischen Periode*, mit *election to highest office in the gift of the people.*

683 B.C. office of archon made *elective annually*, *their number increased to nine*,

blieb so bis Ende der athen. Demokratie;

1) *Archon Eponymus*, von seinem Namen d. *designation des Jahrs* was derived; er determined *all disputes, relative to the family, gentile u. phratric relations;* was legal protector of orphans u. widows.
2) *Archon Basileus;* had competence in complaints respecting *offences agst the religious sentiments and homicide.*
3) *Archon Polemarch* (in times *prior to Kleisthenes*) *leader of military force* u. *judge in disputes between citizens* u. *non-citizens.*
4) D. *6 andern Archonten* hiessen *Thesmot⟨h⟩etae.*

Erst war d. Attische *archon* chief of gens u. this office hereditary in gens; when descent changed v. *female to male line* the *sons of the deceased chief*[201] in the lines of the election; Athener gaben später dann d. alten Titel des chief of gens – *archon* – dem highest magistrate, machten office *elective*, irrespective of gens etc., erst lebenslänglich, dann 10, dann 1 Jahr.
624 B.C. Draco had framed a code of laws for the Athenians; shows that *usages u. customs were to be superseded* by *written laws.* Athenians were in the stage wo *lawgivers appear* and legislation is in a scheme or in gross, under the sanction of a personal name.
594 B.C. Solon comes into Archonship. – In seiner Zeit had schon come in existence der *Areopagus*, bestehe⟨n⟩d aus d. *Exarchons* mit *power to try criminals* u. *censorship over morals*, zugleich mit Anzahl *newer offices* in *military, naval* u. *administrative services.* – Wichtigste event: Errichtung der ναυκραρίαι (*Naukraries*), *12 in jedem tribe*, 48 in all; jede Naukrarie *a local circumscription of householders*, aus der *levies drawn into military u. naval service.* u *from which taxes* wahrscheinlich *collected.* Die naucrary was the *incipient deme* or *township.* Nach *Böckh* bestand sie *schon vor Solon's Zeit*, da d. *presiding offices der naucraries* (πρυτανεὶς τῶν ναυκράρων) schon mentioned früher. *Aristoteles* schreibt sie dem *Solon* zu, weil dieser sie in seine Constitution aufnahm. – *12 naucraries* bildeten a τριττύς (trittys), a *larger territorial circumscription*, nicht necessarily contiguous; bildete germ of the "county" (?). *Council of chiefs* (βουλή) dauerte fort, aber jetzt daneben *agora*, d. *Court des Areopagus*, u. die 9 archons. It doubtless had the general administration der finances. Als *Solon* zur archonship came, social state bösartig, in *Folge des* struggle for the *possession of property. Ein Theil der Athener in Sklaverei gefallen, durch Verschuldung*, d. Person d. Schuldners being liable to enslavement in default of payment; andre had *mortgaged their lands* u. were unable to remove the encumbrances. Ausser *body von Gesetzen*, wovon einige neu, but *corrective of the principal financial difficulties*, erneuerte *Solon* Project v. Theseus die Gesellscft in *classes* zu theilen, diesmal aber nicht nach *callings*, sondern *nach amount of their property;* er theilte *d. Volk in 4 classes*, nach measure of wealth.
[Nach *Plutarch "Solon" c. 18: Iste Classe: Grundertrag = 500 Mass trockner u. flüssiger Früchte.* [Gewöhnliche *Mass d. Getreides* ein *Medimnus* (etwas

über *15/16 des Berliner Scheffels*), der Flüssigkeiten ein *Metrete* (etwas mehr als 33 Berliner Quart.) Wer dazu gehörte *500* Scheffler.[202] *IIte Classe:* die *300* Mass erndteten, hiessen zur *Ritterschaft Steuernde. IIIte Klasse:* Die 200 Mass v. einer d. beiden Früchte. *Zwiespänner* (ζευγῖται, wohl vom *Gespann Maulthiere*, das sie hielten. (Dies geschah nachdem er *Schätzung der Bürger* verordnet.) *Alle andern* d. *IVte Klasse: Fröhner* (Theten).
78 Erhielt d. 3 ersten Klassen, i.e. d. *Vermögenden*, den Zugang | "*zu allen obrigkeitlichen Aemtern; Theten* (4te Kl.) hatten kein Amt zu verwalten, hatten aber an der *Regierung Theil* als *Mitglieder der Volksversammlungen u. Gerichtshöfe.* (Dadurch bekamen sie entscheidende Macht um so mehr) "da *Solon* auch bei solchen Sachen, worüber d. Obrigkeit zu erkennen hatte..., eine Berufung an d. Volksgericht erlaubte."

Gentes weakened hierdurch, in ihr decadence eingeleitet. Aber sofern *classes composed of persons* substituted for *gentes composed of persons*, government still founded on persons u. upon relations purely personal.

D. *erste classe* war allein eligible to the *high* offices, 2te zum *Rich⟨t⟩erdienst*, 3te *zur Infanterie*, 4te zu leicht *bewaffneten soldiers;* letzte d. Majorität; they *paid no taxes*, aber in der *popular assembly* hatten sie vote bei *Wahl aller Magistrate u. Officere*, mit power to bring them to an account; could adopt or reject all public measures. *Alle freemen, wenn auch nicht connected with a gens u. tribe*, now brought, to a certain extent, *into the government, became citizens* u. *members of the public assembly.*

D. Iste (vornehmste) Klasse nicht liable to military service.

Neben d. Areopag ein *Rath* (Plutarch lässt ihn falsch v. Solon gründen, er nahm nur d. alte βουλή in seine Constitution auf, worin er aus *jedem der 4 tribes 100 Männer* wählen liess, *Vorberather d. Volks*, so dass nichts ohne ihre *vorherige* Prüfung *an d. Gemeine gelange.*

D. *territorial element* was partially incorporated dch d. *naucraries*, wo wahrscheinlich was an *enrollment of citizens u. of their property to form a basis for military levies u. taxation.* D. *gentes, phratries, tribes blieben in full utility*, though *mit diminished powers.* – A transitional condition.

Von d. *disturbed condition der Grecian tribes* u. d. unavoidable movements des people in d. *traditionary time vor Solon*, viele Persons transferred themselves v. one nation to another, lost so connection mit ihrer eignen gens ohne Verbindung mit einer andern zu gewinnen; dies wiederholt von Zeit zu Zeit, dch *personal adventure, spirit of trade, exigencies of warfare*, bis *considerable number with their posterity in every tribe unconnected with any gens.* All such persons without the pale of government. Says *Grote:* "The phratries and gentes *probably never at any time included the whole population of the country – and the population not included tended to become larger and larger in the times anterior to Kleisthenes*, wie nach ihm." Schon zur *Zeit des Lykurg* bedtde *immigration nach Griechenland von d. Inseln d. Mittelmeer* u. d. *Ionischen Städten seiner östlichen Küste;* wenn sie mit families kamen *brachten sie a fragment of a new gens* mit sich; *blieben aber aliens unless the gens admitted*

into a tribe, was wahrscheinlich häufig geschah; *explains the unusual number of gentes in Greece.* The poorer class would *not* be admitted either as *a gens* in einen tribe od. *adopted* in eine gens eines tribes. Zur Zeit d. *Theseus* schon, aber mehr *speciell in der des Solon Zahl der unattached class* – exclusive of slaves – had become large; diese class of persons a *growing element of dangerous discontent.* Wurden dch Theseus u. *Solon* admitted *to citizenship through the classes*, aber blieben excluded von d. verharrenden *gentes u. phratries.* In d. *Council* konnten[203] nur Stimmen 400, je ⟨100⟩ aus einem d. 4 tribes (den new *probouleutic or pre-considering senate*); selbe conditions nach old *custom of eligibility for d. 9 Archontes*, also auch für *Areopag* [d. *tribes* bestanden nur of *gentes* u. *phratries;* wer also ausser diesen, *ausser tribe*] also nur in *public assembly* (ecclesia) konnte ein *Athenian, nicht ein member jener tribes* Zulass erhalten, aber eben ddch war er *citizen*, nahm Theil an Wahl d. Archonten etc., nahm Theil in der jährlichen decision ihrer *accountability*, konnte *claim redress for wrong von d. archons in his own person*, whd ein *alien* dies nur konnte dch intervention of an avouching citizen or *Prostatês. Alle* ⟨other⟩ *persons*, whatever *their grade or fortune*, befanden sich *politisch* auf level with *d. 4ten Klasse der Thetes.* Zugleich tended the *policy* of *Solon* to *invite industrious settlers from other parts of Greece to Athens.* Dies *one of the reasons of the failure of gentile organization.* [Diese settlers *alle Griechen;* mit *written language* hatte d. *dialectic Unterschied* nicht mehr Macht zur *Barrière v. Scheidung* (Unverständlichkeit) zu werden; andrerseits *migration, Seefahrt* u. alle mit *commerce verbundne Personenbewegung* – nicht fassbar *in auf gens gegründete societies.*]

Andrerseits *Schwierigkeit gens, phratry u. tribe* local zusammen zu halten. Früher hatte d. *gens its lands in common, the phratries certain lands in common* for *religious purposes* u. wahrscheinlich auch d. *tribes other lands in common.* Wenn sie sich established in town or country, *settled sie neben einander* by
79 gentes, | phratries, tribes, *gemäss ihrer social organisation.* Jede *gens* in *the main by itself*, nicht alle ihre Glieder, denn 2 gentes representirt in jeder Familie, but the *body who propagated the gens.* The gentes derselben Phratry suchten local zusammen zu bleiben, u. so d. several phratries einer tribe. Aber zur *Zeit d. Solon lands u. houses owned by individuals* in severalty, mit *power of alienation of lands*, but *not of houses, out of the gens.* So immer schwieriger to keep the members of a gens *locally* zusammen, wegen der *shifting relations* of persons to *land* u. von d. *creation of new property by its members in other localities.* The unity of their social system was becoming unstable in place u. in character. [*Abgesehen* v. *locality:* die *Eigenthumsdifferenz* in selber gens hatte Einheit ihrer Interessen in *Antagonismus* ihrer members verwandelt; ausserdem war neben Land u. Vieh *Geldcapital* entscheidend wichtig geworden, mit d. *Entwicklg der Sklaverei*!]

Nur d. *unsettled condition u. incessant warfare der tribes* (Attic), from *their settlement in Attica bis zur Zeit d. Solon* hatte die alte *gentile Organisation* so lang aufrecht erhalten können. The *township mit its fixed property u. its*

inhabitants for the time being yielded the element of permanence now wanting in the gens.

Zur Zeit d. Solon Athenians already a *civilised people*, had been so for 2 centuries; *bdtend development* of *useful arts*, *commerce at sea* became a national interest, advancement of agriculture u. manufacture, commencement of *written composition in verse;* aber ihre *institutions of government still gentile*, of the type of the *Later Period of Barbarism;* beinah *ein Jahrhundert* nach Solon full of disorders.

509 B.C. Kleisthenes' constitution (Kern derselben lag in d. *naucrary*) dauerte bis zu *Verlust der Unabhängigkeit Athens.* Theilte *Attica* in *100 demes* or *townships* (*wards*), jedes *umschrieben by metes u. bounds*, u. *distinguished by a name.* Jeder citizen hatte sich selbst *einzuregistriren u. to cause an enrollment of his property in the deme wo er resided.* Dies enrollment evidence u. foundation of his civil privileges. *The deme displaced the naucrary;* its inhabitants had *powers of local self-government.* Diese *demotae* wählten einen δήμαρχος who had the *custody of the public register*, also the *power to convene the demotae for the election of magistrates and judges*, for *revising the registry of the citizens*, u. *enrolling such as became of age during the year.* Sie elected *a treasurer* u. provided *for the assessment* and *collection of taxes* u. for *furnishing the quota of troops* required from the deme für state service. They also *elected* 30 *dicasts*[204] *or judges*, trying all causes arising in the deme *below* a *certain sum;* ausserdem had deme its *own temple*, *religious worship* u. own *priest*, der also elected by the deme. All *registered citizens* free u. equal *except equal eligibility to higher offices.*

Second member der organic territorial series: 10 demes, united in a larger geographical district, was called a *local tribe* – φῦλον τοπικόν. (So wde d. *römische tribus* – ursprünglich 1/3 of the people composed of 3 tribes – verwandelt aus *numerical quality* in a *local designation.*) Each district named after an *Attic hero;* einige der 10 *demes* waren[205] detached (*nicht locally contiguous*) whslich in consequence of *the local separation* of *portions des original consanguine tribe* who desired to have their deme incorporated in the district of their immediate kinsmen. [Morgan nennt d. topischen Phylen *counties*, *Schoemann* aber nennt d. Unterabtheilung der *topischen Phylen* auf Wohnsitze u. Theile der *Stadt* u. *Landschaft* gegründet, ihre Unterabtheilungen *Gaue* (δήμοι) oder *Ortschaften* (κῶμαι). Er sagt von *Kleisthenes:* Er theilte d. gesammte Land in *100 Verwaltungsbezirke*, hiessen δήμοι u. d. einzelnen Demen wden theils nach d. *kleinen Städten od. Flecken*, theils nach ausgezeichneten *Geschlechtern* benannt; die nach Geschlechtern benannten Demen vorzugsweis in d. Theil d. Landes, der der Phyle der *Geleonten zugewiesen* (*Hauptstadt Athen* u. ihre nächste Umgebung, wo also d. meisten u. bdtensten Adelsfamilien lebten, wo ihre Güter gelegen. Lang vor Kl⟨e⟩isthenes gab es Bezirke, Städte u. Flecke die sich Demen nannten. *Zahl der Demen* stieg zuletzt auf 174; doch erinnerte an d. ursprüngliche Zahl d. *100 Heroen*, d. Eponymen d. 100 Demen. D. Phylen Verbände von 10 Demen.][206]

Jede *Phyle* od. *District* nach an Attic hero. D. Einwohner wählten einen φύλαρχος, der d. *Cavallerie* commandirte; ταξίαρχος, commandirte foot soldiers u. στρατηγός commandirte both; jeder District 5 *triremes* zu liefern, wählte wahrscheinlich as many τριήραρχος to command them. *Cleisthenes*[207] *increased Senate to 500*, assigned 50 to *each district;* elected by its inhabitants·
80 (*Attica kaum 40* □ *miles gross.*) | *Third u. last member der territorial series* d· *Athenische Staat*, aus 10 local tribes bestehd, represented by Senate, ecclesia, Court of Areopagus, archons, judges, electd military u. naval commanders.

Um Staatsbürger zu sein, musste man Mitglied eines Deme sein; um in Senat gewählt zu werden od. zum Command v. einer division v. army or navy, dch a topic phyle gewählt wden. The relations to gens or phratry ceased to govern the duties of an Athenian as a citizen. The *coalescence of the people into bodies politic in territorial areas now complete.*

Also *deme, phyle, u. Staat* an Stelle von *Gentes, phratry, tribe* etc. Sie blieben (letztre) jedoch for centuries as a *pedigree of lineage u. fountains of religious life.*

No *executive officer existed under the system.* The *president of the Senate*, elected by lot for a single day, *presided over the popular assembly* [konnte during the year nicht zur selben Würde wiedergewählt wden] and held the keys of the citadel and the treasury.

Sparta retained the office of Basileus in period of civilization; a *dual generalship*, hereditary in a particular family; *the powers of government* co-ordinate between the *Gerousia* or *Council, popular assembly*, 5 *Ephors* (elected annually. D. Ephores mit powers analogous den Roman tribu⟨n⟩es). Die Basileis *commanded the army* and als *chief priests* offered the sacrifices to the gods.

Mit Bezug auf d. *4 tribes* des attischen Volks: 1) *Geleontes;* 2) *Hopletes* (ὁπλίτης schwerbewaffneter Infantarist, Soldat mit Panzer u. Schild, der d. ganzen Körper deckt. ὅπλον, *Zeug, Werkzeug, Geräth*, bes. zur Ausrüstung der Soldaten: *Waffe*, ferner = der grosse Schild u. Panzer des Schwerbewaffneten; heisst auch *männliches Glied;* ὅπλομαι-ὁπλίζομαι u ὁπλίζω *Zubereiten*, in Stand setzen v. Speisen u. Getränken; sieh *Homer: ausrüsten* von *Schiff* (*Odyssee*) *waffnen* etc)

3) *Aigikoreis. Ziegenhirte* von αἴξ (gen. αἰγός *Ziege*, von ἄισσω *sich schnell bewegen*) u. κορέννυμι – *ion.* = κορίω sättigen, satt machen. (Αἰγικορεῖς. αἰγικορεύς der Ziegenhirt)

4) *Argadeis.* ἀργαδεῖς = ἐργάται (*Plutarch*) ἐργάτης Arbeiter, *Feldarbeiter*, Taglöhner; ἐργάω u. med. – ἐργάζομαι (ἔργον Werk, That) ich *arbeite*· bin thätig, *bes. treibe Ackerbau.*

Nach *Schömann:*[208] *Hopletes Phyle*, die hellenischen Einwandrer, die einst unter Xuthus für d. Attiker gegen d. *euböischen Chalcodontiden*[209] gestritten u. dafür d. *Tetrapolis* auf der nach *Euböa* schonenden Küste u. beträc⟨h⟩t-

lichen Theil des angrenzenden Landes zu Wohnsitz erhielten; – das *benachbarte Hochland mit Brilessos* u. *Parnes bis zum Kithäron;*
Der Phyle der Aegikoreis: Sitz, weil hier d. Beschaffenheit des Landes *Viehzucht* zur Hauptbeschäftigung machte, in diesem Bezirk also *Ziegenhirten* d. Zahlreichsten.
Argadeis Phyle: auf dem *vom Brilessos* nach West u. Süd sich hinstreckende Theil d. Landes, wo d. *3 grossen Ebnen* liegen, d. *thriasische*, das *Pedion od. d. Pedias* u. d. *Mesogäa.* (Auch d. Phyle der *Geleontes* hatte hier ihren Sitz. D. Hauptsitz d. Adels *Athen* ("εὐπατρίδαι οἱ αὐτὸ τὸ ἄστυ οἰκοῦντες").[210] Was Schoemann weiter sagt: dass "Hauptstadt u. nächste Umgebung" bekamen *daher* d. *Namen Geleontes;* er hiess d. *Geleontenbezirk*, u. alle die in diesem Bezirk wohnten, *ob Adliche od. Unadliche*, wden der *Phyle der Geleonten* zugezählt, – so zeigt dies welchen *Begriff* dieser Schulmeister von der Natur einer *Phyle* od. *tribe* hat.
Als *nach Sturz der Pisistratiden* der *Adel unter Isagoras eine Zeitlang* d. *Sieg gewonnen*, d. Volk in Gefahr seine Freiheit zu verlieren, wenn *Kleisthenes*[211] nicht d. *Adelspartei* besiegt. (Darauf bezieht sich *Herod. V 69.* "τὸν δῆμον πρότερον (vor Kleisthenes unter Isagoras) ἀπωσμένον πάντως")[212]

Kleisthenes vermehrte erst d. *Zahl d. Volks* dch *Einbürgerung vieler in Attica ansässigen Nichtbürger od. Metöken*, wozu auch d. *Freigelassenen gehörten.* (*Arist. Polit.* III, 1, 10.) Seine Abscffg d. Eintheilg in 4 *Geschlechtphylen*, tribes, theils *nöthig*, weil in d. *alte Eintheilung* d. *Neuaufgenommenen nicht einrangirt werden konnten*, andrerseit⟨s⟩ aber verlor dadurch *Adel den Einfluss, den er bisher* (als chiefs of gentes) *in d. ländlichen Districten* geübt.
I *Kleisthenes*[211] besetzte mehre u. zwar bdtende Aemter, namtlich d. *Collegium der 9 Archonten* statt wie | bisher dch *Volkswahl* – dch *Loos*, aber diese Losung fand nur unter *Bewerbern statt aus d. 3 Oberen* u. für *Archonten nur aus d. ersten* Klasse statt.
Kurz *nach den Reformen d. Kleisthenes*[213] *Perserkriege*, worin sich d. Athener aller Klassen ruhmvoll bewährt. *Aristides* setzte nun dch, dass fortan d. Schranken aufgehoben, wodch d. ärmeren (rather *niedrigeren*) *Bürger von d. Staatsämtern ausgeschlossen. Plutarch, Aristides c. 22:*

γράφει ψήφισμα κοινὴν εἶναι τὴν πολιτείαν
καὶ τοὺς ἄρχοντας ἐξ Ἀθηναίων πάντων αἱρεῖσθαι.[214]

(Dies letztere Wort, nach Schömann, hier nicht *wählen*, sondern *losen*, so auch bei *Pausanias* I, 15, 4.) Doch blieben gewisse Aemter nur den *Pentakosiomedimnen*, d. *500 Schefflern*, zugänglich. In d. *4ten Klasse* auch *Wohlhabende*, die nur nicht so *viel Landbesitz* hatten als *der Census der 3 oberen Klassen* erforderte. Und diese *Art d. Wohlstands seit Solon's Zeit bdtend gewachsen: Handel u. Gewerb* in rascher Entwicklung, gewinnen nicht weniger Bdtg als Landbau. Ausserdem hatte Krieg – *Attika wiederholt v. d.*[215] *Perserschaaren verheert – namentlich viele Landbesitzer ruinirt*, manche

verarmt, unfähig ihre niedergebra⟨ch⟩ten Höfe wiederaufzubauen, *mussten sich ihres Besitzthums entäussern*, waren so in *4te Klasse gesunken:* auch für diesen d. Aenderung d. Aristides zu gut kommend. On the whole aber hatte sein Gesetz d. Wirkung d. *einseitige Bevorzugung d. ländlichen Grundbesitzer aufzuheben u. Gewerbtreibenden u. Kapitalisten ohne Landbesitz Zutritt zu d. Aemtern zu gewähren.*

Pericles: So lange *nichts bezahlt* für d. *Besuch der Volksversammlgen* hielten d. *Aermeren* sich meist gern davon fern. Von Pericles an d. *Zahlung*; erst – unter ihm – für *Besuch in Volksversammlung u. Funktion in Gerichten nur ein Obol*, spätere Demagogen erhöhten sie aufs 3 fache. Die *wohlhabenden Klassen* waren für *Frieden*, d. *Aermeren* gingen leichter auf d. kriegerische Politik d. Perikles ein.

Ephialtes – selber Richtg wie Perikles – entzog dem *Areopag* sein bisheriges *Oberaufsichtrecht über d. ganze Staatsverwaltg*, liess ihn nur d. *Blutgerichtsbarkeit*. D. Areopag gehörte grössten Theils zur *ruheliebenden u. conservativen Partei:* statt seiner eingesetzt zur Beaufsichtigung u. *Controlle des Raths, der Volksversammlung* u. *der Magistrate eine neue Behörde* – Collegium von *7 Nomophylakes* od. *Gesetzwächter;* d. Volk wde mit d. Areopag einer aristokratischen Zuchtbevormundungsbehörde entledigt.

Pt. II. Ch. XI. The Roman Gens.

Bei *Einwandrg in Italien* v. *Latinern, Sabeller, Osker* u. *Umbriern*, wahrscheinlich als one people, sie in *Besitz of domestic animals* u. whschlich bekannt mit *Cultur v. cereals u. plants;* jedenfalls well *advanced in Middle Status of Barbarism*, u. als sie historisch erschienen in *Upper Status*, an Schwelle von Civilization.

Nach *Mommsen:* "*barley, wheat, and spelt* gefunden *wild growing an der rechten Bank d. Euphrat's, northwest von Anah.* D. growth v. barley u. wheat in wild state in *Mesopotamien* schon erwähnt dch d. *babylonischen historian Berosus.*" *Fick* in: "*Primitive Unity of Indo-European Languages,*" *Göttingen, 1873*, sagt: "*Pasturage foundation... but very slight beginnings of agriculture.* Sie waren bekannt *mit a few grains, deren Cultivation carried on incidentally in order to gain a supply of milk and flesh.* D. material existence d. people rested nicht on agriculture. *Wenige primitive words beziehn sich auf agriculture.* Diese words: *yava*, wild fruit; *varka* (hoe) (od. plow); *rava* (sickle); *pio* (*pinsere*) *bake* u. *mak. Gk* μάσσω which indicates *threshing out* u. *grinding of grain.*

Zur Zeit d. *Romulus* (*754-717* B.C. od. *1-37* d. *Stadt Rom*) [*Romulus* bdtet hier nicht *Person*, sondern *Zeitperiode*, wie bei seinen Nachfolgern)] *Latin tribes* – on *Alban hills u. ranges of the Appenines* östlich von Rom – dch Segmentation bereits in *30 independent tribes* zerfallen, still united in loose *confederacy* for mutual protection; ebenso *Sabellians, Oscans, Umbrians.*

Alle, wie ihre nördlichen Nachbarn, *Etrusker*, organized in *gentes*.
Zur Zeit v. *Rom's Stiftg* (abt *753 B.C.*) had become *agricultural* mit *flocks of domestic animals*, *monogamian family*, confederacy in form of *League*. – The *Etruskan* tribes confederated.
D. *Latin tribes*, possessed of numerous fortified towns u. country strongholds, spread over the surface of the country for agricultural purposes.
Unter d. *institutions der Latin tribes* bei Beginn der historischen Periode:
82 *gentes*, *curiae u. tribes*. *Latin gentes* | of same lineage, *Sabine* u. other gentes *cognate*, except *Etruscans*. Zur Zeit d. *Tarquinius Priscus*, 4ter von Romulus, the organisation brought to a *numerical scale; 10 gentes to curia, 10 curiae to a tribe, 3 tribes*, giebt 30 curiae u. 300 gentes.
Statt *confederacy of tribes*, *composed of gentes* od. *occupying separate territories* makes Romulus them concentrate u. coalesce in *one city;* dies worked out in 5 generations. *Auf u. um Mons Palatinus* vereinigte Romulus *100 gentes*, organised as a tribe, die *Ramnes;* dann *large body of Sabines* added, deren *gentes*, *nachher increased to 100*, organized as a *2nd Tribe*, *Tities;* (angeblich auf *Quirinal*); unter Tarquinius Priscus *3d tribe*, *Luceres*, 100 gentes drawn from the *surrounding tribes*, inclus. *Etruscans*. – *Senate* (Council of Chiefs), *comitia cur⟨i⟩ata* (assembly of the people) u. *military commander* (*rex*). Unter *Servius Tullius* wde *Senat* "patrician", patrician rank being conferred upon its members u. their posterity; ddch *privileged class* created, intrenched first in the *gentile* u. dann *political system*, ultimately overthrew the democratic principles inherited von gentes.
Niebuhr, *Hermann*, *Mommsen* etc *regard the gens as composed of families*, whd *gens*[216] *composed of parts of families* u. *gens*, nicht *family unit d. social system*.
Man weiss wenig über ältere "social" history of Rom; weil *power of gentes* bereits übertragen auf *new political bodies* bevor römische Geschichtschreibung beginnt. *Gajus – Institutiones* III. 17 – sagt: *qui sint autem gentiles* primo commentario rettulimus, et cum illic admonuerimus *totum gentilicium ius in desuetudinem abiisse*, superuacuum est hoc quoque loco de ea [dem re iterum] curiosius tractare.[217]
Cicero, *topica 6*. *Gentiles* sunt inter se qui *eodem nomine* (*totem*!) sunt. Non est satis. Qui ab *ingenuis oriundi sunt*. Ne id quidem satis est. Quorum *maiorum nemo servitutem* servivit. Abest etiam nunc. Qui *capite non sunt deminuti*. Hoc fortasse satis est. Nihil enim video *Scaevolam* pontificem ad hanc definitionem *addidisse*.[218]
Festus: "*Gentilis* dicitur et *ex eodem genere ortus*, et is qui *simili nominem* appellatur."[219]
Varro. "*de lingua latina*" lib. VIII, c. 4. "Ut in hominibus *quaedam sunt agnationes* ac *gentilitates*, sic in verbis: ut enim *ab Aemilio homines orti Aemilii*, ac gentilis, sic ab *Aemilii nomine* declinatae voces *in* [*gentilitate*] *nominali:* ab eo enim, quod est impositum recto casu Aemilius, ⟨orta Aemilii,⟩ Aemilium, Aemilios, Aemiliorum, et sic reliquae *ejusdem quae sunt stirpis*."[220]

Dch andre Quellen constatirt *dass die nur zur gens gehörten who could trace their descent dch males exclusively from an acknowledged ancestor in d. gens;* musste d. gentile *name* haben (dies *Cicero*).

445 B.C. In address d. *Roman Tribun Canulejus*, on his motion d. Gesetz abzusc⟨ha⟩ffen d. verbot *intermarriage* zwischen patricians u. plebejans, sagte er (*Livius IV, c. 4*): "Quid enim in re est aliud, si *plebejam* patricius duxerit, si *patriciam* plebeius? Quid iuris tandem mutatur? *nempe patrem sequuntur liberi.*"[221] (Dies involvirt *descent in male line*). Als praktische Illustration, dass *descent in male line: Julia, Schwester* des *Cajus Julius Caesar*, married *Marcus Attius Balbus.* Ihr Name zeigt, dass sie gehörig zur *Julian gens.* Ihre Tochter *Attia* nahm gentile name of her father, belonged to *Attian gens.* Attia married *Cajus Octavianus*, wd Mutter d. *Cajus Octavianus* (i.e. d. spätere *Augustus*). Ihr Sohn nimmt Name d. Vaters, belongs to the *Octavian* gens.

Nach *Adams, Roman Antiquities:* war nur *eine Tochter* in family, so called nach *Name der gens;* so *Tullia*, Tochter d. *Cicero; Julia*, Tochter des Caesar; *Octavia*, Schwester d. Augustus, etc. Sie *behielten denselben Namen bei nach Verheirathg.* Wenn *2 Töchter, die eine called Major*, die andre *Minor* (wie bei Savages). Wenn mehr als 2, unterschieden dch ihre *Zahl: Prima, Secunda, Tertia, Quarta, Quinta*, or softer *Tertulla, Quartulla, Quintilla* .... Whd d. *blühenden Zustands der Republik*, d. *names der gentes* u. *surnames d. families*, blieben fix u. certain. They were common to all the children
83 der family, descended to their posterity. Changed | u. confounded *nach subversion of liberty.*

So lange wir v. Römern wissen, *descent in male line.* In allen oben citirten *cases persons married out of the gens. Folgende rights u. obligations* d. *Roman gentes:*

1) *Mutual right of succession to the property of deceased gentile;* 2) *Possession of common burial place;* 3) *common religious rites; sacra gentilicia;* 4) *Obligation not to marry in gens;* 5) *Common Possession of lands;* 6) *Reciprocal obligation of help, defense*, and *redress of injuries;* 7) *Right to bear the gentile name;* 8) *Right to adopt strangers into the gens.* 9) *Right to elect and depose chiefs*?

ad 1) *451 B.C. Law of 12 Tables promulgated;* ancient rule *der inheritance unter gentiles* bereits superseded; passed to *sui heredes* (children) u. in *default of children* to *lineal descendants* des defunct through males. *Gajus Inst. 1. III, 1. u. 2.* (*Wife* was co-heiress mit children.) D. living children took equally, d. *children of deceased sons the share of their father equally;* the *inheritance remained so in the gens;* the *children of female descendants of the intestate, who belonged to other gentes*, were *excluded.* Wenn *no sui heredes* (ib. *lib. III*, 9) by *same law* – the *inheritance passed to the Agnates; agnatic kindred* all persons able to trace *descent th⟨r⟩o⟨u⟩gh males from same common ancestor with the intestate;* vonwegen *dieses descent all bore the same gentile name*, females wie males, u. were nearer in degree to the deceased als d. *remaining gentiles.* D. *Agnates, nearest in degree,*

hatten Vorzug; 1) *brothers* u. *unmarried sisters;* 2) *paternal uncles u. unmarried aunts* des intestate u. s. w. Aber d. *children of married sisters* ausgeschlossen – weil *zu andrer gens gehörig* – eben by *gentile kinsmen* (agnatic), dass ihre relation to intestate nur noch nachweisbar *in gentile name;* the gentile right predominated über *consanguinity*, weil d. principle, *retaining the property in the gens*, fundamental. D. Reihenfolge (historische) ist natürlich grade d. *umgekehrte* von der, wie sie in d. 12 Tafeln erscheint. 1) D. *Gentiles;* 2) d. *Agnates*, *worunter* d. *Kinder des intestate* nach change of descent v. weiblicher in *male* line; 3) d. *Kinder*, *mit Ausschluss der Agnaten.*

Dch Heirath erlitt a female *deminutio capitis*, i.e. *forfeited her agnatic rights;* an *unmarried sister* could inherit, *nicht a married*, would have *transferred the property* in andre gens.

Von d. Archaischen ⟨principles⟩ erhielt sich am längsten im Rom *reversion of property in certain cases to the gentiles* (bemerkt auch Niebuhr. – The *freedman* (Emancipirte) erwarb nicht *gentile rights* in his master's gens dch manumission, aber allowed to *adopt the gentile name of his patron*, so Cicero's freedman *Tyro* called *M. Tullius Tyro.* D. *Gesetz d. 12 Tafeln* gave the estate eines freedman, der intestate starb, to his *former patron.*

ad 2) Im *Upper Status of Barbarism – a burial place for the exclusive use of members of the gens. So unter d. Romans.* Z.B. d. *Appius Claudius*, chief d. Claudian gens, removed from Regili, town d. Sabini, nach Rom, wo er Senator wurde, mit seiner *gens* u. *vielen Clienten – Suet. vita Tiberius*, c. I sagt: "*Patricia gens Claudia... agrum* (Theil der *state lands*) insuper trans Anienem (upon the Anio) *clientibus locumque sibi ad sepulturam sub Capitolio*, publice accepit."[222] Er received burial place for the gens nach damaliger custom.

D. *family tomb* hatte in Zeit v. Julius Caesar noch nicht *ganz das der gens superseded;* Beweis *Quintilius Varus*, had lost his army in Germany, destroyed himself, sein Körper fiel in d. Hände der Feinde, half burnt. *Vellejus Paterculus* II, 119: *Vari corpus semiustum* hostilis *laceraverat* feritas; *caput eius abscisum* latumque ad *Maroboduum* et ab eo missum ad Caesarem *gentilicii*⟨tamen⟩ *tumuli sepultura* honoratum est.[223] *Cic., De Legibus II*, 22. "Iam tanta religio est *sepulcrorum* (so gross d. Heiligkeit der Begräbnisse), *ut extra sacra et gentem inferi* (ohne religious rites u. Grabstätte der gens) *fas negent esse;* idque *apud majores nostros.* A. Torquatus in gente Popilia judicavit."[224] Zu *Cicero's* Zeit das *family tomb* nahm d. Platz ein of that of the gens, as the families in the gentes rose to complete autonomy. – *Vor d. 12 Tafeln cremation u. inhumation* equally practiced, (12 Tafeln verboten
84 Verbrennen od. | *Begraben innerhalb der city.* Das *columbarium* (a sepulchre mit niches for urns) would usually *accommodate several 100 urns.*

ad 3) *Sacra privata* od. *sacra gentilicia*, performed by the gens at stated periods. (Alle members der gens dazu verpflichtet, ob *members by birth, adoption oder adrogation.* A person was *freed from them u.* lost the privi-

leges connected with them, *when he lost his gens.*) Cases erwähnt, wo d. expenses of maintaining these rites, *Bürde für gens* wden in Folge der verminderten Anzahl ihrer Glieder. *The sacred rites* – public and private – *exclusiv under pontifical regulation, not subject to civil cognizance.*

Colleges of pontiffs, curiones u. augurs, with elaborate system of worship unter diesen priesthoods, became established, aber *priesthood* in *the main elective;* jedes Familienhaupt auch *priest des household.*

In early times of Rome hatten *viele gentes* their *own sacellum* (small *unroofed* sanctuary; a chapel; *sacellum est locus parvus deo sacrata cum ara* (*Trebatius in Gell.* c. 12; "*Sacella dicuntur loca diis sacrata sine tecto.*" *Festus.*)[225] für performance[226] ihrer religious rites; *several gentes* had each *special sacrifices* to perform transmitted from generation to generation. Considered obligatory (Nautii to Minerva, Fabii to Hercules, etc.)

ad 4) *Gentile regulations were customs having the forms of law;* so *Verbot der intermarriage in gens;* scheint zu Rom nicht später in *Gesetz* verwandelt wden zu sein; aber d. *Roman genealo⟨g⟩y* beweist d. rule – marriage out of gens. Zeigt sich darin ferner: ohne Ausnahme: a *woman by her marriage forfeited her agnatic right,* weil became *ex-gens.* (Sollte property aus eignen gens in der ihres husband nicht transfer). Aus selbem Grund: *exclusion d. Kinder of a female from all rights of inheritance from a maternal uncle or grandfather;* da sie *ausser gens* heirathet, ihre *children* of *the gens of the father* – also nicht von *ihrer* gens, also dort auch nichts zu erben.

ad γ): Common property of lands, allgemein unter barbarous tribes. Darum natürlich bei *Latin tribes;* von *sehr früher Periode* erscheint Theil ihrer lands *held in severalty by individuals;* at first sicher nur *possessory right to lands in actual occupation,* was sich schon in *Status of Lower barbarism* findet.

Unter d. rustic Latin tribes, lands held in common by each tribe, other lands by gentes, still other by households. Allotments of lands to individuals wde gewöhnlich in Romulus Period, später quite general. Sagt *Varro, De Re rustica* 1. *I, c.* 10. "*Bina jugera* quod a Romula *primum divisa* (dicebantur) *viritim,* quae *heredem* sequerentur, *heredium appellarunt*"[227] (Selbes bei *Dionysius*). *Similar allotments* said to have been made by *Numa* u. *Servius Tullius;* diese die *beginnings* of *absolute ownership in severalty,* presuppose a settled life etc. It was not only *admeasured* but *granted by the government,* form *sehr verschieden* von *possessory right in lands growing out of an individual* act These *lands taken from those held in common by the Roman people. Gentes, curiae u. tribes* held *certain lands in common* nach Beginn d. Civilization, ausser d. individual allotments.

Mommsen sagt dann: "das römische territorium in d. frühsten Zeiten *getheilt* in Anzahl von *clan* (heisst wohl *Geschlechter* bei ihm!) *districts,* die später employed in the formation d. *ältesten rural wards districts* (*tribus rusticae*).... Diese *Namen* (der Districts) *nicht wie die der districts added at a*

later period, derived von d. localities, sondern formed ohne Ausnahme v. Gesch⟨lech⟩ternamen wie *Camilii, Galerii, Lemonii, Pollii, Pupinii, Voltinii, Aemilii, Cornelii, Fabii, Horatii, Menenii, Papirii, Romilii, Sergii, Voturii.*"[228] *Jede gens* hielt an *independent district u. was localised upon* it. (Aber auch *in Rom* selbst *gentes localized in separate areas.*)

Mommsen sagt ferner:

"Wie *jeder Haushalt* seine eigne Portion Land hatte, so d. *clan*-household (das wohl nicht d. Wort bei Mommsen) or village, had *clan lands* belonging to it *which* ... were *managed up to a comparatively* late period after
85 the *analogy* (!) *of house-lands*, that is, *on the system of common* | *possessions* ... *These clanships* jedoch von Anfang an nicht betrachtet als *unabhängige Gesellscften*, sondern als *integral parts of a political community* (*civitas populi*). This first presents itself as *an aggregate of a number of clanvillages of the same stock, language and manners*, bound to mutual observance of law and mutual legal redress and to united action in aggression and redress."[229] Mommsen represents the *Latin tribes anterior to the foundation of Rome* as *holding lands by households, gentes u. by tribes*, zeigt the *ascending series of social organisations in the tribes*, ganz *parallel*[230] *to d. Iroquois – gens, tribe, confederacy.* Phratry nicht mentioned. *The household referred to* could scarcely *have been a single family*, wahrs⟨chein⟩lich *composed of related families occupying a joint-tenement house* u. *practicirend communism in living in the household.*

ad 6). Erstes feature des gentilism – *dependence der gentiles upon each other for the protection of personal rights*, verschwindet zuerst, sobald *civitas* gegründet, wo jeder Bürger sich für Protection *an law u. State* wendet; kann in *historischer Periode* nur noch *in remains* gefunden wden bei Römern.

Abt *432 B.C.* Appius Claudius in prison geworfen. Aber *Livius* VI, 20: "*Ap. Claudio in vinculo ducto*, C. *Claudium inimicum* (des Appius Cl.) *Claudiamque omnem gentem sordidatum* (in mourning Kleidern) *fuisse.*"[231] Whd d. *2t punischen Kriegs*, bemerkt *Niebuhr* verbanden *sich d. gentes to ransom ihre in Gefangenscft befindlichen Genossen;* der *Senat verbot's ihnen;* nach selbem *Niebuhr* gens *verpflichtet* ihren *indigent gentiles* beizustehen; er citirt dafür *Dionysius: II, 10* "ἔδει τοὺς πελάτας τῶν ἀναλωμάτων ὡς τοὺς γένει προσήκοντας μετέχειν."[232]

ad 7) Zuletzt d. persons unmöglich geworden *to trace their descent back to the founder. Niebuhr* (auf diesem abgeschmackten Grund sich stützend) *läugnet d. Existenz irgendwelcher Blutverwandtscft* in a gens, *weil sie nicht beweisen konnten a connection through a common ancestor;* dana⟨c⟩h gens *blos fictitious organization*....

Nachdem *descent von female to male line changed*, d. *Namen d. gentes, whsclich taken v. animals, gave place to personal names.* Irgdein *Individuum*, berühmt in d. Tradit. Geschichte der gens, ward its *eponymous ancestor* u. *diese Person*, nicht unlikely, at *long intervals* wieder *ersetzt dch andre.* Theilte sich a *gens* in Flge von lokaler Separation, so *one division apt to take a new name;*

dieser *change of name* would not *disturb the kinship* w⟨orau⟩f d. gens begründet... Nur auf einem Weg *adulteration of gentile descent* – durch *Adoption.* Dies nicht häufig.... In an Iroquois gens of 500 persons – gens coming in with a *system of consanguinity reducing all consanguinei to a small number of categories*, and retaining their descendants indefinitely in the same – all its members related to each other and each person knows or can find its relationship to the other; so that the *fact of kin was* perpetually present in *archaic gens.* Mit *monogamian Ehe* came *in a totally different system of consanguinity*, worin d. *relationships zwischen collaterals rasch disappeared.* Dies System d. *Greek u. Latin tribes* bei Beginn d. historischen Periode.

Grote, History of Greece. III, 33, 36, erzählt: *Cleisthenes of Argos* changed the *names of the 3 Dorian tribes of Sicyon*, einen in *Hyatae* (im singular: *a boar*), 2ten in *Oneatae* (an *ass*), 3d to *Choereatae*, (*little pig*); dies *intended as insult* gegen d. Sicyonians, blieben ihnen während seiner Lebzeit u. 60 Jahre später. "Did the idea of these *animal names come down through tradition*?"[233]

Nach Beginn des Verfalls der gentilen Organisation, hört auf *neue Geschlechterbildg dch d. process of segmentation; andre existirende died out.* This *tended to enhance the value of a gentile descent as a lineage.* Zur Zeit d. Kaiserthums etablirten f⟨or⟩tw⟨ähren⟩d sich *neue Familien from foreign parts* in *Rom* u. nahmen *gentile names* an to *gain social advantages. Emperor Claudius – 40-54*
86 *A.D.* – verbot | den foreigners röm. Namen anzunehmen, besonders *alter Geschlechter. Sueton. Vit. Claudius*, c. *25* sagte: "Peregrinae conditionis homines vetuit usurpare Romana nomina, dumtaxat gentilicia."[234] Römische Familien, belonging to the historical gentes, setzten höchsten Werth auf their lineages, sowohl unter Empire, wie vorher in republic.

ad 8. Sowohl *unter Republik wie Empire* practicirt *adoption into the family*, die carried the *person adopted into the gens* of the family; das *attended mit formalities*, die es erschwerten. *Kinderlose Person u. past the age to expect them* might *adopt a son* mit *consent der pontifices* u. der *comitia curiata. Cicero, Pro Domo, c. 13.* Die noch zu Cicero's Zeit existirenden precautions, zeigen dass früher d. restrictions grösser u. cases seltner.

ad 9 Bei Römern keine direct information über *tenure des office of chief* (*princeps*); jede *gens*, vor Entstehg der civitas, hatte *einen chief*, probably mehre; *hereditary right* dazu wahrscheinlich nicht bei *Latin tribes*, da *elective principle* später vorwiegt – i.e. unter *reges* u. in *Republik;* d. *rex* selbst, d. *highest office*, was *elective*, the office of *senator elective* or by *appointment*, so that of *consuls u. inferior magistrates.* D. *college* of *pontiffs* – instituted dch Numa – filled erst (d. *pontiffs selbst sich ergänzend*) vacancies by *election; Livius* (XXV, 5) spricht of *election* of a *pontifex maximus* dch d. *comitia* about *212 B.C.* Auf *Volk* transferred, dch *lex Domitia*, the right to elect the members of the *several colleges* of pontiffs u. priests, später modified dch *Sulla.* – Also abgeschmackt – ohne positive evidence – anzunehmen dass *office of princeps* (*chief of gens*)

"*hereditary*" war. Wo aber *Wahlrecht* – the tenure des office being for life – da auch *Recht to depose*.

Diese *chiefs of gentes* od. eine *selection davon*, bildeten d. *Council der Latin tribes* vor Stiftung Roms. *All of these "cantons* (read *tribes*) were in primitive times *politically* (asinus!) sovereign, u. each of them was governed by its prince [Prinzerfindender Mommsen; read chief of the tribe], and the *cooperation of the council of elders*, and *the assembly of the warriors.*" (*Mommsen.* It was the *council*, Herr Mommsen, u. nicht der *military commander*, Mommsen's *Prinz*, who governed.)

Niebuhr sagt: "In all the *cities* belonging to civilized nations on the coasts of the Mediterranean a *senate was a no less essential and indispensable part of the state, than a popular assembly;* it was a *select body of elder citizens; such a council*, says *Aristoteles*, there always is, *whether the council be aristocratical or democratical;* even in *oligarchies*, be the number of sharers in the sovereignty ever so small, certain councillors are appointed for preparing public measures." *Senate* of polit. society folgte dem *council of chiefs der gentile society.* Romulus *Senate* 100 elders representing the 100 gentes, was *office for life, non-hereditary*, woraus folgt dass *office of chief* was at the time elective.

Abt 474 B.C. d. *Fabian gens* schlag dem Senat vor als a gens to undertake the *Veientian* war. Ihr Antrag accepted, fielen in Embuscade. *Liv. II, 50.* [see auch *Ovid, Fasti*, II, 193.] "*Trecentos sex* (so viel zogen aus) perisse satis convenit; *unum prope puberem* (unter age of puberty) *aetate relictum stirpem genti Fabiae, dubiisque rebus populi Romani saepe domi bellique vel maximum futurum auxilium.*"[235]

D. Zahl d. 300 would indicate an equal number of females, who with the children of the males, would give an aggregate von at least 700 für Fabian gens (nicht d. *eine pubes*). |

87 *Pt. II, Ch. XII. The Roman Curia, Tribe and Populus.*

Angebliche *Perioden* bis zur Errichtg der Republik: 1) *Romulus. 754-717* B.C. (*1-37* a.u.c.) 2) *Numa Pompilius. 717-679* B.C. (*37-75* a.u.) 3) *Tullus Hostilius. 679-640* B.C. (*75-114 a.u.*) 4) *Ancus Marcius 640-618 B.C.* (*114-136 a.u.*) 5) *Tarquinius Priscus. 618-578* B.C. (*136-176 a.u.*) 6) *578-534* B.C. (*176-220 a.u.*) *Servius Tullius.* 7) *534-509 B.C.* (*220-245 a.u.*) *Tarquinius Superbus.*

Societas, founded upon *gens;* neben *civitas*, founded upon territory u. property; letztere Organization im Lauf v. *200 Jahren* gradually supplanting the former; *to a certain degree completed der change* unter *Servius Tullius* (*578-534 B.C. 176-220 a.u.*) *Curia*, analogous to Greek[236] phratry, = 10 gentes; *10 curiae* = 1 tribe; unter *Servius Tullius* war *Populus Romanus* = *3 tribes, 10 curiae, 300 gentes.* Wurst ob Roman kings fabelhaft od. nicht; ebenso Wurst, ob d. legislation ascribed to either of them be fabulous or true. The *events of human progress embody themselves*, independently of particular men, *in a material record, which is crystallized in institutions, usages*

u. customs, u. preserved in inventions u. discoveries.
D. *numerical adjustment von gentes* etc—a *result of legislative procurement*, not older in the first 2 tribes, than the times of Romulus. The *curia* der Romans – ungleich d. Phratry d. Greeks u. Iroquois, grew into an organization, having distinct *governmental character engrafted* upon itself. Wschlich d. gentes einer Curia related to each other, versahn sich einander dch *intermarriage* mit wives. (Dies Conjectur.) The organization as a phratry – obgleich erst mentioned in Roman history in connection mit *legislation* des Romulus, von time immemorial in *Latin tribes.*
Livius I, 13. "Itaque, *quam* (der Romulus) populum in *curias triginta* divideret (nach dem Frieden mit den Sabinern), *nomina earum* (der geraubten Sabinerinnen) *curiis imposuit.*"[237]
Dionys. Antiq. of Rome, II, 7. "φράτρα δὲ καὶ λόχος (Kriegerschaar, Rotte) ἡ κουρία"; *ibid.* heisst's: διῄρηντο δὲ καὶ εἰς δεκάδας αἱ φρᾶτραι πρὸς αὐτοῦ, καὶ ἡγεμὼν ἑκάστην ἑκόσμει δεκαδα, δεκουρίων κατὰ τὴν ἐπιχώριον γλῶτταν προσαγορευόμενος."[238]
Plut. Vit. Rom. c. 20. 'Εκάστη δὲ φυλὴ δέκα φρατρίας εἶχεν λέγουσιν ἐπωνύμους εἶναι ἐκείνων τῶν γυναικῶν."[239] Was Romulus that was *the adjustment of the number of gentes in each tribe*, was er fertig bringen konnte dch d. *accessions gained from the surrounding tribes.* In d. Ramnes (ersten tribe) nahm er *related gentes* in selber curia, reached *numerical symmetry* by artibitrarily taking *the excess of gentes von one natural curia to supply the deficiency of the other* (kommt auch bei d. Red Indians vor.) D. *Tities* meist *Sabiner;* d. *Luceres* heterogenous, formed later from gradual accessions u. conquests; enthielten auch *Etruscan gentes.* In d. reconstruction *gens* blieb *pure*, *curia* made to include in some cases gentes nicht related, *durchbrach also Schranke der natural phratry;* ebenso *tribe* ⟨u⟩mschloss *foreign elements* that *not belong to a tribe by merely spontaneous growth.* The third tribe (Luceres) in great part *an artificial creation; Eturscan element* darin lässt annehmen, that *their dialect not wholly anintelligible to Romans.*
Niebuhr zeigte zuerst that the *people was sovereign*, so-called *kings* had *delegated power*, u. *dass d. Senat based on principle of representation.* Aber Niebuhr at variance with fact, wenn er sagt: d. *numerischen Propertions* seien unwiderleglicher Beweis dass d. Roman gentes *nicht älter als d. Constitution d. Romulus*, dass sie "*Corporations formed by a legislator in harmony with the rest of his scheme.*"[240] A legislator could not fabricate a gens; auch eine curia konnte er nur machen by combining gentes; er konnte by constraint increase or decrease the *number of gentes in a curia u. the number of curiae in a tribe.*
D. *Stelle bei Dionysius* (*Halicarnassensis*) *1. II, c. 7* lautet in full: "Nachdem er (Romulus) d. ganze Masse dreigetheilt, machte er den Hervorragendsten jedes der (3) Theile zum leader (ἡγεμόνα ἐπέστησεν); dann theilte er wieder *jeden der 3 Theile in 10*, aus gleichen (im Rang ἴσος)[241] Führern

dieser ernannte er wieder d. tüchtigsten; die (3) grössern Theile nannte er *tribus;* die kleineren *Curien* (κουρίας), wie sie auch jetzt noch heissen. In *griech. Sprache* interpretirt ist der *tribus* = φυλή od. τρίττυς; die *Curia* = φράτρα u. λόχος (Band, Kriegerrotte); die Männer an der Spitze des *Tribus* = φύλαρχοι od. τριττύαρχοι, die die Römer *Tribunen* nennen.
88 [*Tribun also literally d. Equivalent d. alten tribē-Chief*]. | Die Vorsteher der *Curien* = φρατρίαρχοι u. λοχαγοί, welche d. Römer *Curionen* nennen. D. *Phratrien* wurden wieder abgetheilt in Dekaden, u. ein Führer leitete jede Dekade; *decourio* genannt in d. Landeszunge. Nachdem aber so alle eingetheilt u. zusammengestellt in *Phylen u. Phratrien, theilte er das Land in 30 gleiche Loose, gab jeder Phratrie ein Loos,* nahm Land genügend für sacra u. Tempel, u. *liess auch gewisses Land für gemeinschaftlichen Gebrauch* übrig (καὶ τίνα τῷ κοινῷ γῆν καταλιπών). Nur diese Theilung von Leuten u. Land dch Romulus, *allgemeine u. grösste Gleichheit.*"

Mitglieder d. *curia* hiessen *curiale; wählten* einen priest, *curio,* chief officer der fraternity; jede hatte its sacred rites, its *sacellum* as a place of worship u. *ihren Versammlungsplatz* für transaction of business; neben d. curio gewählt an assistant priest *flamen curialis,* had the immediate charge of the observances; d. Volksversammlung *comitia curiata,* sovereign power in Rom, mehr als der Senat des gentile system.

Vor Zeit des Romulus unter d. *Latin tribes – tribal chiefs* (Dionysius II, 7); ein tribal chief – der *chief officer des tribe,* whose duties magisterial (in city), *military* (in the field) u *religious* (administering the sacra) (*Dionys. l.c.*) Jedenfalls his *office* elective, *whsclich* gewählt dch d. *curiae collected in a general assembly.* D. "tribal chief" whsclich genannt "*rex*" vor d. Gründung Roms, ebenso d. *Council Senate* (senex) u. d. *tribal assembly – comitia* (con-ire). Nach der *coalescence der 3 Roman tribes – the national character of the tribe* lost.

Die *30 curiones* as a body wden organisirt in *a college of priests,* einer davon had the office of *curio maximus;* was elected by the *assembly of gentes.* Daneben *college of augurs,* bestehend unter *Ogulnian law* (300 B.C.) aus 9 members inclus. their chief – *magister collegii;* u. *college of pontiffs,* 9 members unter demselben Gesetz, inclus. pontifex maximus. D. *Ganze,* as organized by Romulus, nannte sich: *Populus Romanus;* war nichts als a *gentile society;* change *ernöthigt* u. zwar *fundamental* one dch raschen Anwachs d. Bevölkg unter Romulus u. namentlich in d. Periode *zwischen ihm u. Servius Tullius. (754-534).*

Livius sagt, dass es "*vetus consilium*" (*Livy I, 8*) alter trick of the founders of cities to draw to themselves an obscure and humble multitude, and then set up for their progeny the autocht⟨h⟩onic claim. Romulus so opened an asylum near the Palatine, u. invited all persons in the surrounding tribe⟨s⟩, etc. "Eo ex *finitimis populis turba omnis sine discrimine, liber an servus esset, avida novarum rerum perfugit; idque primum ad coeptam magni-*

tudinem roboris fuit." (*Liv. I, 8.*)[242] *Plut. Romulus c. 20* u. *Dionys.* II, 15 erwähnen auch d. *asylum or grove.* Zeigt, dass d. *Barbarische Bevölkg Italiens* sehr angewachsen, discontent unter ihnen, Mangel an persönlicher Sicherheit, *existence of domestic slavery*, apprehension of violence. *Angriff seitens d. Sabiner*, wegen d. ihnen gestohlnen Weiber; resultirte in Compromiss, Latiner u. Sabiner *coalesced* into one society, *jede division behielt its own military leader*, d. *Tities* (Sabiner) *unter Titius Tatius.* – *679-640 B.C. Tullus Hostilius* nahm d. *Latin city of Alba*, brachte ihre ganze *Bevölk⟨e⟩rung nach Rom;* sie besetzten angeblich *Coelian Hill;* Zahl d. citizens *nun doubled* nach *Liv. I, 30. 640-618: Ancus Marcius* nahm d. lat. Stadt *Politorium*, transferred the people bodily to Rome; ihnen angeblich *Aventinus mons* eingeräumt mit same privileges. Kurz nachher d. *inhabitants of Tellini* u. *Ficana* subdued, removed to Rome, also occupied *M. Aventinus* (*Liv. I, 33*). D. gentes nach Rom gebracht, blieben alle *locally distinct*, das thaten gentes überall in *Middle* u. *Upper Status of Barbarism*, sobald d. *tribes* began to gather in *fortresses* u. *walled cities.* [In the *pueblo houses* in *New Mexico alle occupants of each house belonged to the same tribe u. in einigen Fällen a single joint-tenement house contained a tribe. At Tlascala 4 quarters occupied by 4 lineages, probably phratries etc.*] D. greater portion dieser new admissions united in the *3rd tribe Luceres*, der erst completed unter *Tarquinius Priscus* (*618-578*) dch *Einverleibung einiger neuen Etruskischer gentes.*

Growth d. tribes in Rome under *legislative constraint*, not entirely free from the admixture of foreign elements, hence name *tribus*, 1/3 of the people; Latin language must have had a *term equivalent of Phyle*, became extinct; zeigt heterogeneous elements in Roman tribes, whd griech. Phyle pure. |
89 D. *Senate* d. Romulus mit functions similar to those of the *previous council of chiefs. Jede gens*, sagt Niebuhr, *sent its decurion, who was its alderman* to represent it in the Senate. Also representative u. elective body, blieb elective od. selective bis zum Empire. Office der Senators lebenslänglich, *einziger term of office then known* (wie *farmer bei Anglosaxon mindestens for one life*). *Liv. I, 8* sagt: "Centum creat (Romulus) senatores: sive quia is numerus satis erat; (Kerl vergisst, that there were then only 100 gentes, constituting the tribe der Ramnes); *sive quia soli centum erant*, qui *creari Patres possent.* (Superlativ dies von faselndem Pragmatismus). Patres certe ab honore [Pater, weil chief of gens], *patriciique progenies* eorum appellati."[243] *Cic. de rep. II, 8: "Principes*, qui appellati sunt propter caritatem, *patres.*"[244] D. distinction of *patricians* conferred upon their children u. lineal descendants in perpetuity schufen at once *an aristocracy of rank* in centre d. Roman social system where it became firmly intrenched; this *aristocratic element now for the first time planted in gentilism.* Nach *der union der Sabines* Senat increased to 200 dch addition v. 100 v. tribe der Tities (*Dion. II, 47*) u. when *Luceres* increased to 100 gentes in time der Patricians, a 3d 100 added v. d. gentes dieses tribe; dch *Tarquinius Priscus.*

Liv. I, 35. "Nec minus *regni sui firmandi*, quam augendae re⟨i⟩ publicae

memor *centum in patres legit* (*Tarquin. Priscus*) qui deinde *minorum gentium* sunt appellati: *factio haud dubia regis*, cujus beneficio *in curiam* venerant."[245] Etwas verschieden *Cic. de Rep. II, 20:* "Isque (Tarquinius) ut de suo imperio legem tulit, principio *duplicavit* illum *pristinum patrum numerum* (dies setzt voraus, dass d. alten patres v. 200 auf 150 herabgesunken; waren dann 50 zu ergänzen aus Ramnes u. Tities u. 100 neu zugefügt aus Luceres); et *antiquos patres majorum gentium appellavit* [dies auch *bei Iroquois*, aber mit d. primitiven Bedtg, dass d. minores gentes *Abkommen* der majores, später daher gebildt] quos priores sententiam rogabat; *a se adscitos, minorum.*"[246]

D. Form d. statement shows, dass *jeder Senator representative of a gens;* ferner, da jede gens sicher hatte its *principal chief – princeps* – dies person chosen von gens od. 10 auf einmal *v. d. 10 gentes wählend als curia.* Dies dem Wesen nach auch *Niebuhr's Ansicht.* Nach d. Erric⟨h⟩t⟨un⟩g d. Republik (seit *509 B.C.*) besetzten d. *Censoren* d. Lücken im Senat nach ihrer choice, dies fiel später den *Consules* zu; d. Senators generally *selected* aus *ex-magistrates der higher grades.*

All *public measures originated im Senat*, sowohl die wobei sie unabhängig verfahren konnten, als die die sie der popular assembly zur Adoption to submit. D. Senat hatte *general guardianship of public welfare, management dr foreign relations, levy of taxes and military forces, general control of revenues u. expenditures;* hatte auch oberste *power over religion*, obgleich d. administration der religious affairs den several collegia zufiel.

Assembly of the People (*in dieser Form* unknown in Lower u. whslich auch Middle Status of Barbarism) existed in *Upper Status*, in *agora der Greek tribes* (highest form in *ecclesia der Athener*), u. ebso in d. *assembly of warriors der Latin tribes*, erhielt hier höchste Form in d. *comitia curiata* d. Römer. Letzte bestanden aus d. *adult members der gentes, jede curia* had *one collective vote, majority in each ascertained separately*, determined what that vote should be. (*Liv.* I, 43; *Dion. II, 14*, IV, 20, 84.) Es war d. *assembly der gentes, who alone were members of the government. Plebejans u. clients* – forming already a numerous class, *excluded*, weil keine connection möglich mit *Populus Romanus*, ausser dch a gens and a tribe. *Comitia* did *not originate* public measures, *nor amend* those submitted to them; *nahm sie an od. verwarf* sie; *alle magistrates* u. *high public functionaries*, incl. rex, elected by the comitia *on the nomination of the Senate.* So dch *comitia curiata* elected *Numa Pompilius* (*Cic. de Rep.* II, 11. *Liv.* I, 17), *Tullus Hostilius* (*Cic. de Rep. II*, 17) u. *Ancus Martius* (*Cic. de Rep.* II, 18; *Liv.* I, 32). Mit Bezug auf *Tarquinius Priscus* bemerkt *Livius* (I, 35), dass d. Populus dch great majority ihn zum *rex* ernannte. *Servius Tullius* assumed the office, afterwards *confirmed* by the *comitia* (*Cic. de Rep. II, 21*) – The *Imperium* conferred upon these persons by a *law of the assembly – Lex curiata de imperio* – Roman method of investing with office; vor dieser Uebertragung d. imperium konnte d. person elected nicht ihr office antreten. D. *comitia curiata*, by appeal, had

the *ultimate decision in criminal cases* involving the life of a Roman citizen. *The office of rex abolished by a popular movement.* D. *assembly had no power* to *convene itself;* it is said to have met on the *summons of the rex*, oder in his absence, des *praefectus urbis;* in d. Republik *dch d. consules* berufen, od. in deren absence, dch *praetor;* in allen Fällen präsidirte d. berufende
90 Person über d. deliberations der comitia. | D. *rex* war General u. Priest, aber *ohne civil functions.*

Nach Abschaffung d. Königthums *2 consules* an seine Stelle, wie d. *2 warchiefs der Iroquois.*

D. *rex* as *chief priest* took the *auspices* on field of battle wie in city on important occasions, verrichtete auch *other religious rites.* Nach Abschaffg der Königswrde, ihre *priestly functions übertragen* auf d. neu geschaffne office des *rex sacrorum* od. *rex sacrificulus;* bei *Athenern* analog d. eine d. 9 Archonten, *Archon basileus*, der a general supervision of religious affairs hatte. — D. Romans in diesen 200 years (bis *Servius Tullius*) had experienced the *necessity for written laws to be enacted by themselves als Substitut for usages u. customs;* had created ausserdem a *city magistracy* u. a *complete military system*, including the *institution of the equestrian order.*

Unter d. *new magistrates* created wichtigster that of *warden of the city – custos urbis*, war zugleich *Princeps senatus.* Nach *Dionys.* II, 12 appointed by Romulus. – Nach d. *Zeit d. Decemviri* (*451-447*) dies office changed to *praefectus urbi*, its powers enlarged u. it was made elective by the *new comitia centuriata* [*Census u. comitia centuriata* eingesetzt dch Servius Tullius nach *seiner division des people according to property*.... D. trial of *Coriolan* bewog d. Tribunen to usurp the right of summoning some patricians before the tribunal of the people; hence the *comitia tributa*, either mere assemblies of the commons, or assemblies so organized, that the commons had the preponderance; diese Institution gab d. *tribunes their share in legislation*, those officers being allowed to lay proposals before the commons.]

Unter Republik had d. *consules* u. in their absence *the praetor power to convene the Senate* u. also to *hold the comitia.* Später d. *office of Prätor – Prätor urbanus* (absorbed the functions of the old office des *Praefectus urbi.*) *A judicial magistrate*, prototype of the modern judge, der Roman "*Prätor.*" *Bei Tod d. Romulus d. society noch gentile.*

Pt. II. Ch. XIII. The Institution of Roman Political Society.

578 od. 576-533. Servius Tullius. Seit Romulus röm. Gesellscft gespalten in *Patricians*, constituting the *Populus*, u. *plebejans*, d. *Plebs;* beide *persönlich frei* u. beide entered the *ranks* of the army; *blebejans* aber, nicht einbegriffen in *gentile society*, ausserhalb *the government.* Nach Niebuhr, *d. Existenz* d. *plebs* als anerkannt *freie* u. *sehr zahlreiche Portion* der Bevölkg nachweisbar bis zu reign d. *Ancus Marcius* (640-618). Plebs excluded v. *office, comitia curiata, sacred rites d. gentes* (v. intermarriage mit diesen). Zur Zeit d.

Servius *plebs* fast so numerous[247] wie *populus;* subject to military service, possessing families u. porperty. D. *Constitution der gentile organization schloss sie aus;* hence letztre musste fliegen.

Entstehung d. plebs, i.e., v. *Personen not members of an organized gens, curia, tribe.* Adventurers who flocked to the new city from the surrounding tribes, war captives afterwards set free, unattached persons mingled with the gentes transplanted to Rome, would rapidly furnish such a class; ausserdem might happen that in filling up the 100 gentes of each tribe, fragments of gentes and gentes having less than a prescribed number of persons, were excluded. Aus d. *Epitheton d. Luceres* "Fathers minorum gentium" ersichtlich dass d. old gentes reluctant ihre entire equality anzuerkennen. Nach filling up des 3d tribe mit d. prescribed number of gentes the last avenue of admission closed, wonach d. *Zahl der plebejan class* rasch anwachsend. *Niebuhr* läugnet, dass *clients part d. plebejan* body.

Dionys. II, 8 u. Plut. Vit. Romuli XIII, 16 schreiben[248] Romulus d. *Einrichtung* (!) der *relation v. patron u. client* zu, ditto *Suetonius Tiberius*, c. 1. (Alles was diese 3 sagen beweist gefällig nichts!) [*Morgan's* Behauptung, dass d. *clients* v. Anfang an a *part of the plebejan body* – falsch, Niebuhr right.]

Niebuhr u. andre nehmen an dass d. *entire populus were patricians* ... Nach *Dionysius* II, 8 (vgl. *Plut. vit.* Romuli, XIII) fand Errictg d. *Patrician class vor Bildung* d. *Senats statt;* nur zusammengesetzt aus Personen ausgezeichnet dch Tapferkeit, birth (!) u. wealth. Danach blieben aber noch large class in d. several gentes, die *keine Patricier.*

Cic. de Rep. II, 12. "Quum ille Romuli Senatus, *qui constabat ex optimatibus*, quibus ipse rex tantum tribuisset, *ut eos patres* vellet nominari, *patriciosque*
91 *eorum liberos, tentavit*, etc."[249] | *Liv. I, 8.* "*Patres* certe ab honore, *patriciique progenies eorum appellati.*"[250]

D. Bildg d. Senatoren aus chiefs d. gens schliesst nur ein dass d. gewählten *family chiefs* – u. nur eine *family aus d. vielen der gens* hatte ihr Haupt im Senat, bedingt nur, dass *diese Burschen Patres* u. *nur ihre progenies patricii*, aber nicht *alle members jeder gens*, also *d. ganze populus* (im Gegensatz zu Plebs) wie *Niebuhr* meint. Unter d. reges u. d. *Republik individuals* created *patricians* by the government.

Vellejus Paterculus I, 8: "Hic centum homines electos appellatosque *Patres instar habuit consilii publici. Hanc originem nomen Patriciorum habet.*"[251]

There could be no *patrician gens* u. no *plebejan gens* [notabene später, als gentile society abolished] *particular families in one gens* could be *patrician* u. other *plebejan.* All the adult members of the *Fabian*[252] *gens*, 306, were patricians; could either trace their *descent from senators* or to *some public act*, wdch their *predecessors raised to patriciate.* Vor *Servius Tullius* Romans divided in *Populus u. Plebs;* nachher, namentlich *nach der Licinian legislation* (*367 B.C.*), wdch alle Staatwürden jedem civis zugänglich gemacht, alle

freien Römer in *2 Klassen: Aristokratie* u. *commonalty;* die ersteren bestanden aus *senators* u. *deren descendants* mit denen die eins der *3 curules offices* (*consul, praetor, curulis aedilis*) innegehabt u. deren Nachkommen; d. *commonalty*, nur alle Roman *cives;* d. gentile organization verfiel u. d. old division nicht länger haltbar. Personen, die in d. *ersten Periode* zum *Populus* gehört, gehörten in der 2ten zur *Aristokratie*, ohne Patricier zu sein. *Claudii u. Marcelli* 2 Familien d. *Claudian gens;* d. ersteren *patricii*, (could trace their descent v. *Appius Claudius*) die *2ten Plebejer.*

D. *Patrician class* zahlreich; bei jeder Lücke *neuer Senator* gewählt, conferred patrician rank auf ihre Nachkommen; others v. Zeit zu Zeit zu patriciis gemacht dch act of the state. (*Liv.* IV, 4).

Schatten d. alten Unterscheidg v. *Populus u. Plebs* blieb: "*A plebe consensu populi* consulibus negotium mandatur."[253] (*Liv. IV, 51*). *Numa* (*717-679* B.C.), der Nachfolger d. Romulus, tended to *traverse the gentes*, dch Eintheilung d. Volks in Klassen (wie Theseus), some 8 in number, entsprechend to their arts u. trades.

Plutarch. Numa c. 17, "*Numa* bedachte nun, dass man auch *Körper*, die ursprünglich unmischbar u. spröde sind, *dch Stampfen* u. Zerstossen in Verbindung bringe, weil *kleine Theile sich eher vereinen.* Daher beschloss er dann d. gesamte Menge in *mehre Theile* zu scheiden, u. dch *Hervorbringung neuer Verschiedenheiten jene erste grosse gleichsam in kleinere* zu zersplittern u. *eben dadurch aufzuheben.* Er theilte also das Volk *nach den Gewerben* in *Fl⟨ö⟩tenspieler* (αὐλητῶν), *Goldarbeiter* (χρυσοχόων), *Zimmerleute* (τεκτόνων), Färber (βαφέων), *Schuster* (σκυτοτόμων), *Gerber* (σκυτοδεψῶν), *Schmiede* (χαλκέων), u. *Töpfer* (κεραμέων). Die *übrigen Gewerbe* vereinigte er mit einander, u. bildete *aus allen zusammen eine Zunft.* Dch d. Gemeinschaften, Zusammenkünfte u. gottesdienstlichen Feierlichkeiten, die er für jede Zunft nach Gebühr anordnete, brachte er es in der Stadt dahin, dass d. *Unterscheidung zwischen Sabinern u. Römern, zwischen Bürgern des Tatius u. Bürgern des Romulus völlig aufgehoben wde, so dass diese Absonderung eine Vereinigung* u. Verschmelzung Aller mit Allen bewirkte." Da diese classes aber nicht invested mit d. powers exercised by the gentes, the measure failed.

[Aber nach d. Darstellung d. Plutarch's handelt es sich um "Bürger des Romulus" (Latins) u. *Bürger* d. Tatius (Sabiner); dies würde d. *gentes* als hauptsächlich *Handwerktreibende* stempeln! wenigstens die in *der Stadt.*]

Servius Tullius Periode 576-535 B.C. folgt closely der d. Solon (*596 B.C.*) u. *vor der des Cleisthenes* (*509 B.C.*). Seine Constitution modeled nach der des Solon; was in *practical operation* bei Errichtg der Republik (509 B.C.) D. *Hauptchanges, setting aside the gentes* u. inaugurating *political society*, were: 1) *substitution of classes* formed nach individual wealth; 2) *comitia centuriata*, the new popular assembly, statt *comitia curiata*, assembly der gentes; 3) *creation of 4 city wards*, circumscribed by metes and bounds, u. named as *territorial areas*, wo d. *residents of each ward required to enroll their names and register their property.*

Servius[254] divided the *whole people in 5 classes* nach *value of their property*, wovon effect to *concentrate in one class* the *wealthiest men of the several gentes.*
92 *Property qualification* war für *1ste class* | *100,000* asses; *2t class* 75,000; *3t class* 50,000; *4t cl.* 25,000; *5t class* 11,000 asses (Livy, I, 43).[255] *Dionysius* fügt *6t class* hinzu, *consisting* of *one century mit 1 vote;* composed of those *without property* or less than required for *admission in 5. class*, paid no taxes u. dienten nicht in Krieg. (*Dionys.* IV, 20) (einige andre differences zwischen Dionys. u. Livius).[256] *Jede class subdivided in centuries*, deren *Anzahl* willkührlich, ohne Rücksicht auf Personenzahl in der class, with *one vote to each century* in d. *comitia.* So *1ste class* zählte *80 centuries*, hatte *80 votes* in the *comitia centuriata; 2t class*, 20 centuries, wozu *2 of artisans* attached, mit 22 votes; *3d class*, 20 centuries mit 20 votes; *4th class*, 20, wozu 2 centuries of *hornblowers* and *trumpeters*, 22 votes; *5th class* of 30 centuries mit 30 votes. Ausserdem *Ritter* mit *18 centuries* u. ebensoviel votes. Dadurch *government*, so weit beeinflussbar dch d. popular assembly, *comitia centuriata* – in *hands der 1sten class* u. *der equites*, hatten *zusammen 98 votes*, majority d. whole. Die *centuries jeder class* divided into *seniors*, über 55 Jahr, charged mit duty as soldiers of defending the city, u. *juniors*, *v. 17 Jahren bis 54 Jahr inclus.*, charged with external military enterprises. (Dionys. IV, 16). Jede centurie *agreed upon its vote separately* when assembled in the comitia centuriata; in *taking a vote* upon any public question, *equites* called first, then the *1st class.* Stimmten sie überein in ihrem vote, then the *question decided*, u. d. *übrigen centuries nicht cal⟨l⟩ed upon to vote;* wenn they disagreed, *2nd class* called upon u. sf. D. *Rechte d. comitia curiata*, etwas erweitert, übertragen auf d. *comit. c⟨ent⟩uriata; elected all officers* and *magistrates upon the nomination of the Senate; enacted or rejected laws proposed* dch letzteren; *repealed existing laws* auf *sein* Verlangen, wenn's ihnen gefiel; *declared war auf seine recommendation*, aber *Senat schloss* Frieden ohne sie zu consultiren. An *appeal to the comitia centuriata in all cases involving life;* they *had no control* (die comit. centur.) *over finances.* – *Property, not numbers, controlled the gvt. Meetings of the comitia jährlich* held in *Campus Martius* für *Wahl* v. *Magistrates u. officers* u. zu andern Zeiten, wenn nöthig. Volk *assembled by centuries* u. by *classes under their officers, organized as an army* (*exercitus*); centuries u. classes designed for *civil* u. *military organization.* Bei erster Musterung unter Servius Tullius *80,000* in *Waffen* in Campus Martius, jeder Mann in seiner century, jede century in ihrer Klasse, jede Klasse besondert (*Liv. I, 44; Dionys.*, der 84,700 zählt, IV, 22.)

Jedes member einer Centurie nun *civis Romanus;* dies d. Hauptresultat.

Nach *Cicero, De Rep. II, 22* wählte Servius Tullius d. *Equites* from the common mass of the people, (langte sich d. Reichsten heraus) u. divided the remainder into 5 classes.

The property classes subserved the useful purpose of breaking up the gentes, which had become *close corporations*, excluding the mass of the population. The

5 classes, mit some modification of the manner of voting, remained to the end of the republic. *Servius Tullius* soll auch instituirt haben d. *comitia tributa*, a separate assembly of each *local tribe* or ward, deren chief duties relating to the *assessment and collection of taxes* u. to furnishing *contingents of troops*. Später elected dies assembly d. *tribunes of the* people.

Einer d. ersten acts des Servius – der *Census*. "*Censum enim instituit, rem saluberrimam* tanto futuro imperio; exquo *belli pacisque munia non viritim ... sed pro habitu pecuniarum* fierent." (*Liv. I, 42*)[257] Jede Person hatte sich selbst to enroll *in ward* of his residence, with statement of amount of his property, geschah in Gegenwart von Censor; *the lists when completed furnished the basis upon which the classes were formed. Creation of 4 city wards* gleichzeitig. Circumscribed by boundaries u. mit eignen Namen; such *Roman ward* a *geographical area*, mit a registry of citizens u. their property, a local organization, a tribune u. other elective officer u. with an assembly – aber nicht wie *Attic deme zugleich polit. body* mit complete self-
93 government, elective magistracy, judiciary u. priesthood. | Dies *Roman ward* a newer copy of the previous Athenian *naucrary*, die wahrscheinlich auch ihr model war. *Dionys. IV, 14* sagt, dass nachdem Servius Tullius inclosed the *7 hills mit one wall*, he divided *the city into 4 parts:* 1) *Palatina*, 2) *Suburra*, 3) *Collina*, 4) *Esquilina* (früher hatte d. city 3 parts); sie hätten nun zu diesen (diese Theile) statt nach φυλὰς τὰς γενικάς nach φυλὰς τὰς τοπικάς;[258] setzte sie commanders über *jeden tribe* as *phylarchs* u. *comarchs*, whom he directed to note what house each inhabited. Nach *Mommsen* hatte jeder dieser 4 levy districts to furnish the *4th part nicht nur of the force as a whole*, sondern *von jeder ihrer militair*⟨ischen⟩ *Unterabtheilungen* u. *jede century* zählte *gleiche Zahl von Conscribirten from each region*, to merge all *distinctions of gentile* u. *local nature into one common* u. dch influence of military spirit to bind *meteoci* u. *burgesses* into one people.[259]

Ebenso d. Umgegend, under the government of Rome, *organized* in *tribus rusticae*, nach einigen 26, nach andern 31, mit d. 4 city tribus in einem Fall 30, im andern 35. These *townships* did *not become integral* in the *sense of participating in the administration of the government.*

The *overshadowing municipality of Rome* made the *centre of the State.*

Nach Einführung d. new polit. system behielten d. *comitia curiata* noch, (ausser religiösen curia dreck inaugurated certain priest⟨s⟩ –) it[260] *conferred the imperium upon all the higher magistrates*, became in time a matter of form only. – *After 1st Punic War* verloren sie alle Bdtg u. fell soon in oblivion; ebenso d. *curiae* – beide *superseded rather than abolished.* Gentes blieben lang ins empire hinein, as a *pedigree u. a lineage.*

The element of property, which has controlled society to a great extent *during* the *comparatively short period of civilization*, gab mankind *despotism*, *imperialism*, *monarchy*, *privileged classes* u. finally *representative democracy.*

Pt. II. Ch. XIV. Change of Descent von Female to Male Line.

1) *Female descent: Female ancestor* u. *her children* (*sons u. daughters*); *children*

of her daughters, and of her *female descendants through females*, in perpetuity. (*Children of her sons*, and of her *male descendants*, through males were excluded.) Dies bildet archaic gens.

2) *Descent in male line:* gens consists of a *supposed male ancestor* u. *his children*, together mit d. *children of his sons* and of his *male descendants* through males in perpetuity.

Bei change v. (*1*) *zu* (*2*) blieben alle *present members der gens* Mitglieder derselben, nur in future *all children*, whose fathers belonged to the gens, *should alone remain in it u. bear the gentile name*, while the *children of the female members should be excluded.* This would not break or change the kinship or relations of the existing gentiles; but thereafter it would *retain in the gens the children it before excluded*, and *exclude*[261] *those it before retained.*

So lang *descent* in *female line:* 1) *Marriage in the gens prohibited;* hence *children in another gens than that of her reputed father.* 2) *Property and the office of chief hereditary in the gens:* thus *excluding children from inheriting the property or succeeding to the office of their reputed father.* – Sobald *change of condition* (dch Entwicklg v. individual property u. monogamy namentlich) such, dass diese *exclusions "ungerecht"* erschienen, – change of descent *effected.* [*Private property in flocks* u. *herds* u. nchdem tillage had *led to the ownership of houses u. lands in severalty.*] With *property accumulating in masses and assuming* permanent forms, and *with an increased portion of it held by individual ownership, descent in the female line* [v. wegen inheritance] certain of overthrow. *Change to descent in male line* would *leave the inheritance in the gens as before*, but it *would place children in the gens of their father* u. at *the head of the agnatic kindred.*

Probable, that when *descent changed to the male line*, or still earlier, *animal names for the gentes laid* aside and personal names substituted in their place. After this substitution, the *eponymous ancestor became a shifting person.*

The more celebrated Grecian gentes made the change of names; they *retained the name of the mother of their gentile father* and *ascribed his birth to her embracement by some particular god.* So *Eumolpus*, d. eponymous ancestor
94 der *Attic Eumolpidae*, was the *reputed son of Neptune u. Chione.* | *440 B.C. Herodot:* sagt v. d. *Lycians* (von denen er erzählt, dass sie sprang from Creta, u. nach Lykia gewandert unter Führung d. Sarpedon; dass "ihre customs partly *Cretan*, partly *Carian.*" "*Die Lykier* haben eine *sonderbare Gewohnheit* worin sie abweichen von *jeder andern Nation in der Welt.* Frage einen Lykier *wer er ist* u. er antwortet indem er *seinen Eigennamen* giebt, den *seiner Mutter u. so on in the female line.* Ferner, wenn eine *freie Weibsperson* einen *Mann* heirathet, der ein Sklave ist, so *sind ihre Kinder freie Bürger;* aber wenn *ein freier Mann ein ausländisch Weib heirathet*, oder cohabits *with a concubine*, selbst wenn er die first person im Staat ist, *the children forfeit all the rights of citizenship.*"[262]

Now cfr: Wenn ein *Seneca-Iroquois* ein *fremdes* Weib heirathet, sind seine

Kinder *aliens;* aber wenn ein⟨e⟩ *Seneca-Iroquois* Weibsperson einen *Fremden* heirathet, od. einen *Onondaga*, sind *ihre Kinder Iroquois* of the *Seneca tribe* u. of the *gens* u. *phratry ihrer Mutter.* D. Frau *überträgt ihre nationality u. her gens auf ihre Kinder*, whoever their father.

Flgt aus Herodot's Stelle, dass d. *Lykier* organized in *gentes* (of archaic form), hence mit *descent in female line.*

D. *aborigines v. Creta* (Kandia) waren *Pelasgian, Semitic u. Hellenic tribes, living locally* apart. Minos, der brother des Sarpedon, gilt als head der Pelasgians in Creta; d. *Lykier* zu Herodot's Zeit ganz hellenisirt, conspicuous, *unter d. Asiatic Greeks*, for their advancement. D. *Insulation ihrer Vorfahren* auf Creta-Insel, vor ihrer migration in the legendary period to Lycia mag erklären ihre *retention of the female line* in this late period.

Etrusker [nach *Cramer: Description of Ancient Italy* (dieser selbst quotes *Lanzi*)], wie wir aus ihren Monumenten sehn, "liessen ihre *Weiber* zu ihren Festen u. Banquets zu; sie *beschreiben ihre parentage u. family* invariably *with reference to the mother*, and *not the father.* Dieselben 2 customs noticed *von Herodot bezüglich der Lykier u. Caunians* v. *Asia Minor.*"

Curtius (*Griech. Geschichte*) commenting on *Lycian, Etruskan u. Cretan descent in female line*, sagt: dies wurzle in d. *primitive conditions of society*, als Monogamie noch nicht etablirt hinreichend to assure *descent on the father's side.* D. Gebrauch erstreckt sich daher weit über *Lycian territory;* occurs heut noch *in Indien;* existirte unter *den alten Aegyptern;* mentioned by *Sanchoniathon* (p. 16, Orell); bei *Etruskans, Cretans*, who called their *fatherland - Motherland* [noch immer sagt jeder: *Mutterzunge*, Fatherland; d. *Sprache* gehört immer noch der Mutter.] D. Stelle bei Herodot beweist nur, dass sich d. customs of descent in female line von allen related to the Greeks u. am längsten unter d. Lykiern erhalten.... As life became more regulated, *relinquished* u. *naming children after their fathers* became *general in Greece. Cf. Bachofen Mutterrecht, Stuttgart 1861.*

Bachofen (*Mutterrecht*) has collected u. discussed the evidence of *Mutterrecht* u. *Gyneocracy* unter *Lykiern, Cretern, Athener, Lemniern, Aegypter, Orchomenians, Locrians, Lesbians* u. unter *östlichen Asiatischen Nationen.* Dies aber setzt voraus – gens *in its archaic form;* diese would give the *gens of the mothers* the ascendancy in the household. D. family – whsclich schon in *syndyasmi⟨a⟩n form* – noch environed mit *d. remains of conjugal system of still earlier condition.* Such family – a married pair with their children – mit kindred families *in a communal household* wo d. *several mothers u. ihre Kinder of the same gens*, the *reputed fathers* dieser children *of other gentes.*

Common lands u. joint tillage would *lead to joint-tenement houses and communism in living; gyneocracy* unterstellt für Entstehung – *descent in the female line* producirt. *Women entrenched in large households, supplied from common stores, in which their own gens largely predominated in numbers....* When descent *changed to male line mit monogamian family* the *joint-tenement house displaced,*

stellte in midst einer *rein gentile society* the wife and mother in *a single house* u. *separated her from her gentile kindred.*

Bachofen sagt v. *Cretan city* of *Lyktos:* diese Stadt wde betrachtet als *lacedämonische Colonie* u. auch als *related to the Athenians;* war in beiden Fällen so *on the mother's side, denn nur d. Mütter waren* spartan. *Abkunft.* D. *Athenian Verwandtschaft* geht zurück auf *Athenische Weiber* welche d. *Pelasgian Thyrrhenians from Brauron promontory* enticed haben sollen. – Mit *descent in male line*, bemerkt treffend Morgan, wde d. *lineage d. women unberücksichtigt geblieben sein;* aber mit female line gaben d. *Colonists their*
95 *pedigrees through* | *females only.*

Monogamy unter Greeks probably nicht *vor Upper Status of Barbarism.* Wie pragmatisch u. als echter deutscher Schulgelehrter Bachofen selbst d. Sache auffasst, sichtbar aus folgenden passus:

Denn *vor der Zeit des Kekrops* hatten d. Kinder *nur eine Mutter, keinen Vater;* they *were of one line.* An keinen Mann ausschliesslich gebunden, brachte das Weib nur *spurious* (!) children zur Welt. *Kekrops* (!) machte (!) diesem Zustand der Dinge ein Ende; *brachte zurück* (!) die *lawless* (!) *union of sexes* zur *Exclusivität der Ehe, gab* d. Kindern einen *Vater* (!) u. *eine Mutter* (!) u. machte sie so from *unilateres – bilateres.*" (machte sie *unilateres* in *male line of descent*!)

Polybius XII. extract II: "Die *Lokrier* selbst [d. *100 families of Locrians in Italy*] haben mich versichert dass ihre eignen traditions mehr dem Bericht des Aristoteles entsprechen als dem des Timäus. Geben dabei folgde Beweise.... Alle *nobility of ancestry* ist unter ihnen *von Weibern* abgeleitet u. *nicht von Männern.* Die allein sind *noble*, die ihren Ursprung *von d. 100 families ableiten;* diese families were noble unter d. Locrians *vor ihrer Wanderung;* u. waren in d. That dieselben von denen dch Loos 100 virgins taken, wie d. Orakel befohlen hatte, u. die nach Troja gesandt wurden."

Wahrscheinlich d. hier erwähnte *Rang* (Adel) connected mit *office of chief of gens*, ennobled d. *besondre Familie innerhalb der gens*, auf eines deren Glieder conferred; dies implicirt *descent in the female line both as to persons u. office;* d. office of chief *hereditary in the gens* u. *elective unter its male members in archaic times;* mit descent[263] *in female line passes v. Bruder zu Bruder* u. von *Onkel zu Nephew* (*Schwestersohn*).[264] Aber office[265] stets passed through females, the eligibility der Person depending upon the *gens of his mother*, who *gave him connection with the gens* u. the defunct chief whose place he was to fill. Wo *office u. rank runs through females*, it *requires descent* in *the female line* for its explanation.

In *traditionary period d. Greeks: Salmōneus u. Krētheus* own brothers, *Söhne des Aeolus.* Der erstere gab seine Tochter *Tyrō* in *Ehe ihrem Onkel.* Mit *descent in male line Krētheus* u. *Tyrō* of the same gens, hätten nicht heirathen können; mit *descent in female line* Tyrō of *gens ihrer Mutter*, nicht ihres Vaters. Salmōneus, also of *different gens* als Krētheus; d. Heirath also within gentile usage. D. *mythische Charakter d. Personen* gleichgültig, the

legend applies gentile usages correctly; zeigt also hin auf *descent in female line* im hohen Alterthum (*griechischer*)
Nach der Zeit d. Solon konnte ein *Bruder seine Halbschwester heirathen*, wenn *sie born of different mothers*, nicht aber when born of *different fathers* and *same mother*. Mit descent in female line, they would be of *different gentes*; aber in *male descent line* – u. diese existirte damals faktisch – of *the same gens*, ihre Heirath daher verboten. [*Dies also Ueberleben der alten praxis, surviving the change of descent to the male line.*] *Cimon* heirathete seine Halbschwester *Elpinice*, vom selben Vater, aber verschiednen Müttern. Im *Eubulides* des *Demosthenes* sagt *Euxithius:* ἀδελφὴν γὰρ ὁ πάππος (*grandfather*) οὑμὸς ἔγημεν οὐχ ὁμομητρίαν [266] (*nicht von derselben Mutter*) *Vgl. id. Eubulides 24.*
Descent in the female line presupposes the gens to distinguish the lineage; war – [wozu gar keine histor. evidence weiter nöthig, nachdem dies als *archaic form* entdeckt] – ancient law d. *Latin, Grecian u. other Graeco-Italian gentes.*
Annehmend Zahl of *registered Athenians zur Zeit Solon's* = 60,000 u. dividing them equally unter d. *360 Attic gentes* gäbe average *von 160 persons to gens.* D. *gens was a great family* (nenne es *Geschlechtsfamilie*) of kindred persons, with *common religious rites, common burial place*, u., in general, *common lands. Intermarriage verboten.* Mit *change of descent to male line, rise of monogamy, exclusive inheritance in the children* u. *appearance of heiresses* way gradually prepared *for free marriage regardless of gens*, except *prohibition für certain degrees naher Blutsverwandtschaft. Marriages* began *in the group, alle males u. females of which – ausschliesslich der Kinder – were joint husbands u. wives;* aber *husbands u. wives* were of *different gentes;* it ended [267] in *marriage*
96 *between single pairs* with a⟨n⟩ (*officially*) *exclusive cohabitation.* |
D. *Turanian Verwandtschaftsystem* (*Asien, Africa, Australien*) [entsprechend dem *Ganowánian* in *America*] muss auch unter *Greek* u. *Latin tribes* in selber Entwicklungsperiode geherrscht haben. Ein *Characterzug derselben:* die *Kinder von Brüdern sind selbst Brüder u. Schwester*, als solche nicht intermarriable; d. *Kinder von Schwestern* in demselben Verhältniss, *unter selber prohibition.* [Wenn *Bachofen* diese punuluan Ehe *lawless* findet, so finde Mann aus dieser Periode d. *meisten jetzigen Ehen* zwischen nahen u. fernen Cousins, sei es väterlicher, sei es mütterlicher Seite, *blutschänderisch*, nämlich als *Ehen zwischen* blutsverwandten Geschwistern.] Dieses erklärt d. Legende d. *Danaiden* (worauf *Aeschylus* seine "*Schutzflehenden*" gegründet).
Danaus u. Aegyptus waren *Brüder* u. descendants der Argivischen *Io. Danaus*, von different wives hatte *50 Töchter* u. *Aegyptus 50 Söhne;* letztere sought the first in marriage; diese nach *Turanian System – Brüder u. Schwestern*, unverheirathbar. Wenn damals *descent in male line* hätten sie auch zur *selben gens* gehört, andres Heirath obstacle. Die *50 Danaus Töchter* – Danaiden – *fliehn v. Aegypten nach Argos*, um dem unlawful u. blutschänderischen

wedlock zu entfliehn. Dies event foretold to Io von Prometheus. (*Aeschylus*, ⟨Prometheus⟩ *853*).
In d. *Schutz flehenden* v. *Aeschylus* erklären d. Danaiden den *kindred Argives* (in Argos), sie seien nicht verbannt worden von Aegypten, sondern:

"Δίαν δὲ λιποῦσαι χθόνα σύγχορ-
τον Συρίᾳ φεύγομεν, οὔτιν' ἐφ'
αἵματι δημηλασίαν ψήφῳ πόλεως
γνωσθεῖσαι ἀλλ' αὐτογενεῖ φυξα-
νορίᾳ γάμον Αἰγύπτου παίδων
ἀσεβῆ ὀνοταζόμεναι ⟨παράνοιαν⟩"
(*Aesch. Suppl. v. 5 sq.*)

σύγχορτον = *conterminam, da* χόρτος (hortus, cursus) auch = terminus. So χόρτος αὐλῆς, ὁ τῆς αὐλῆς ὅρος, die *Grenze des Hofes*. So *Eurip. Andromache* v. 17: "σύγχορτα ναίω πεδία", Ich bewohne *angrenzende Felder* (*Ebnen*).

Nicht wegen Blutthat (Mord) dch Volksverbannenden Beschluss verurtheilt, *sondern aus Männerfurcht*, die *blutsverwandte u. unheilige Ehe der Söhne des Aegyptus verschmähend.*
Die Stelle scheint verdorben *grammatice*. Sieh *Schütz*, "*Aeschylus*", *vol. 2*, p. 378.
Nur wenn sie den casus der Hiketiden gehört, beschlossen d. *Argiver in Council ihnen Schutz zu gewähren*, was implicirt Existenz von Verbot solcher Ehen u. the validity of their objection. Zur Zeit wo diese Tragoedie aufgeführt in Athen *erlaubte u. forderte selbst d. Athenische Gesetz marriage between children of brothers* in case of *heiresses u. orphans*, obgleich diese Regel auf solche Ausnahmsfälle beschränkt scheint.

Pt. II. Ch. XV. Gentes in other tribes of the Human Family.
Celtic branch d. Aryan family (*ausser deren of India*) hielt länger als irgend andre d. *Gentile Organization* bei; – *Scottish Clan* in d. *Highlands of Scotland – feuds u. blood revenge, localization by gentes, use of lands in common, fidelity of clansman to his chief* and *members of the Clan to each other. – Irish sept* [*Celtisch: Villein – Communities on French Estates.* Andrerseits: *Phis or Phrara of Albania;* d. *Familiengemeinschaften in Dalmatien u. Croatien.* Die *Sanscrit* "*Ganas*" ("*gentes.*")
Germans: were in *Upper Status of Barbarism*, when first known to the Romans, konnten kaum mehr developed ideas of government haben als Römer u. Griechen, wenn ⟨the latter were⟩ first known.
Tacitus. De Moribus Germanorum, c. 2. "*Celebrant carminibus antiquis, (quod unum apud illos memoriae et annalium genus est), Tuistonem* deum, terra editum, et *filium Mannum* originem gentes conditoresque. *Manno tris filios* adsignant, e quorum nominibus *proximi Oceano – Ingaevones, medii – Herminones, ceteri – Istaevones* vocentur. Quidam, ut in licentia vetustatis, pluris deo ortos *plurisque "gentis" (tribe) appellationes, Marsos Gambrivios Suebos Vandalios* adfirmant, ⟨eaque vera et antiqua nomina⟩. Ceterum *Germaniae vocabulum recens et nuper additum;* quoniam qui primi Rhenum transgressi *Gallos expulerint* ac nunc *Tungri*, tunc *Germani* (*Wehrmann*,

guerriers) vocati sint; ita "*nationis*" *nomen, non gentis evaluisse* paulatim, ut omnes primum a victore ob metum, mox⟨etiam⟩ a se ipsis invento nomine
97 Germani vocarentur."[268] | (*natio* muss hier = *confederacy of tribes* sein; jeder *tribe* = *gens* segmentated in mehre gentes. "⟨*Suevi*⟩ majorem⟨enim⟩ Germaniae partem obtinent, *propriis ad huc nationibus nominibusque discreti.*" (*Tacit. Germ. c. 38.*);[269] d. *nationes* sind hier verschiedne *näher related tribes* od. auch *tribes* (wie z.B. Seneca-Iroquois etc), auf keinem[270] Fall gentes.)
Lipsius interpretirt: Die, qui transgressi primitus Rhenum sint,[271] sind eben d. Volk, das jetzt *Tungri*, damals *Germani* genannt wurden. Dieser (d. Name "*Germani*") Particularname einer *einzigen Natio*, nach u. nach *auf alle* übertragen. Meint umgekehrt: "ita *nationis nomen*, non *gentis* evaluisse paulatim": der Name prevailed nach u. nach, *nicht als der einer gens* (hier für erweiterte gens = tribe) sondern als *nationis nomen*, wo *natio* d. ganze deutsche Volk, alle tribes zusammen ist.]
Dass *alte Gesänge* ihre einzigen *historical accounts* ("*memoriae*") u. *Annalen*, so fanden es d. *Spanier* bei the village Indians. *Eginhartus*, "*Vita Caroli Magni*": "Barbara et antiquissima carmina quibus vetum regum actionis et bella canebantur, scripsit, memoriaeque mandavit."[272]
Jornandes "*de Gothis*" ⟨quemadmodum et⟩ in priscis eorum carminibus poene storicu ritu⟨in commune re⟩colitur etc.[273]
Tacit. lib. II. Annal. de Arminio: "*Caniturque* adhuc barbaras apud gentes.[274]
Julianus in "*Antiochico*" nennt diese cantus "ἄγρια μέλη (agrestia carmina) παραπλήσια ταῖς κλάγγαις τῶν τραχὺ βοώντων ὀρνίθων (similia clangoribus avium aspere clamantium)[275]
Tacitus l.c. (*German.*) c. 3, spricht dann v. ihren *Kriegsgesängen:* "Sunt illis *haec quoque carmine, quorum relatu*, (durch deren *delivery;* Art sie auszuschreien] ⟨quem barditum vocant⟩ accedunt animos.[276] *barditus für baritus* von Old German *bar, baren*, raise the voice. Tacitus confounds the *battle cry* mit d. *battle song.*
Tac. German. c. 5 beschreibt: "*Terra* ... aut *silvis horrida, aut paludibus foeda satis* (ablat. von sat) *ferax* (fruchtbar an Korn), *frugiferarum arborum impatiens: pecorum fecunda* (abondant en bétail) sed plerumque *improcera* (nicht tall, klein): ne *armentis* (Ochsen) quidem suus honor (d. *Horn*), aut gloria frontis; *numero gaudent* (le nombre de domage), *eaque solae et gratissimae opes sunt* (sind ihr einziger Reichthum, den sie am meisten schätzen) ... *possessione et usu* (Edelmetallen) haud perinde afficiuntur. (*Haud perinde*, nicht gleich d. Römern, nicht so sehr als.) Est videre apud illos *argentea vasa*, legatis et principibus eorum muneri data, non in alia vilitate quam quae *humo* (Erde, Lehm, Thon) finguntur, quamquam *proximi* (die an d. *röm. Grenzen Wohnend*) *ab usum commerciorum aurum et argentum in pretio habent, formasque quasdam nostiae pecuniae agnoscunt atque eligunt: interiores simplicius et antiquius permutatione mercium utuntur.* Pecuniam probant veterem *et diu notam, Serratos* (von *serra* = *Säge*, waren

nämlich so indentirt) *Bigatosque* (v. *biga*, hatten empreinte d'un char attelé de deux chevaux). *Argentum* quoque magis quam aurum sequuntur, nulla affectione animi, sed quia *numerus argenteorum* (argentei numi, silver coils) *facilior usui est promiscua ac vilia mercantibus.*"[277]

Tac. Germ. c. 7. "*Reges* (d. chiefs of the tribes) *ex nobilitate* (i.e. aus gens, i.e. aus more illustrious family of a gens u. mehr prominent gens), *duces* (*the chief warriors*) *ex virtute* sumunt (wie d. *Iroquois*). Nec regibus infinita ac libera potestas; et *duces exemplo potius quam imperio* admiratione praesunt."[278]

c. XI. "De minoribus rebus principe consultant; *de majoribus omnes* etc." (*see d. weitere*).[279]

c. XII. "Licet *apud concilium accusare quoque* et discrimen capitis intendere.... *Eliguntur in isdem conciliis et prncipes, qui jura per pagos* (Gaue) *vicusque* (bourgades) reddunt; *centeni singulis ex plebe comites concilium simul et auctoritas* adsunt.[280]

c. XX. "*Sororum filius idem apud avunculum* (Oncle) qui *apud patrem* honor. *Quidam sanctiorem artioremque hunc nexum sanguinis tenent arbitrantur* et *in accipiendis obsidibus magis exigunt, tamquam* (ziehn d. nephews d. Söhnen vor) et *animam firmius et domum latius teneant. Heredes tamen successoresque sui cuique liberi*, et *nullum testamentum.* Si liberi sunt, proximus gradus in
98 possessione fratres, patrui, avunculi."[281]

Caesar, de bello gallic. VI, c. 22.

"*Agriculturae non student, maiorque pars eorum victus in lacte, caseo, carne consistit.* Neque quisquam *agri modum certum aut finis habet proprios:* sed *magistratus* ac *principes* in annos singulos *gentibus cognationibusque hominum, qui* cum *una coierunt*, quantum et quo loco visum est *agri attribuunt atque anno post alio transire cogunt.* Eius rei multas adferunt causas: ne assidua consuetudine capti studium belli gerendi agri cultura commutent; ne *latos finis parare studeant, potentioresque humiliores possessionibus expellant;* ne *accuratius* ad frigora atque *aestus vitandos aedificent; ne qua oriatur pecuniae cupiditas*, qua ex re factiones *dissensionesque* nascuntur; ut *animi aequitate plebem contineant, cum suas quisque opes cum potentissimis aequari videat.*"[282]

ib. c. XXIII:

Civitatibus maxima laus est *quam latissime circum se vastatis finibus solitudines habere.* Hoc proprium virtutis existimant, *expulsos agris finitimos cedere neque quemquam prope audere consistere; simul hoc se fore tutiores arbitrantur, repentinae incursionis timore sublato.* Cum bellum civitas aut inlatum defendit aut infert, *magistratus qui ei bello praesint*, ut vitae necisque habeant potestatem, deliguntur. *In pace nullus est communis magistratus*, sed *principes regionum atque pagorum inter suos ius dicunt controversiasque minuunt.*[283] D. *principes regionum u. pagorum* – d. *Sachem* – sind nicht d. *warchiefs*, sondern *civil chiefs* wie bei Indians; für d. *Krieg* werden sie gewählt, wie dort ditto. [Dies zu Caesar's Zeit.] *Caesar* spricht oben von "*gentibus cognationibusque hominum, qui una coierint.*" D. Aecker jährlich vertheilt von d. principes.

Tacit. Germ. VII, wo er von Armeeformation spricht. "nec *fortuiter conglobatio turmam* (Reiterschwadron) aut *cuneum* (Infanteriekeil) facit, sed *familiae et propinquitates;*[189] hier tritt schon mehr *familia* hervor, aber bei *Cäsar* ist diese selbst bestimmt als gens.

Ibid. *XXVI.* "*Faenus agitare* et in *usuras extendere ignotum;* ideoque magis servatur quam si vetitum esset. *Agri* (les terres), pro numero *cultorum* (en raison du nombre der Bebauer Cultor, der bras), *ab universus* (par tous les peuplades) *per vices* (successivement) occupantur, quos mox inter se *secundum dignationem* (bei *Cäsar noch gleich*), partiuntur *facilitatem partiendi camporum spatia praestant. Arva* (*arable field*, cultivated land) *per annos mutant*, et *superest ager;* nec enim cum ubertate et amplitudine soli *labore contendunt*, ut *pomaria conserant* (so dass sie planteraient des vergers), et *prata separent* (od. feraient exclure les prairies) et *hortos rigent* (od. aroseraient des jardins): *sola terrae seges imperatur* (Ils ne demandent à la terre que du blé.)"[284]

D. *Mark u. Gaueintheilung* (pagus) scheinen groups of settlements associated with reference to military levies; *transitional stages*, diese organizations, between a gentile and a political system, the grouping of the people still resting on consanguinity.

Nach der *form d. statement* bei Cäsar scheint d. family *syndyasmian gewesen zu sein.*

PART II

MARX'S EXCERPTS FROM JOHN BUDD PHEAR, *THE ARYAN VILLAGE*

128 *Sir. J. Phear: "The Aryan Village in India and Ceylon". 1880.*
I) *Modern Village Life in Bengal.* (Bis wo d. *Gegentheil* angezeigt, d. Zeug Abdrucke v. Artikeln *in Calcutta Review für 1874*, July and October numbers.
Was der Mann beschreibt, ist "*agricultural village*" im *Deltaic Bengal;* von d. sea lines der Sunderbunds on the South, to the curve, which, passing through Dacca, Pubna, Moorscheedabad forms the *lower boundary of the red land of the North*, the whole country ist *almost perfect alluvial plain;* exhibits generally *large open spaces*, oft very large, limited to the eye by heavy masses of foliage. Diese open spaces, during the height of the South-West Monsoon *more or less covered with water*, at the *end of the rains* by green waving swarths of *rice*, u. in *dry season* to a large extent *fallow ground*, varied by *plots of the* different *cold weather* (*rabi*) *crops.* (3, 4) Fast *no roads*, ausser a *few trunk roads of communication* zwischen the capital u. district towns, sonst only *irregular tracks*, sometimes traversable by wheels, along the *balks* (or *ails*) which divide and subdivide the soil into small cultivated patches or *khēts.* Die wenigen sonstigen roads sind *kachcha* (d.h. *unmetalled*) ausser in dry season. (*West Bengal* – im Gegensatz zu deltaic Bengal – *relatively high land*) liegt ausserhalb des Delta, below the *Ghats*, something like roads through and about the large villages, obgleich oft not fitted for wheel traffick. (p. 4) Als *main roads* for locomotion u. carriage of goods dienen innumerable *khāls* (canals), branching out from *Hooghly*, *Ganges*, *Pudda*, *Megna etc. rivers*, intersecting the country in all directions. (5) Ob d. village placed on the *high bank* of a *khal* (the banks meist of *bare*, *greasy mud*, high enough above the water) or is *situated inland*, it *invariably stands on relatively elevated ground above reach of the water* whd Regensaison u. fst hidden, in the *midst of a jungle;* diese villages zugänglich von jeder Seite across the *khets* by passing along the dividing (*ails*) balks. *No trace of street* or any arrangement of the houses in them. (6) Each *dwelling* is a *small group of huts*, generally *four* – a *homestead.* The site of the group a carefully *levelled platform*, raised somewhat above the general elevation of the village land, roughly square in figure, and containing 500-1000 □ yards in area. The *huts* made of *bamboo* and plastered over with mud, sometimes of[1] mud alone, the *floor* of the structure also of *mud being again raised* above the level of the platform; *each hut is one apartment only*, about 20 feet long and 10 or 15 feet wide, *commonly without* a window (*side walls* low, *roof* highly peaked, thatched with a jungle grass, the *eaves* (Dachrinnen) project considerably, thus forming low *verandahs* on the back and front of the hut. Diese *huts* (mostly 4) der homestead are ranged on the sides of the platform, *facing* inwards, berühren sich selten,[22] shut aber gewissermassen in the *interior space* – the house-space (*uthān*) [Ist Hof space. Ist *Quadrangle.*] Hier spielen d. Kinder, seeds are spread to dry, the old women sit and spin etc. (7, 8)
D. *principal hut* hat oft ausser d. Thüre which opens on this interior

quadrangle a *second door and well kept verandah on the opposite side opening on the path*, by which the dwelling can be best approached; this is the *baithakhāna* (sitting room) wo strangers or men not belonging to the family, received, u. sehr oft auch d. Schlafzimmer der *male members* der family; the *mud*[3] *floor* of the *hut* or *verandah*, spread mit a mat, reicht diese hin etc. D. *hut* which faces the *baithakhāna* is appropriated to the women and children; eine der 2 andern huts contains the *chula* (*mud fireplace*), serves as *kitchen;* endlich d. *4te Hütte* ist a *gola* (*store-room for grain*). In einer der *huts*, sei es in quadrangle or outside, ist der *dhenki*, u. d. Hütte heisst *dhenki ghar; dhenki* ist a very large pestle (Mörserkeule) and mortar (Mörser)[4] dessen main purpose to husk (enthülsen) Reis. Der Mörser[4] gewöhnlich ein Gefäss ausgehöhlt of a log of wood u. is sunk in the ground; d. pestle ist ein *Hammerkopf*, auch aus Holz, einer *horizontalen Hebe bar* which works on a low post or support u. dessen anderer arm is depressed by 1 or 2 women applying their weight to it; sobald sie ihren Arm loslassen fällt der Hammer, pounds the *paddy* in the mortar u. dch Wiederholung dieser operation the ⟨husk of the⟩ grain is rubbed off. *Paddy*, the grain rice, gleicht etwas barley, u. must be husked before eaten. D. dhenki attains its object surprisingly ⟨*well*⟩. (8-10)

Ist d. Familie better off als on an average, so mag d. Hüttengruppe der
129 homestead mehr als 4 Hütten enthalten, | one or more, d. *bullockshed*, *gola* od. selbst *dhenki-ghar* situated *ausserhalb d. quadrangle*, perhaps in front of or near to a corner. (10-11)

The homestead platform generally surrounded irregularly by *large trees*, wie *mango*, *pīpal*, *palms*. In small clearings among these a *few herbs u. vegetables* are grown for family use in the curry (diese small *vegetable plots* meist wenig mehr als *irregular scratchings in the midst of low jungle undergrowth;* nothing like a garden, no flowers); d. *whole area* or *compound belonging to the homestead* marked off from its neighbours, generally, very obscurely, by most rude metes and bounds, sehr selten a neat fence; d. Weiber halten d. hardened *mud*[3] *floor des house space*, der *principal huts u. verandahs* sehr clean, often adorn the front wall des *baithakhana* mit grotesque figures in chalk; in d. Regel *remainder of the homestead compound in a most neglected dirty state*. Der modern *Bengali* wenig Begriff of neatness, ist *absolut unfähig*, unassisted, of *drawing a straight line* or an *evenly curved line;* the traces left by his plough, the edges of his little fields, the rows of his planted paddy etc. like *inked spider legs* across a sheet of paper. (11, 12)

The ordinary agricultural village of Bengal is a *closely packed aggregate of such homesteads* ... more or less concealed among the trees of their compounds; hier u. da *waste land* in the shape of unoccupied sites for dwellings; auch *tanks* or *ponds* of water in the *excavations*, which furnished the earth for the construction of the homestead, plat-forms etc. (12) Diese Teiche (Weiher) od. Bassins oft rich in all sorts of abomination (*wimmeln alle mit fish*), overhung mit jungle, and surface covered with shiny pond

weed; hier the people *bathe, cleanse their body cloths, get their drinking water,* catch fish in them. (13) In Bengal jeder *pool of water* swarms with fish, small or great; the very *ditches, gutters* and *hollows* dried up for months, on the first heavy downfall filling them, turn out to be *complete preserves of fish.* (l.c.) Manchmal has a fortunate or wealthy ryot a tank attached to his homestead all his own, to which his neighbours have no right to resort. (l.c.) *Maidān* (green bewachsen)
D. *land tilled by the cultivators of the village,* i.e. the bulk of the inhabitants, is a *portion of the lower lying plain outside and around the village.* D. *family of the homestead* – consisting of a father and sons, or *of brothers* or *of cousins* – cultivates von *2 to 10 acres* in the whole, *made up of several plots, often lying at some distance from each other.* D. men gehn zu ihrem work at daybreak, *plough on shoulder,* driving their cattle before them along the nearest village path which leads to the open; manchmal they return at noon for a meal and a bath in the tank u. gehn dann wieder aus for their work; öfter aber bleiben sie bis afternoon having some food brought them about midday by the women and children. (14) *One man and his young son* (still in his boyhood) with a *plough and a pair of oxen* will cultivate *3 acres* (u. so – in proportion), perhaps more, with the aid received in reaping etc. *No purely agricultural class wie in England.* Small cultivators u. d. überflüssigen Hände einer Familie arbeiten spare times *for hire* on their *neighbours' land;* in some villages, wo d. *occupation of a caste,* z.B. the weavers' caste, naturally died out, the *members forced to earn their livelihood by manual labour,* arbeiten u. a. auch auf Land *for wages.* Für d. *Herbst* ist oft besondres arrangement made. The *paddy grown on land* in *one situation* reicht oft später od. früher als *paddy grown under slightly different circumstances.* [*Crops* are known by designations *drawn from the months or seasons in which* they are reaped or gathered, as *Bhaduwi, Kharif, Rabi;* u. diese respectively *depend upon the season of sowing*] u. so *small gangs of cultivators* from one village or district go to help the cultivators of a distant village to cut their paddy, this assistance being returned if needed. The *remuneration received for this work* is usually *one bundle*[5] *out of every five, or out of every seven that are cut.* The foreigners build a mat hut for themselves in the harvest field u. nach geleistetem Dienst *carry home their bags of grain.* (15, 16) |
130 Grosse uniformity of life etc. in all the component classes of a village. (16) D. House d. wealthier or more influential man ist manchmal *pakka* or brickbuilt, (selber Plan wie bei bamboo homestead) – generally out of repair and partially broken down. Er hat zahlreichere Kleider u. better blankets; seine *cooking ustensils* u. d. sehr wenigen other *domestic articles* sind vielleicht of *Brass* statt *Erdenwaare,* seine *hukhas* (*hukha* od. *hookha* a form of *pipe* for smoking tobacco) of metal or even silver mounted statt eine *Coconusschale,* seine Weiber tragen reicheres, u. zahlreicheres Schmuck. Er hat vielleicht a wooden *gaddi* (*takhtaposh*) (*gaddi* = a seat; *takhtaposh* = a low platform or sitting place) in his receiving room, on

which he u. his guests or clients may sit crosslegged, slightly raised above the earthen floor. Hat vielleicht a richly carved statt a plain *sanduk* (strong box) for the custody of his valuables, or a plurality of them. Sonst both households gleich primitiv; fand *rice in some form or other* and *curry* (mit Curry sauce bereiteter Ragout) u. dies eaten by taking it out of the platter or off the plaintain leaf with the fingers. (17, 18) In Haus u. while at work *most men go naked*, ausser the *dhoti* (loin cloth) u. Kinder bis 7 od. 8 Jahr meist absolut nackt. (18) *Wealth* zeigt sich by the *expenditure of money* at family ceremonies, wie bei *marriages*, bei *shraddhas* (funeral obsequies) u. readings of national u. religious epics, the *Bhagbut*, *Rāmāyan* etc. Bei *shadis* (*shady* = nuptial ceremony) u. *shraddhas* the cost is in the purchase and preparation of offerings, presents and payments to Brahman priests, presents to, and the feeding of, Brahmans generally. For the readings, the Brahman narrator (*Kathak*) paid very highly, u. he u. his audience oft maintained for several days by the employer. Then certain religious festivals are kept *annually* by such families as can afford it; *Kali's* in *Kartik* (October), *Saraswati's* or *Sri Panchami's in Magh* (end of January), and ceremonies in honour of *Durga* commonly performed by well to do people. (19, 20) The *Social Respect* commanded by wealth, meted out in Bengal very much according to the mode or degree of magnificence with which these *semi-public family duties* (in fact *spectacles*) are performed. (20)

Women all sehr superstitious etc., do *all the menial work of the household*, even when family of the better classes; go daily to the tanks to fetch water, gives opportunity for gossip etc., *astrologers* live in all villages als Auguren zur Deutung aller phenomena d. täglichen Lebens, gelenkt dch *supernatural* governors (spiritual agencies). (21-23)

D. *Boden* w⟨orau⟩f d. homestead stands u. the small surrounding compound, is *hired* of a *superior holder;* a *common rent* is Re 1, 1-4, 1-8 p.a. for the *homestead plot* u. etwas weniger für d. attached piece. D. *Buildings*, die d. homestead bilden, gewöhnlich constructed dch tenant, gehören ihm; zieht er fort, so kann er d. Materialien mitnehmen od. verkaufen; dies ein Grund, warum mud, mat u. bamboo dwellings the rule, u. *pakka* (*brickbuilt* houses) the exception. The largest *mat hut* of a homestead kostet *Rs 30-50* to build entirely anew; the *chulha* (cooking stove) is made by the women of mud. The *dao* (bill-hook, Spitzhaken), as a tool the Bengali's jack-of-all-trades, is got from the *village blacksmith* for a few *annas*. The *plough handle* des *cultivator* prepared almost for nothing by the ryot himself, perhaps mit assistance des *village carpenter*, u. its *toe* is shod with iron by the *village blacksmith* for 1 rupee. [*Plough* is a most simple *wooden tool* ohne Eisen ausser the *pointed ferule at the toe*, gleicht genau in shape a *thin anchor;* one *claw* goes into the ground at such an inclination that the other is nearly vertical and *serves as*[6] *a handle* for the ploughman; the *shank* is the plough-beam to which the bullocks are attached. There

is no *share coulter or breast;* the pointed end only stirs the earth, does not turn it. The whole so light *that a man easily carries it over his shoulder.*] An average *pair of bullocks* obtainable for *Rs 20*, u. the *price* der few *earthen pots and pans* of various sorts – constituting the necessary ustensils for household purposes – may be reckoned in *pice.* (23, 24) So klein d. *accumulated capital* d. villagers u. selbst dies oft due to the *mahājan.* [*Mahājan* = *merchant, money dealer* – one who makes it his business in the villages to
131 *advance money and grain to the Ryot on the pledge of crop.* (24) *Extreme* | *poverty* of by *far the largest portion,* i.e. the *bulk of the population in Bengal* (*the richest part of India*!) seldom rightly apprehended by the English people. The *tropical climate* u. the *tropical facility of producing rice* admit of life and a *certain low type of health* being maintained *on a minimum of means. 7 rupees* a month a sufficient income for support of a whole family; *food* the *principal item of expense,* u. probably *one rupee 8 annas a month* in most parts of Bengal sufficient to feed an *adult man* u. *12 annas a woman* even in a well to do establishment. D. *villagers,* die *cultivators,* have mostly *sufficient rice of their own growth for their home consumption;* the *little cash* they require is the *produce of the sale of the rabi* (*cold weather crops*). Die *andren villagers* buy their rice unhusked (*paddy*) from time to time in small quantities, u. alle so ihr *Salz, Taback* (wenn sie ihn nicht selbst bauen), *gurh* (coarse sugar of date tree, etc., hardened into a cake – *molasses*), *oil, masala* (*spice, seasoning*), fst täglich at the general dealer's (*modi*) shop. (25) *Für kaufen,* wie of curry spices the *pice* or $^1/_4$ *anna* (1 *anna* = $^1/_{16}$ silver rupee), the lowest piece struck by the Mint, *nicht sufficiently small* u. *cowries* (*Kauri* a small shell, Cypraea, used as money) at the rate of about *5,120 to the rupee* universally employed to supplement the currency. (26)

In a large village *3 or 4 modis'* shops. (Sells auch liquid articles.) Beschreibung solchen shops. (25-28)

Hāt or market held in most villages twice a week; meist a tolerably open part of the village site; meist *keine stalls* for the *protection* of the *sellers* or their *goods;* when so simply long narrow lines of *low shed roofs covering a raised floor,* supported on bamboo posts, without any side walls. (28, 29) Zum hāt bringt der producer his *spare paddy, mustard*[1]*-seed, betel-nuts, sugar-cane, gurh-treacle,* his *chillies, gourds, yams;* the *fisherman* his fish, the *seedcrusher* his oils, the *old widow* her *mats* and other handy work, the potter his *gharas* (= a necked, narrow mouthed, earthen vessel) u. *gamlas* (*gamla* = open earthen vessel), the *hawker* his piece goods, bangles, etc; the *town traders' agents u. the local modis* come to increase their stocks, the *rural folks* to supply their petty wants, all gossip, *not a few stay to drink* (not rare this accomplishment in India). *Each vendor sits crosslegged on the ground with his wares* set out around him, u. *for the privilege of this primitive stall* he pays a certain small sum or contribution in kind to the *owner of the hāt,* meist der *Zamīndār* (proprietor of the rest of the village land). D. *profits* derived from a popular *hāt* sufficiently considerable ⟨relative⟩

to the ordinary rent to induce a singular competition on the part of the neighbouring Zamīndārs; jeder will set up a *hāt*, verbietet d. ryots Besuch der andren, führt oft zu Keilereien. (29, 30)
Ist d. village, or any substantial portion of it, inhabited by *Mussulmans*, dann a *masjid* (mosque) in it; of *brick*, wenn a member der community defrays the cost of erecting it, meist of *mat* and *bamboo;* the *mulla* who officiates there may be a *tradesman*, or *modi*, gifted with a smattering of Arabic sufficient to read the Koran; ist in theory chosen by the *mahalla* (Muhammedan quarter), aber praktisch *the office hereditary*, remunerated dch small money payments made bei marriages u. other ceremonies. (31)
Patshāla or *hedge school;* along a village path a group of 10-20 almost naked children, squatting under a pīpal tree, near a homestead, or even under a thatched verandah dazu gehörig, engaged in marking letters on a plantain or a palm leaf, or in doing sums on a broken piece of foreign slate, od. even on the smoothed ground before them – the indigenous means of educating the rising generation. *Instruction* here given gratis, *for contrary to an oriental's social and religious feelings of propriety that learning of any sort should be directly paid for;* d. teacher an *elderly Brahman: Guru Mahasoy;* eigtlich sollen nur Brahmanen u. andre *twice born classes* unterrichten, thut's aber faktisch für outside classes für *reading u. writing the vernacular*, *arithmetic*, etc. gelegtlich verbindet ein *modi* mit seinem shop
132 auch dies business mit Bezug | auf d. children squatting under the eaves of his shop hut. – D. instructor erhält bei special events in d. family v. d. parents of his pupils *small presents of rice* or *dāl* (= *split pea*, or any *other split pulse*), or even a *piece of cloth;* ditto when an urchin achieves a marked stage in his progress. (32, 33) A Brahman gets in addition *his share of the gifts to Brahmans*, so serious an item of expense in the celebration of the many festivals obligatory on a well-to-do Bengali. (34)
In parts of Bengal noted for Sanscrit learning, wie *Vikrampur* u. *Nuddea* etwas Aehnliches gleich wie oldfashioned Engl. grammar school some times met with; a turn of the village path brings you to a *Tol;* dort in *half open mat shed* sit crosslegged on the raised wood floor, dozen Brahman youths decently clad, mit *Sanscrit manuscripts* on their laps, learning grammar; each remains 2 or 3 or even more years at this monotonous occupation wie transcribing sacred rolls, until he is able to pass to the *home of deepest learning, Nobodweep.* Master of the Tol, a *Brahman Pundit* who in obedience to the Hindu principle not only teaches but maintains his scholars, (34, 35), personally stets poor. (35) Er u. seine disciples leben v. d. Gaben d. richer Hindus in neighbourhood; whd 2 Monaten Ferien, besucht er sie der Reihe nach, u. never leaves a roof ohne Honorar von 1 Rupee, 2, selbst 20 je nach wealth of his host. (35, 36)
One or more specimens of the Byragi and his female companion – coarse licensed beggars of a religious ascetic order, (aber meist lose Vögel) in d. meisten villages; in seiner homestead – *one of the huts*, *thakurbāri of*

Krishna (incarnation of Vishnu) wo d. members of the very numerous sect of *Boistubs* od. *Vaisnabas* (Vishnubites) on certain festivals lay their offerings. The *Byragi* ist der minister einer der sects which owe their origin to the great reformer *Chaitanya* about 300 years since. (36, 37)

The *homestead of the goāla*, or *cowman*, wovon several in a village, wie die seiner neighbours, ist *cultivator* wie most of them. Meist the *cowshed* actually brought up to the *uthān* and fill⟨s⟩ one of the sides. D. *cows* being little animals often not more than 3 feet high u. miserably thin are kept *tethered close*, side by side of each other in the open shed, there *fed with dried grass*, *wetted* straw, ausser when under the care of a boy they *can on the waste places abt the village*, and on the fallow *khāts* pick up what they find. *All Hindus*, if they can afford it, consume *milk;* after *rice and pulse* (*dāl bhāt*) it the *staple food of the people;* keine Butter noch Käse; der *goāla* verkauft nicht nur Milch in raw state, sondern compounds auch d. various preparations of it, thickened; eine davon, *dahi* gleich a mass of thick clotted cream with all the fluid portion omitted is daily hawked about from homestead to homestead by the *goālas* in earthen *gharas*, carried scale fashion, or *bahangi* (a bamboo furnished with cords at each end, by means of which luggage is carried slung across the shoulder), suspended von d. 2 extremities of a bamboo across the shoulder. (38, 39)

Blacksmith's shop: a thatched shed, with *old iron and new* of small dimensions lying about in confusion. Im centre des mud floor is a *very small anvil*, close to the *fireplace*, welcher a *hole sunk in the ground.* The *nozzle* of the very primitive bellows is also let into the ground. The *headsmith*, sitting on a low stool or on his heels, works the bellows by pulling a string with one hand while with a *tongs* in the other he manipulates the iron in the fire, and then, still keeping his seat, *turns to the anvil* with a small hammer in his right hand; he performs the guiding part in fashioning the metal, and an *assistant* also squatting on his heels follows his lead with a larger hammer. The *hammer heads* are long, on one side only of the haft, and unbalanced by any make-weight, and the anvil is exceedingly narrow; yet the blows struck by both workmen with unerring precision. The *villagers brauchen nur wenig in the shape of iron work;* a few *nails*, the *toes* of the ploughs, *cultivating hoes* (kudalis), *billhook or cleaver* (*dao*), the *bonti* (a broad sickle-shaped knife blade, *fixed vertically into a heavy wooden stand.* In use, the stand is held firm by the feet, and the fish, vegetable, straw or other article to be cleaned, sliced, or cut up, is with the *hand duly worked against the concave cutting edge* thus made fast.) of domestic and other use (fixed curved blade); all diese articles made or repaired by the village blacksmith. His *stock of iron* is mainly *English* |
133 *hoop iron* bought at the nearest town by him (or for him) *which has come out to India in the shape of bands round the imported* piece good bales. (39-41)

"*Professionals*" im village: not seldom the *kabiraj* or native doctor (of the Vaidya caste), trägt seine Pillen in paper packets in a tolerably large bundle

(cover with⟨in⟩ cover) in the end of his *chadr* od. *chadra* (a *sheet or cloth*) mit sich herum; many of his pills, compounded after receipts of antiquity, excellent specifics; der *kabiraj* macht vorher in jedem einzelnen Fall bargain, z.B. Re 1 od. 2 f. d. ordinary medicine mit 2 or 3 visits in an obstinate case of malarious fever. (41, 42)
Astrologer, fst in jedem principal village; ist an *Acharjee* (*Lugu Acharjee*), but of a somewhat low class of Brahman, whose business is to *paint* the *thakurs* (idols) u. d. various traditional representations der deities; to prepare horoscopes etc. Andre paint pictures in water colours for decorative use bei great ceremonies performed by the richer families; *keine Perspective*, aber *outline in colour* well depicted on the flat; *many*[8] *of these men* work together on a given subject for *monthly pay of Rs 20-30;* meist aber each prepares his pictures at leisure in his own home u. presents them when finished to some rich person, wfür er meist ample remuneration erhält. (42, 43)
Gottesworship bei d. Mahommedanern *congregational u. personal;* the masjid, public preaching, united prayer u. adoration offered by individuals collected in congregations d. characteristic features. (43)
Bei d. Hindus der Cultus domestic u. vicarious; the *family idol*, daily service in worship des idol *performed by a priest for the family*, and the periodic celebration of ceremonies in honour of *that manifestation of the deity* which the family adopt, wie *for the deceased ancestors' souls*, die principal ingredients. Unter d. wealthy Hindus the *hereditary spiritual guide*, the hereditary *Purchit* (family priest) and the service of the jewelled *thakur* form the *keystone of the joint family structure*, u. d. poor folks of a country village dasselbe in ärmlicher Form. Jeder respectable household that can afford the small expense has a rude *thakur*, or image of its *patron deity* placed in a *separate hut of the homestead* u. a Brahman comes daily to perform its worship u. service; d. *village purohits* – belonging to a *lower caste* of imperfectly educated Brahmans – an extremely ignorant set of men. In some districts mostly foreign to the village, coming there from a distance, residing in it for a few years, then return home for an interval, providing a substitute or vicar whd ihrer period of absence; erhalten remuneration in the shape of offerings u. small fees, haben pretty good livelihood by serving several families at a time. Wie d. andren Brahmanen they come in for a share of the gifts distributed by wealthy men bei family ceremonies u. festivals. Grossentheils *purohit erblich*, stets so bei families of social distinction; diese haben mehre spiritual guides exclusively for themselves; the *guru* (spiritual instructor of the individual who gives him the *mantra* = a *passage from the Veda*, a *prayer*), d. *higher class purohit who is a⟨n⟩ Acharjee* u. conducts the periodic *puja* (*Poojah* = worship) festivals of the family in addition to the *ordinary purohit* who performs the daily service of the *thakur*. (44-46)

The *mass of the ryots* who form the population of the village *too poor to have a family deity*, müssen sich begnügen part der audience zu bilden bei religious festivals celebrated by their richer neighbours, u. den annual *pujas* performed at the *village mandap* (an *open sided roofed structure or building*) on *behalf of the community*. (46)

Mandal – the village headman; the *chaukidar* – the village watchman, or constable; the *barber* u. the *washerman* auch noch wichtige *Personages*, ebenso *carpenter, potter, weaver, fisherman; jalkar-wala* – one who has a right
134 of fishing; *pitch-worker*, etc. |

Zeminder and Mahajan

The wooded dwelling area (des village) is skirted by *waste* or *common land* of very irregular breadth u. *beyond this* again comes the *cultivated land of the open plain* (*māth*). Up to a *certain line* – of immemorial origin but ordinarily well ascertained – *all the land both waste u. cultivated, reckoned outwards from the village*, belongs to the village (als *possession*); on the *other side of the line* begins another community land. In Theilen von Bengal wo *portions der country in a state of nature* the limits des village *territory include jungle u. sonst unappropriated land.* (48, 49)

The *village and its land* als Ganzes heissen *a mauzah*. (49) Dies land des *mauzah* cultivated in *small patches* by the resident ryots on *payments of dues*, according to the *nature of the soil*, and the *purpose of the cultivation*, to the *Zemindar;* they are most commonly variable and capable of adjustment from time to time zwischen *Zemindar* u. Ryot. (50) ⟨they⟩ are *classified mit extreme minuteness* according to *characters attached to the land by custom*, not all concrete. (51)

So:

Sali – land *wholly submerged whd period of rains* – of *different grades; Suna*, not submerged, also *of different grades;*

Nadki, land for which *rent is paid in cash* per bigah;

Bhaoli, land for which *rent paid in kind, part of the produce;* – ebenso *Bhaoli:* land for which *rent is paid in cash per crop per bigah.*

Bhiti – raised *house-site*[9] *land.* (51)

Khudkasht, lands which the *residents* of the village are *entitled to cultivate.*

Pahikasht – land which *outsiders may cultivate.* (52)

Diese *characters adhere almost permanently to the same land;* for each village a *recognized rate of rent* (*nirkh*) properly payable according to them. When the *occupation*, wie meist der Fall mit *Sunaland*, on an *utbandi jama* (rent according to the *land actually tilled*, when *land tilled one year* is *allowed to lie fallow* t⟨he⟩ next) u. d. cultivation is by alternation of cropping u. fallow, *zahlt d. Ryot* nur so *viel von jeder Sorte of lands as he actually tills.* In most villages by far the larger portion of land is *Khudkasht.* (52)

Also the *open lands* der village divided up among the resident ryots in small allotments, oft consisting of *several scattered pieces*, generally *com-*

prehending land of various qualities – rarely über 10 acres in Total u. oft viel weniger, ... *Zahlung d. Rente dch each ryot to Zemindar* nach shifting scale, depending upon more or less of the elements mentioned. (53)

Abbreviated example of the year's account zwischen ryot u. zemindar

Description of land	Quantity			Rate			Amount of Rent			
	Big.	*Cot*		Rs	As	P	*Rs*	*A*	*P*	
Sali, rice land, first quality	2	10	0	4	0	0	10	0	0	
Dtto – second qual.	1	1	0	3	0	0	3	2	2	
Dtto – third qual.	0	7½	0	2	4	0	0	13	10	
Bamboo	0	6	0	15	0	0	4	8	0	
Waste	0	2	15	1	0	0	0	2	4	
Homestead	0	1	0	20	0	0	1	0	0	
Compound	0	1	0	15	0	0	0	12	0	
Excavation	0	5½	0	1	0	0	0	4	8	
Total	4	14	15				20	11	0	(285)

In extenso füllt diese Geschichte (285, 286) 40 u. oft mehr Parallele Columns, mit column for arrears etc. (286) Matter of fact that the Bengal ryot little disposed to move u. for generation after generation, from father to son, the *same plots of land*, or approximatively so, *remain in the hands of the same family*. (53)

The *Zemindari* is an *aggregate* of many entire *mauzahs*. (54)

D. *jährliche Rente* meist gezahlt in 3 or 4 *kists* (instalments) d. collection
135 dieser Rents nur | ausführbar dch *an organised staff*, commonly called, both individually and collectively, the zemindar's, or *zamindari amla;* besteht gewöhnlich aus: einem *Tehsildar* (*collector of the rents;* if the *Zamindari* large, one Tehsildar collects für je 3 or 4 mauzahs.)

In jedem *village* od. *Mauzah* a Tehsildar's *kachari* [(auch called "Cutchary") nämlich a court or *office* ,where public business, or the *business of a zemindar's estate* (wie hier), is done]; dort the zamindari books and papers relative to the village collection made up and kept. *Bookkeeping von Hindus carried to an almost absurd extent of detail;* would be tedious to *describe all the books* kept in due course of the *kachahri* business; the *principal of them* are: *3 or 4 books* genannt *Chittha* (*Memorandum* – name of a business book used in the management of a Zamindar's property, in which *measurements* and other like information are entered); dies ist in fact a *numbered register* in various ways and in minute detail of all the small *dags or plots into which the village lands are divided*, the *measurement* of each, its *situation*, the *quality of the land*, the *ryot who cultivates* it, etc, the last of

them being the *khatiyan* (an account book of the nature of a ledger), or ledger, which gives under *each man's name* all *the different portions of land* held by him, with their respective characteristics. The *jama bandi*, a sort of assessment paper made up for each year, with the view of showing for every ryot, as against each portion of the land held by him, the rate at which it is held, according to quality or crop, and also to exhibiting the total amount which in this way becomes due from him, and the *kists* in which it is to be paid; and the *jama-wasil-baki* (resuming the principal statements of the *jama bandi* – an account paper showing simultaneously the full rent, the amount collected, and the amount of arrears, in respect of an estate, village, or district. A Bengali account book is formed by sewing together with a cord any number of very long narrow loose sheets at one of their ends, and when it is closed the free ends of the sheets are folded back upon the ends which are thus bound. (55-57)

The *Gumashta* (Gomashta) [generally *agent*, one who carries on business for another] u. *Patwár:* [one who keeps the collection papers of a *mauzah*, and commonly also makes the collections of the village), or similar offices, whatever their different names in different districts, are charged with keeping up the *kachahri-books* according to the varying circumstances of the ryots' holdings; haben daher d. ganze Jahr dch (als spies des Zemindar!) a sharp eye upon the ryots' doings. As a rule diese Burschen selbst belong to the class of village ryots u. sind selbst cultivators. Findet sich hence that the *plots in their hands are the best in the village;* ihr "proper work" verhindert sie selbst to cultivate u. they are "*supposed*" to pay other ryots tilling the soil for them; sie mogeln meist dass dies *gratis* geschieht; erschleichen u. erpressen sich auch "the offer of gratifications". In so weit dies *office hereditary*, dass generally the son succeeds the father; aber das meist nothwendig, weil selten mehr als 1 od 2 andre unter d. villagers das für dies Geschäft nöthige Quantum v. Lesen u. Schreiben besitzen. (57-59)

D. Zamindar ist d. "superior lord" der ryots ("subjects") both by habit and feeling *glebae adscripti;* seine Authorität u. die seines *amla* in Zaum gehalten dch den *mandal* (gewöhnlichste Bezeichnung, wechselt aber mit District), the *village headman*, mouthpiece u. representative der ryots des village in all matters between them and the zemindar or his officers. D. *Mandal* cultivator wie d. übrigen ryots, *keineswegs d. reichste unter ihnen;* sein office[10] in theory *wählbar*, in fact fst invariably von *father to son* u. so *hereditary* aus selbem Grund dass alle *occupations u. employments in India hereditary*. Er muss hinreichend lesen u. schreiben u. d. Zamindari accounts verstehen können u. Bekannt sein mit d. *customary rights der villagers;* erhielt nicht directes emolument, aber d. ryots helfen ihm von Zeit zu Zeit *gratuitously* in his cultivation, zahlt oft auch geringere Rent als d. andern ryots. Der *mandal* u. a *few of the elder men* constitute the *village panchayat*, by whom the most ordinary disputes u. quarrels are

adjusted. [Er erklärt *Panchayat* a body of five *caste men*, villagers or others, who deal ⟨with⟩ and settle disputes relating to caste, occupation etc.] In more obstinate cases the *mandal* and the parties go to the zemindar or his representative the *naib* [*Deputy* or *representative* – the head officer or steward representing the zemindar in the management of large zemin-
136 daries] or *gumashta*, for discussion and | arbitration.[11] So ohne d. theuren public courts viel Justizadministration in d. rural districts of Bengal abgemacht. (59-61) *Residirt der Zemindar* im Dorf, so oft d. *barber* who shaves the members of his family, the *dhobi* who washes for them, the head *darwan* (porter) and other principal servants – sind *hereditary*, haben portion of village land zu relative⟨ly⟩ low rent or rent free. Der *dhobi* u. *barber* have the right to be employed at *customary rates of pay* by all the ryots; oft *carpenter* u. *blacksmith* in gleicher Lage; d. hereditary *watchman* (*chaukidar*) erhält sein Land *rentfree;* ebenso *Brahman priest*, whether of the Zemindar's family, or maintained for the village *pujas* etc. (61, 62) (Dieser Esel Phear nennt d. Constitution d. village *feudal*). *Ausserhalb dieser Village Constitution d. Mahājan*, der *village capitalist.* D. village ryot muss periodisch *Geld* auslegen; z.B. a Hütte des homestead neu zu bauen or to repair, Pflug od. anderes Instrument zu machen, Paar bullocks zu kaufen, Saat für Aussaat nöthig, endlich Reis für sich u. Familie, several *kists of his rent to be paid before all his crops* can be secured and realised. Im western part des Delta reichen seine savings selten hin to tide him *aus über die Periode die verfliessen muss bevor seine jährliche Produktion* einkommt. Muss also zum *Mahājan* gehn for *money* and for *paddy* as he wants them. Gewöhnlichste Transactionsweise zwischen beiden Seiten: d. *paddy for sowing and for food* u. auch *andre Saamen*, wd geliefert unter Bedingung dass er *sie returnirt* + *50% in quantity zur Herbstungszeit; Geld* andrerseits to be repaid, auch at *harvest time*, mit *2% per Monat Zins* entweder in *Form von Equivalent of Paddy, reckoned at Bazaar prices*, or in *cash at the option of the lender.* Als security für Execution dieses Uebereinkommens nimmt der *Mahājan* häufig *hypotheke auf des ryot's future crop* u. er *hilft sich selbst to the stipulated amount on the very threshing floor, in the open field.* (63, 64)
D. *Zemindar* – dieser falsche engl. landlord – merely *a rent-charger;* d. *ryot* a field-labourer, living from hand to mouth; d. *mahājan, der d. farming Capital liefert, d. Arbeit zahlt u. allen Profit einsteckt*, ist ein *stranger, having no proprietary interest in the land;* a *creditor* only, whose sole object is to realise his money as advantageously as possible. After setting aside in his *golas* (*gola* = a hut, meist circular in form, in which grain is stored) as much of the produce come to his hands, as he is *likely to need for his next year's business*, he *deals*[12] *with the rest simply als cornfactor*, sending it to the most remunerative market. A thriving *mahājan* may have a *whole mauzah or more under his hand* – and *yet he has no legitimate proprietary status in the community*, while those who have – *the ryot ... and the zemindar* for different reasons are apparently powerless. (64-65) Hence, *d. unprogressive*

xx) *character of an agricultural village*, so beschrieben by a young zemindar, *Babu Peary Chund Mookerjee*, *Beng. Soc. Sci. Trans.*, *v. IV*, *sec. 4*, *p. 1*.
"A husbandman of the present day is the primitive being he always (!) has been. With a piece of rag round his loins for his clothing, bare feet, a miserable hut to live in, and a daily fare of the coarsest description, he lives a life unruffled by ambition. If he gets his two meals and plain clothing he is content with his lot, and if he can spare a few rupees for purchasing jewellery for his wife and children, and a few rupees more for religious ceremonies, he will consider himself as happy as he can wish to be. He is *the greatest enemy of social reform* [? wäre nicht enemy of getting himself the rent to pay to Zemindarees, old or young!][13], and never dreams of throwing off the trammels which time or superstition has spun around him. He will not send his son to school for *fear* [and a very just one, too!] of being deprived of his manual assistance in the field; he will not drink the water of a good tank because he has been accustomed to use the water of the one[14] nearer to his house; he will not sow a crop of potatoes or sugar-cane because his forefathers never did it; *he will*
x) *allow himself to be unmercifully fleeced by his hereditary priest to secure the hope of utter annihilation after death*.... The ryots *too poor* (!), too ignorant, too *disunited among themselves to effect ... improvement*." (65-67)
Domestic Life
Wealthy enterprising zamindars sehr selten im *Mofussil* [*or Mafassal = the country* as *opposed to the town;* the *subordinate* as opposed to the principal].
137 The Hindu | *gentleman* of the Bengali village, the *landed proprietor* of the locality, had *income von Rs 100 to Rs 200* per Jahr höchstens; nicht immer a *pakka* house; his *property* is probably a *share of the village, or of several villages together, held on some tenure;* his *net income* = d. *remainder of the collections he has made from the ryots after he has paid the jama* [od. *jamma* = the aggregate of payments made for land in the year – *the total rent*] *of his tenure to his superior or to the Government*, as the case may be. (68, 69)
Bhadralog, respectable well to do people, who are not Brahmans;
Andar mahāl [D. Wort *Mahalla* = a division of a town, a quarter], the portion of the house or homestead allotted to the *female members of the family*, which strangers and non-privileged males are not allowed to enter.
Ashan = a square piece of carpet; *thāl* a metal plate or dish; *pān* = a betel leaf. *Tiffin* = a refreshment; *bau* = young married girl; *bári* = a dwelling house, homestead.
Universal habit in Bengal *prevalent in all classes for the members of a family to live joint* and to *enjoy the profits of property jointly*. Z.B. in *Ryot's family:* nach Tod d. Vaters, seine Söhne, früher dependent members of the family living in the same homestead and assisting the father in the cultivation of his *jot* (= *jote* = both the land which the cultivator tills, and his tenure of it), continue in same homestead, cultivating the same *jot*, but now as owners. Manchmal tragen sie ihre Namen collectively ein statt dessen

d. Vaters in d. book of the zamindar's *kachahri;* manchmal the dead man's name remains there unaltered. Jeder *brother, with his wife and children, if possible, occupies a separate hut* in the homestead, u. so oft nöthig für dies purpose, an *additional hut added to the group.* (76, 77) D. brothers by law entitled to *equal shares of inheritance in the whole of any heritable property* they have thus taken in common, and each has a right at any time *to compel a partition.* Stirbt einer d. Brüder, *his sons,* wenn er keine hat, his *widow,* step into his place and represent him in all respect⟨s⟩. (77) Generation auf generation ftghnd würde dies a complex distribution of undivided shares hervorbringen; aber bei *ryots* kommt's rasch zu End, the smallness of the original subject rendering the aliquot parts insignificant. Eh es so weit, d. *jüngeren members* der family *give up* or sell *their shares* to the others u. suchen sich andere Beschäftigung. Ist d. *jot* inheritable in its nature, so d. jointly living members of family *actually divide the land* unter einander according to their shares and *cultivate separately.* So d. *Land in some villages subdivided into absurdly small plots* u. this evil has a natural tendency to increase. (78)

In *wohlhabenden Familien* mit bedeutenden Besitzgen, sei es in *Handel* od. in *Zamindaries* u. other landed tenures, the state of "*jointhood*" dauert gewöhnlich lang. The whole property managed by *one member of the family called the "karta,"* meist d. älteste Individuum der ältesten Branche; theoretisch *responsible* to the entire body of joint co-sharers, jeder von denen kann einsehn d. family books of accounts u. papers regularly kept in a *sort of office* (*daftarkhana*) by the family servants; selten jedoch one interferes, bis quarrel, dann fought out mit acrimony, partition effected, and accounts insisted upon. As a rule the co-sharers content to be supported in the family house, out of the family funds, each getting, as he wants, sufficient small sums of money for ordinary personal expenses. Das *money* saved nach disbursement of the general family u. proprietary expenses, is invested by the *karta* in the purchase of some addition to the joint property; d. *Geld* required for extraordinary family ceremonies or religious performances commonly raisd dch d. *karta* in the form of a loan charged on the common property. (78-80) Dies *domestic community* oft sehr numerous; *erstens* d. *co-sharers,* Brüder, Neffen u. male cousins deren fathers' shares have devolved upon them u. d. *widows or daughters of co-sharers,* verstorben ohne Söhne oder Enkel; *zweitens:* the *mixed class of dependent members* – wives and children of existing co-sharers, wives and daughters of former co-sharers (*whose shares went to sons*) and individuals labouring under any infirmity disqualifying them from inheriting. In *Calcutta u.* selbst im *Mofussil* Beispiele von *familien v. 300-400 Individuen,* incl. servants, *living in one house.* Meist zählt d. family 50-100. (80, 81) |
138 *Deorhi* [entspricht der French *conciergerie;* nämlich in entrance passage of old family houses, oft auf beiden Seiten a raised floor mit 1 od. 2 open cells worin d. *darwans* (door keepers) sit, lie u. sleep, in fact dwell.]

Puja dalan: die *verandah*, deren chief purpose to *serve as a stage* for the performance of religious and domestic ceremonies.
Shamiana. (*Tent ca⟨n⟩vas* stretched horizontally across, as a covering from side to side of a quadrangle, or from top to top of poles, firmly fixed in the ground-*awning.*
Thakurbāri, chamber where the figure of the family deity (*thakur*) resides u. where its daily service u. worship is performed. *Weiber* dürfen nicht selbst worship the family idol or any visible thakur, ausser der *clay figure of Siwa* made for every day worship. The *Shastras forbid to women* and *Sudras* all knowledge and use of sacred texts.
Hat d. Familie 3 or 4 generations removed von d. common ancestor erreicht, so there *several heads of branches;* diese *branches* settle themselves by *stirpes*, in separate parts of the house under their own heads; manchmal d. Separation so complete that the portion of the house allotted to each branch is parted off from the remainder of the house by blocking up of doors, and by the opening of a separate entrance. Each group as a rule messes by itself, and every adult member of it has a room to himself in which he lives, *all the female members* together in the *inner apartments*, commonly called among Europeans the *Zenana.* All the branches usually *keep joint with regard to the worship of the family deity.* Und selbst when the *branches sever in everything* – i.e. in *food, worship*, and *estate* – the *same family deity is commonly retained* by all, and the worship *conducted by the different branches in turn*, each *turn proportionate* in *duration to the owners' share in the joint property.* Z.B. if family in its divided state is represented by *4 heads*, *2 brothers*, and their *2 nephews*, sons of a 3d brother deceased, the turn or pallas of worship would be respectively 4 months, *2 months* and[15] *2 months* or *equimultiples* of these. (85, 86)
Nur in *Calcutta* u. andern sehr large towns the *family swarm* continues in the family hive at such dimensions. Aber in *country villages*, wo d. Zamindar's family sich maintained for many generations, much about the same thing occurs. (86)
Maidán, an open grass-covered space; *mandir* a temple; *mandap* an open sided roofed structure, or building. *Majlis* an assembly.[16] *Mohan* the superior of a *math* (an endowed temple or shrine; *máth* dag⟨e⟩gen the open arable plain, forming the cultivated land of a village.) *Gaddi*, a seat.
Grave and Gay.
Inordinate love of spectacles. (89) *Drinking* to a considerable extent. "In a portion of the Veds the *delights of intoxication* are dwelt upon, and some of the *tantric* writings devoted to the encouragement of drink.... *tari* spirit made from many sorts of *saccharine juices, especially* the *juice of the tari palm*, is made largely in every village by crude native methods, is *evidently* of purely home origin. (90)
Bengali of all ranks like gambling; *cards u dice* the common form prevailing with the middle classes. (91)

In Bengal 2 distinct sects unter the Muhammedans, Sunis u. Shias; both a good deal given to observances u. practices of Hinduism; the *Bengali Musulman* is nothing but a *roughly converted Hindu.* In d. besten u. fruchtbarsten Theilen des Delta d. *mohammedan. Element* über *60% d. Bevölkerg,* im rest of *Bengal Proper* ist es 30-40%; in einigen districts d. villages ganz muhammed. od. ganz Hindu, aber more commonly hat jedes village sein *Mahommed. Quarter* u. sein *Hindu quarter* (91, 92)

Viele sects auch unter d. Hindus (92) pretty universally in the *rural villages Boistobs* (mit immense number of varieties u. subdivisions), *Saktas, Sivas, Ganapatyas* etc. (93) D. chief development d. *Boistobs* – deren *Vishnu* ist the *Brahma* (Krishna eine seiner incarnations) originated mit *Chaitanya,* who preached purity, meditation, *and the equality of all men,* without distinction of sect or caste, before God. And a certain freedom from caste trammels, and disregard of religious observances, with an appreciation of the importance of conduct, still seem to characterise the sect. The Boistobs have been, and even now are being, *recruited from all castes,* but taken together in all their varieties ... are *commonly reckoned as a sort of caste by themselves.* (94)

D. *Saktas* vielleicht d. majority der village inhabitants; jetzt a great deal united with the *Saivas,* die upon *Siva* (the *Destroyer*) look as the primary and *more exalted form of Brahma* u. d *Saktas* speciell verehren d. *divine nature in its activity,* the female forms of the supreme deity, as Durga od.
139 Kali. D. Sivaite u. Sakta worship | in a marked degree a worship of dogma, gorgeous ceremony u. bloody sacrifices etc. D. Boistobs den Saktas gegenüber "Protestanten". (94, 95)

D. *monastic order* is celibate u. in great degree erratic od. mendicant, hat aber anchorage places u. headquarters in the *maths* (Ursprünglich Bedeutung von math scheint Cell oder Chamber wie von Eremit); heutzutag typisch *math* ist an *endowed temple or shrine* mit a dwelling place for a superior (the *Mohant*) u. his disciples (Chelas); d. endowment d. math entweder result of a private dedication, oder aber of a grant by an a⟨l⟩ready existing wealthy *math,* gegen die es in gewisser[17] Art subordinate bleibt etc. (*96-100*)

In einzelnen Fällen the *Mohants* either by decline from the strict path of sanctity originally marked out for them, or even in *prosecution of the founder's purpose* [für d. *Stiftung,* nicht für d. einzelnen Mönche], make *the acquirement of wealth by trade their great object.* Sehr viel⟨e⟩ instances davon in the *northwestern-part der Bengal presidency, wo numerous trader Mohants of great wealth and influence to be found.* (p. 97)

A shrine (*dargah*) of some holy Mohammedan *fakir* oft to be met with on the wayside, with *the hut or homestead* of its keeper near at hand. Passersby of all creeds and denominations throw in their cowries and pice. (101)

In a large village will be a *mandap,* i.e. a spacious *open-sided covered-in room,* wo d. *village puja* festivals celebrated u. other village gatherings (as in a

vestry room) occur; manchmal ist's *pakka* struct⟨u⟩re, meist of *bamboo* u. thatch; ist usually kept up by the Zamindar. (l.c.)
Rural crime. Dakait: [*Dakait* one of a gang of robbers] or *gang robbery* (*anglice: dacoity.*) (*badmashes* = the bad characters of a village; *pitara:* a wicker work or other slightly-constructed box of peculiar shape] (p. 102-105) *Verfahren* (charakteristisch!) d. *Polizei* (105-107) D. Gericht (108-110) *Mookhtar* = law agent.
Mord for vindicating family honour (relates to *womankind*). (111-115)
Purely agrarian outrage more common than any other. "A *strong sense of vested right unprotected by the arm of the law* leads in India as elsewhere to the endeavour at vindicating it by violence." (115) Krakehle (blutige) unter d. Ryots selbst. (115-118) *Affray of the Zamindar's people on d. Mandal* (headman of the village) a *mauzah* had been sold in execution of a decree, a stranger had purchased it; *d.new Zamindar takes measures for enhancing the rents of his ryots;* war successful at obtaining *kabulyats* [*kabulyat* = the *counterpart of a pottah or lease*, nämlich given *by the tenant to his landlord*] at increased rates from several ryots, aber der *mandal d. village*, dessen example most influential, sturdily held out and led the opposition. Gegen ihn schickt d. Zamindar seine retainers, with the view of capturing him and carrying him off. (p. 118, 119) Endet mit Mord v. ein paar Leute, aber Mandal Sieger. (p. 119, 120) Andrer case wo d. Ryots gegen d. *Mandal* weil er zu sehr die Seite d. Zamindar in certain matters nehme; therefore resolved in "committee" that he should be *punished and warned*, lassen ihn dch einige "charged" damit dch prügeln. (wobei er †) (120, 121)
Faction fight zwischen d. Ryots verschiedner *tenure-holders* (p. 121, 123) (Todtschlägerei).
Jangal (*Jungle* = a wood, any tract, large or small, wo d. natural growth of trees, bushes, and vegetation undisturbed.
Bhât = boiled rice; *bigha*, a land measure, in Bengal = about $^1/_3$ acre;
Arhar = kind of pulse (cytisus cajan) grown for food.
Administration and Landlord. (dies der letzte Abschnitt (VI) dieses Buchs der schon vorher in *Calcutta Review* gedrückt.)
A *Zillah district in India*, fälschlich compared to an *Engl. county*, umfasst *area von 2-3000* □ *m.* u. has population von ⟨1 to⟩ *2 millions*, f. i.,whd *Co. of Suffolk*, z.B., hat nur area v. *1,454* □ *m.* u. *population of some 360,000.* Alle *European officers* of a Zillah höchstens *a dozen* [wovon $^1/_2$ about kept by their duties at the Zillah station], viz. *1 magistrate and collector*[18] mit 3 od. 4 *joint, assistant* u. *deputy magistrates, 1 district and sessions judge, 1 small court*, or subordinate judge, *1 superintendent of police*, 1 *assistant superintendent of police* u. *1 medical officer.* (125)
[Selten "has one of them a real command of the vernacular language." (126)]
No tax gatherers in India (save those recently introduced mit d. *imposition*

of a license tax); all taxes sind *land revenue*, *stamps* (needed for every proceeding in a court of justice or public office or copy of any paper filed in a court or office or document of agreement or receipt etc), *Customs* u. *excise* (d. *tari* u. *Salz* für Ryot vertheuert). Kürzlich *Steuervermehrung* dch imposition of a *road cess*, a small *rateable addition to the rent of each ryot*, which he pays to his rentreceiver, dieser an Government. (128, 129)
A *portion of the rent*, every cultivator of the soil pays for his plot, goes to Government as *land revenue;* es bezieht about $20^1/_2$ Millions £ St p. annum
140 in the shape of land revenue. (133) | Vor d. Bengal settlement of 1793 d. Zemindar bekanntlich nur Steuercollector, nicht landlord. Bursche Phear says: "The area of his *Zamindari* covered large districts of country, and was reckoned not by *bighas* but in *communities of men – mauzahs*". Seine "money proceeds" wden nicht "spoken of as *rent*, sondern als *jamas* (collections) of the included villages; seine *assets* were "made up of the *jamas* of the *sub-tenures*, and the collections of the villages." (135) The zamindar's village *kachahri* (schon vor d. Engländern) was *an office* in *each mauzah*, with a *headman*, an *accountant*, and a field officer. (Hatten d. früher beschriebnen duties d. jetzigen Collectors etc. des Zemindar). D. kachahris von je 5 or 6 mauzahs, je nach deren size, were supervised by a *superior officer*, say a *Tehsildar*, who had his own *kachahri*, with its books u. papers, either duplicates of, or made up from those of, the *mauzah kachahris*. D. collections effected by the officers of the village *kachahri* were handed over to him, and he passed them to a next high officer. So the money arrived at last at the *Zamindar's* own *kachahri;* out of them he paid the Gvt revenue due from his Zemindari, and kept the rest for himself. (138) Each middleman was so the apex and head of a structure precisely like the principal structure in form and constitution, nur mit a smaller basis. A slightly disturbing force might serve to *detach it* and leave it standing by itself, or to put it into an appendant condition. (139) (*See also*: *Hunter*: "*Orissa*") Lang vor d. Engländern the original simplicity of the zemindari system lost; there were *Zemindaris* u. *taluqs* of several orders and designations *paying revenue directly to Gvt;* innerhalb derselben wieder subordinate *taluqs u. tenures* converted from the condition of being parts of a homogeneous collecting machine into semi-independence, u. zahlend in that character a recognised *jama directly to the superior kachahri* statt to send on to it in ordinary course their respective collections. (141)
(By u. by) jeder subordinate *jama-paying* "*mahal*" or tenure wde bald a miniature *zamindari*, worin gewisse *jamas* were taken in lieu of collections, and the remaining collections were made by the old machinery. *Waste Land grants or conversions* were also the origin of *taluqs*, both dependent and independent, and so, too, *jaghir* grants for services. (141, 142)
Innerhalb d. village selbst – mit Bezug auf *d. occupation of land* – an analogous process came into operation. The principal persons of the

zemindari *amla and the headmen of the ryots* (mandals), or others of influence, and privileged persons such as *Brahmans*, often got recognized as *holding upon fixed and favourable terms larger portions of the village lands than they could or did cultivate.* These they *sublet*, wholly or in part, and so arose *varieties* of "*jots*" u. ryottee tenures. (142) Vor d. legislation of 1793 d. *middle tenures*, wie sie damals existed, depended for their maintenance *upon usage* and the personal power and influence of the holder. The *ryottee tenures u. jots* ditto regulated by *usage*, the arbitrament of the village *panchayat* u. *the Zamindari amla;* alles *customary*, involving nothing of *personal proprietary right.* (142, 143) D. Verwandlung – dch d. English rogues and asses – der *Zemindaris* in *private proprietors* machte eo ipso (wenn auch nicht in Idee jener asses) *all intermediate interests* zu *rights* in land, u. the owner of any such interest could encumber the land or alienate it within the limit of the right; seine ownership selbst konnte wieder d. complex Hindu *joint-parcenary form* annehmen. (147, 148)

A middle tenure or interest below the revenue paying Zamindar is essentially the right, on payment of the proper *jama* to a superior holder, to make collections from the cultivators of land and to take the *jamas* from *subordinate holders* within a specified area. (148) The *middle tenure* of *every degree* is thus in a great measure an *account book* matter, and is very completely represented by the *jamabandi* paper. Will the owner of such a property benefit a child or a family connection, so kann er es thun by making him a *mokarari* (that which is fixed or established – *permanent*) *grant*, in some form, of *a portion of his collections.* (149) Allzumeist the tenure of the grantor himself amounts only to a *right to a fractional share of the rents*, etc, and then *his* grant [made to child etc] will *pass* a *fraction of a fraction.* (149-150) *Such a tenure holder* mag auch make a grant dieser Art to *a stranger in consideration of a bonus or premium.* Er mag's auch thun um to ensure to himself, in *the shape of the rent reserved on the subject of grant, the regular receipt of money* wherewith to pay his own *jama.* Oder er mag, by *way of affording security for the repayment of a loan of money made to him*, temporarily assign to the lender unde⟨r⟩ a *zar-i-peshgi ticca his tenure right of making collections.* In these or similar modes, the *Bengali tenure-holder,*
141 *proprietor, zemindar,* | u. whatever else the name, is obliged to deal with his interest where *he wants to raise money*, or to *confer a benefit;* veräussert er also nicht ganz u. gar the entirety of his interest, wozu er nur selten Zuflucht nimmt, wenn er es vermeiden kann – so klar that in each instance he *creates a fresh set of proprietary rights.* (150)

Was ferner a middle *tenure or right of land als Gegenstand of joint ownership* angeht, so z.B. eine *ganze share* of a village (*oder of any number of villages*) sei = 16 annas (= 1 Re); nun habe einer a *fractional share*, say a $9^1/_2$ *annas share;* dies kann statt haben in *3 od. 4 verschiednen Formen.* Es kann bedeuten, 1): the tenure holder has a *mokarari* (permanent) right to the rents and dues arising out of a *specified portion of the area of the village which is*

separated from the rest by metes and bounds, and bears to the entirety the *proportion of* $9^1/_2$*: 16*. Oder: 2) in *certain parts of the area* covered by the grant he has *a sole right to the rents*, and in *other* parts to *a fractional portion only*, so arranged that in the whole he gets $9^1/_2$ *out of 16 annas* of the *entire profits of the area*, etc. Meist incidental to his right, dass er das ihm zuständige can *collect by his own officers at his own kachahri;* vielleicht hat er aber auch nur d. Recht to *draw his fractional share of the net collections* made at a *joint-kachahri* belonging, so to speak, to several share-holders. (151, 152) Aber der owner dieser *mokarari tenure of* $9^1/_2$ *annas of property* usually a *joint-family*, or a group of persons representing an original joint-family; alle Glieder solcher Gruppe haben jedes *seine eigne share in the tenure*, which, although existing in a state undivided from the rest, is capable of *being assigned to a purchaser* separately from them. Ausserdem, very often, *each member of the group* can, as between himself and his shareholders, *insist upon having an actual partition of the subject of tenure*. Sobald dies geschehen wird er *by himself* separately entitled to a fraction z.B. der $9^1/_2$ anna tenure; sage zu $^1/_6$ derselben; dann seine *besondere share of the rents and profits accruing from the area covered by the tenure*, subject of course to the payment of the superior rent or *jama*, is $^1/_6$ of $9^1/_2$ annas = *1 anna 7 pie*. So d. *mauzah* selbst, the *unit* in terms of which the *zamindari* caculated, comes to be divided into small portions; u. der *rent receiver* who stands *to a particular ryot in the position of zamindar* kann sein u. ist oft a very small man indeed. Z.B. der ryot may have to pay the whole of his rent to the *patwari* of the *1 anna 7 pie* shareholder, or to pay *1 anna 7 pie out of 16 annas of his rent to him*, and the remainder to the other shareholders separately, or in groups; or he may have to pay *the entirety of his rent* to the *joint-kachahri* from which each shareholder will get his share on division. (153, 154)

This system of sub-infeudation and subdivision of joint-interests, accompanied by severalty of right, *prevails universally throughout Bengal*. (154) Daher beispiellose complexity of landed interests u. keiner hat ein Interesse improvements d. land zu machen. (l.c.) Unter diesem System d. *locally resident zamindars* generally small shareholders of subordinate tenures, deren means nicht greatly superior to those of the well-to-do ryots. (155)

Die *lands of a village* broadly unterscheidbar in 2 sets: the *ryottee lands* (the bulk of the village area, the *village lands*) einerseits, u. andrerseits the Zamindar's [in letzter instance der dem government revenue-paying Zamindar] Land, *ziraat*, *khamar*, *nijjot*, or *sir-lands* (auch noch andre terms dafür). (155, 156) In Bengal heisst d. erstere Land meist the ryot's "*jot*". (156) Wenn dieser wieder sub-lets, so his lessee derives everything from him and goes out of possession with him whenever he goes, erhält also nur a sub-tenure properly so called. (157) *By legislative enactment*, *actual occupation* of the same land for a period of 12 years confers upon the ryot

(if he has it not otherwise, by custom etc) a *personal right of occupation* on payment of a fair and reasonable rent; and occupation for 20 years at a *uniform rate of rent* generally confers a right of occupation at that rate. A very *large number of ryots in Bengal* have in one way or another acquired *permanent right of occupancy* in the land which they cultivate, but the *remainder*, a *larger number*, *merely occupy*, on payment of the rents and dues which usually have been paid to the zamindar's *kachahri* in respect of their land; meist *much less in rate than rents paid by agricultural tenants in Engld.* Zamindar kann theoretically verlangen was ihm gutdünkt before the commencement of every year, u. turn this class of ryot out, if he does not agree, but seldom does so. (157-158) On *ziraat*, *khamar*, *nij-jot*, *or sir-lands* zamindar kann d. Land auf eigne Rechng bebauen, or put in cultivators on *any terms* which they agree to accept; sie sind seine *tenants*, er ihr *landlord* im (europäischen) ordinary sense of the word; hier hat d. zamindar unqualified ownership in land ... In *ryottee lands* the *use* belongs to the ryots.
142 (158-159) | In einigen Theilen Bengals, *jots* od. *ryottee* interest in *considerable tracts of unclaimed jungle*, or *otherwise waste lands*, have at times been granted, of a *perpetual character*, *upon insignificant rents;* dies land afterwards *sublet* to cultivators. In solchen Fällen nicht zu unterscheiden between the *jot-dar* u. an ordinary middle-tenure-holder. (159)

Ways and Means.

Fast absence of the means of intercommunication between village and village, and between one portion of a rural district and another. (161) There is *not a stone*, or *anything harder than clay*, to be found in the soil of the delta; and the floods of the rainy season break down, and sometimes almost obliterate, such roadways as have not been expensively constructed by skilled engineers. (161, 162)
The vehicle⟨s⟩ in use for the carriage of goods are *boats*, the *heads of men and women*, *little tiny bullocks*, and *bambu carts of very rude construction;* when well-to-do people travel they are carried in *palkis* and *doolies*, or go by boat. In the *dry season*, the *men*, the *bullocks*, and the *carts* can and do go anywhere. The *local traffick* usually takes place *in detail of very small quantities*. The *dána* (= grain) or other *seed* is *trodden out by the bullocks* at the *khaliān* almost on the plot where it is grown. [In some districts wie in *Chota Nagpore*, a *rude handflail* is used for thrashing grain]; and both the grain and the straw are very easily carried to the homestead on the heads of the various members of the ryot's family. The *surplus produce*, if any, of the ryot which does not go to his *mahajan* passes in little items to the nearer *hāts*, and so becomes diffused over the neighbouring *mauzahs*, or is carried on further to the larger *hāts*, the *mahajan* u. the *modi* affording the only village depots. The larger hāts again, or local centres of country produce trade, are *commonly situated on roads or khāls*. The produce trader here, by his agents, *gathers in the results of his scattered purchases*, and sends it

away in carts or boats; and thus the *outflow* takes place very evenly. (163, 164)

It is often said, *on occasions of scarcity or famine*, that the *stream will not reverse itself when necessary*. (164) Aber d. Sache die: *As long as the ryots are able to pay the requisite retail price*, the village *mahājans* u. *modis* will succeed in *keeping up their stocks, whatever* the *local deficiency* may be. (164, 165) Aber wenn *season of scarcity* approach⟨es⟩ sind beide, *mahajan* u. *modi* "*inactive*". They know very accurately the extent of their clients' and customers' means. D. *mahajan* naturally enough declines to increase his stock at great cost to himself, *when his clients are already hopelessly involved in debt to him;* u. d. village *modi* for like reason will not lay in a stock at abnormal prices to retail it to those who cannot pay for what they purchase. *This state of things would be completely changed* if neither the *mahajan* nor the village dealer *had reason* to *doubt the ability of the ryot to pay a remunerating price for imported food.* (165) It is the *occurrence of pauperism in the ryots*, when a certain price of food-stuffs is reached, *which throws the ordinary machinery out of gear.* (166)

Was aber in times of scarcity the *Government activity* betrifft etc [*paralysirt diese sich selbst* to a great extent, dies der sense of the "Kohl" of Phear, aber sehr richtig dies.] Was thut Gvt in emergencies of this sort? Errichtet "relief works on a large scale, where great numbers of people, *drawn from their homes*, are massed together within limited areas; *grain* in *considerable quantities* ist *transported from the outside to certain local centres*, for the support of those engaged on the works and for the distribution so far as practicable by the hands of the local committees. (166) D. *preparations des Government* für dies unusual work *themselves very greatly hinder ordinary traffic in rural lines of route; boats and carts*, etc have to be *collected – even impressed* – in all directions, and *become locked up for days and weeks, before they are actually wanted*, damit sie certainly ready when needed. So, nicht *nur while Gvt is importing, sondern long before it commences to do so, private enterprise is left without a vehicle.* (166, 167) D. *Govmnt method of proceeding* hat direct tendency to *remove the pressure upon the village mahajans* u. *modis* u. to *make the market which they supply* noch unsichrer, indem d. *Gvt draws away as many persons as possible*, u. zwar d. ablebodied rather than the infirm, *from their homes*, u. wirkt ebenso by supplying grain. – As soon as Gvt announces its anticipation of a famine and its intention to take extraordinary measures of prevention, *all natural effort at the village end of*
143 *the system ceases.* (168) | *Peon* (for *Piada*) = footman (inferior servants of a Zemindar or landholder); *sandúk* or *sinduk* = a wooden chest;
Ryot = *Raiyat*, originally a *subject*, jetzt peasant;
Rabi od. Rubbee: The *March or April period of the year;* the *harvest season of the crops sown or planted after the cessation of the monsoon rains in September or October of the preceding year.*

Talúq = a dependency; *Tehsildar* or *Tahsildar*, one who collects rents or revenue.
Top, od. tope, od. topu – a grove of fruit bearing trees.
Zu bemerken dass *Tári* od. *tádi* vulgarly *toddy*, the juice of palm tree, fermented or unfermented, auch *spirit* made v. other sources.
Ueber d. Means d. agricultural families in Eastern Bengal: It ⟨is⟩ Memorandum, dem Phear zugestellt von Baboo Ram Sundar Basack of Dacca. Phear giebts in "Appendix", Note A.
⟨see p. 268 chart⟩

Charpoy = a *frame of wood*, having a web of tape or cord stretched across it, and resting upon 4 short legs.
Dao billhook or cleaver.
Ist class of ryots: cultivate *15 bigas* and upwards and have a family of 1 or 2 brothers u. 4 or 5 grown up sons. *Ihre Zahl sehr gering.*
II class ⟨of ryots⟩; cultivate *8 or 10 bigas*, mit abt 3 or 4 male adults in the family. Ihre Zahl⟩ als die der first class. Ein ryot hat oft no other adult male in the family to assist him, but *capital enough to employ labourers*, gehört dann zu 1st od. 2nd class.
III class ⟨of ryots⟩, *4 or 5 bigas*, have 1 son or brother or nobody to assist them (können daher nur 4-5 bigas bebauen) *Bilden die Majorität.*
IV class: a *large number.* Haben *1 or 2 bigas of land*, sustain themselves u. family *mainly by working for others on hire:* sind *labourers* more properly than regular cultivators.
Ist class haben generally 4 thatched houses in good condition to inclose the quadrangle together, mit *3 or 4 out-houses* to serve as the *dhenkighur* (*dhenki*, a pestle u. mortar chiefly used to husk and clean rice), *cowshed* u. *gola.* D. Haupthaus unter den 4 inclosing the quadrangle costs generally *Rs 30 or 40*, the labour being supplied by themselves. D. other houses kosten generally abt Rs 20 or 25. Cost of house erection für such a family daher *Rs 150 or 175 Rs.*
IInd class ausser den 4 ds quadrangle nur 1 od. 2 outhouses; ihre value altogether Rs 100-125.
IIId class, has 1 or 2 houses with a cow-shed, or 1 or 2 single thatched houses to serve as kitchen, dhenkighur, etc. D. value dieser houses Rs 30-40.
D. value hier estimated at *cost of erection;* if sold in good condition fetch generally less, variirt aber (sale price) mit condition, situation, demand, etc.
Ist class ryot has generally a *brass kalsi* (*kalsi* = a *large water pot*), 3 or 4 *lotahs* (*lotah* or *pali* = tumbler), *4 or 5 thalas* (plates), 1 or 2 batis (*bati* = 1 cup), 1 *boughna* (*brass vessel*) or 2 iron pans. The *quantity of brass* forming these ustensils about *12 or 15 seers;* when bought the *cost per seer* von *Re 1, 8a to Rs 2;* when sold the price varies von 12 a. (annas) to Re 1, 4 a. per seer. On the whole the value of these ustensils = *Rs 20.* – The *iron*

⟨Table showing the total⟩ Value of property possessed by different Classes of Ryots (p. 284)

Classes of Ryots	House			Household Utensils			Sinduks			Charpoys			Clothes including Kantha and Pillow			Ornaments			Articles in Cookroom			Gola articles			Cattle			Ploughs			Daos, &c.			Boat			Total		
	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.
1st Class	162	8	0	22	0	0	12	4	0	1	0	0	18	8	0	45	0	0	3	0	0	95	0	0	80	0	0	8	0	0	5	0	0	25	0	0	477	4	0
2nd Class	112	8	0	15	8	0	3	8	0	1	0	0	10	8	0	30	0	0	3	0	0	45	0	0	40	0	0	5	0	0	3	0	0	15	0	0	283	0	0
3rd Class	35	0	0	10	0	0	0	12	0	1	0	0	5	8	0	11	0	0	3	0	0	25	0	0	20	0	0	3	0	0	2	0	0				116	4	0
Last Class																																					25	0	0

basins and *1 or 2 china plates* in the case of Mahommedans, u. *country earthenware pots and dishes* to be valued at a *couple of rupees.*

Baskets u. other utensils[19] made of *bamboo*[20] or *cane-work*, wie *jhakee, dalli, kula, dalla, katta* u. *dhama*, or measure of capacity, may be valued at *1 Re.*

Bei *IInd class ryots* the total *quantity of brass* about 8 or 10 seers = Rs. 8, 12, or 15; the *other class of utensils* at Rs. 2.

A IIId class ryot has generally 1 or 2 brass *lotahs* (tumblers), 1 or 2 thalas, sometimes a *boughna;* quantity = 5 seers, about = Rs. 8. D. *earthen u. bamboo utensils* same as in 2nd class, for the want of brass utensils to be supplied by these.

Unter *Ist class ryots* haben *nur wenige* anything like the *sinduk*, stets in *the house of a trading class* in the village. Preis = *15-20 Rs.* Statt d. regular family *sinduks* haben d. ryots dieser Klass⟨e⟩ meist *one small chest of mangoe* or other inferior wood, and *1 or 2 petaras* (od. *pitara*, see oben) constructed of matted cane. In price von Rs. 2 to 4. (D. pitaras kosten eben so viel.) |

145 Ausserdem haben meiste Ryots od. deren females *1 or 2 small wooden or tin boxes* to keep cash, ornaments od. other valuables. *Price* davon $1^1/^2$ Rs. Gesammtvalue dieser chests, boxes, etc. = *6-8 Rs.*

IIe class families haben generally *1 petara* and 1 small box or 2, about = 3 or 4 Rs.

IIId class ryots haben höchstens *jhaels* or *small petaras* in some cases, v. Price = about $1^1/_2$ Rs.

The *general custom* to keep the valuables hidden in *earthenware pots* kept under the ground or outside.

Mit sehr wenigen Ausnahmen haben d. Ryots keine *Chowkees* or *Charpoys* etc. Statt dessen different spreadings on the floor at night for the bedding. *1 Re* for each family average value of spreadings for all sorts of ryots. *All ryots* use *chhalas* or *gunny bags* to sit upon, which are, when occasion requires, used also *to hold grains.*

Seats of various kinds made of *bamboo slips, canes*, and *splinters of betel-nut tree*, and of *small plants* called *peera* or *low stools;* so small in size that they can hold only one man on each.

Each ryot *male* or female has *2 dhutees of coarse Manchester cloth for ordinary use* while out of work about *12 feet long* and *3 feet broad.* In well to do families haben ausserdem namentlich d. females *country sharees* u. *zenana coats*, and men *chaddars*, manchmal *peerans.* Für d. *Wintersaison* haben elderly men u. women *chaddars of thick cloth*, while *at work* they use very narrow and short *gamchas* or worn out clothes turned into smaller size. *No difference among the different classes* as to *the clothes possessed by a family* ausser so weit dies depend *upon the number of individuals* in each. D. *average value of clothes* belonging to each individual male u. female, about *Rs 2. Dhutee:* a piece of Manchester cloth, known in the bazaar as *longcloth* or *American drill; Shari*, a piece of cloth put on by women having borders of

different colours; *Chadars* or sheet – a piece of American drill or long-cloth measuring about 9 feet in length; *Peeran* or shirt, a coat newly introduced into fashion of American drill or longcloth. *Gamcha* or *napkin*, a piece of cloth short in breadth and length. *Kantha*, quilt stuffed with rags.

In *Ist class* (ryot) *family*, of 12 persons, *4 of whom may be left out of consideration, in consideration of the different persons wearing the same clothes*, the value d. clothes = *Rs 15 or 16;* in *IIclass* of *about 7 persons*, wo *3 persons may be left out* for same reason, *average value of clothes = Rs 8 or 9; in IIId class families* of 2 or 3 individuals, cloth⟨es⟩ value = Rs 4 or 5.

In addition to these *Rs 3, 2 and 1* may be taken as the average value of *leps* (quilt), *kanthas*, and *pillows* belong⟨ing⟩ to a family of Ist, IInd, and IIId class ryot⟨family⟩ respectively.

Ornaments: adult males use none; boys have sometimes *brass or silver bangles* for the hands and *mandulees* or *patta* to hang from the neck; *women use ornaments of various kinds made of gold or silver* and *sometimes of brass*, als da sind:

Nath, or *ring* for the nose; *Besar*, an ornament hung from the nose; *Dana, beads for the neck used by Hindus*, but very seldom; *Kalse* ornaments for arms; *Balla* = bangles; *Mul*, or *kharu – anklets; Churi, bracelet* used by Mahommedans; *Hasli*, a large ring round the neck. – On the whole, the *value of ornaments* belonging to a *Ist class family* = Rs 40-50. (Women whose husbands are living, when *Muhammedans* use *churi of silver* or *of lac*, u. when *Hindu*, a pair of shell bracelets. Für *IInd class family* about *Rs 30*, für *IIId class family* abt *Rs 10 or 15*.

In cookhouse kaum article ausser *pata* (a flat stone) und *puta* (a stone mullar) for grinding condiments in addition to *brass and earthen pots*. So: *ghotee*, a brass or earthen water-pot; *Raing*, an earthen pot used in cooking rice; *Patil*, an earthen basin used in cooking curry; *Shara*, an *earthen cover* for a pot; *Jhajree*, an earthen vessel for straining water when washing rice, etc.; *Hatta*, an iron or wooden *ladle or spoon* used in cooking; *Bowlee*, an iron *tongs* used in catching pots when warm; *Tagaree*, a wooden bowl for holding things cooked. Diese zus. mit *dhenki, ukti*, u. *mosal* (a large wooden mortar u. pestle) to be valued abt *3 Rs* for each family.

Ryots keep generally, according to the circumstances, *a quantity of rice, mustard etc, for consumption during the year, and seeds for next year's cultivation:* the value for *1st class* 90-100 Rs, *2nd class* Rs 40-50, *3d class* Rs 25.

Cattle: Ist class family 8 or 10 cows and bullocks, mchmal a couple of *goats or sheep;* in case of *Mahommedans* a number of fowls; *IInd class family* 4 or 5 cows; in a *IIId class* 2 or 3; the *value of cattle* for *Ist Rs 70, IInd* Rs 40, IIId Rs 20.

Instruments: a *Ist class family* besitzt about *8-10 ploughs*, u. *3 or 4 harrows*, valued a. *Rs 8;* for *IInd u. IIId class* respectively value d. ploughs Rs 5 u. Rs 3. |

146 A *Ist class family* hat generally *3 daos, 4 or 5 kachees, 2 kodalees* or *spades*, 1 *khuntee* (a digging hoe) u. an *axe;* gesammt value *Rs* 5; *IInd u. IIId class* selben articles in less numbers, of value of Rs 3 u. Rs 2 respectively.

Boats: Ryots living in *lowlands* u. *fields etc* watered by annual inundation, and on *river side*, have generally a *dingee* (a small boat) of value of *Rs 10-30*. Dieses Luxus "instrument" nur by Ist u. IInd class ryots, *sehr selten* bei IIId class.

The large IV class hat im allgemeinen a *single house*, a *brass lota* or *thalla*, or a *stone or wooden plate and cane* or *bamboo basket*, etc., and nothing in the way of a *sinduk* or *charpoys;* 1 or 2 mats and kanthas and pillows and a couple of *dhutees*, a *plough*, a *harrow*, a *dao*, a *kodalee*, a *kachee* u. manchmal *a cow or 2; value des ganzen Krams* in average may be estimated at *Rs 25*.

Kodál or Kodáli = a *hoe*, by means of which the work of the *spade*, *the shovel*, and the *hoe* alike is done.

Kathak = a professional story teller; one who recites traditional poems, etc.

Látti, or *Láttee* = a stick or bludgeon, usually of bamboo, heavily ringed and feruled with metal; *Morha*, a stool.

Mulla, or *Mulána:* one who has charge of the village mosque, Mahommedan schoolmaster.

Kachcha = raw, crude, immature, incomplete; *Pakka* = ripe, mature, complete.

Nirkh, a *standard or customary rate*, as of *rent*, etc.

Pálla, a *turn* (Reihe die an einen kommt) as of worship, or enjoyment of property.

Dhoti = the cloth worn round the loins. *Bhát*, boiled rice;

Ghát = the landing slope, or steps, on the bank of a river, or of a tank; the pass up a mountain or ridge of hills, sometimes the line of the hill itself.

Jágir, Jághir, a *service tenure* of land or revenue; *Jalkar-wála*, one who has rights of fishing.

Flgt nun d. 2te Abtheilung v. *Phear's* book über Ceylon. Dieser Bursch residirte 10 Jahre in Calcutta; lebte in Ceylon *1877-1879*. *D. 3d Paper* (*Evolution of the Indo-Aryan Social u. Land System*) was read *1872* durch d. Burschen vor d. *Bethune Society of Calcutta.*

II. *The Agricultural Community*[21] *in Ceylon.*

1) *The Village Economy.*

Island of Ceylon = a Pear; the *circular portion* of the Pear occupied by a *mass of mountains rising manchmal to 7-8000 feet*, bordered at its base with a margin of lower land which continues to the coast on all sides. (173)

The *New North Central Province*, constituted on *6, Sept. 1873*, for administrative purposes, covers the *mid-island portion of the Northern plain... Interminable jungle in a state of nature*, dotted very sparsely with tiny specks of yellow-green cultivation mit some few *pools of water or tanks* The

surface nicht absolutely flat, sondern mit *considerable undulation* an einigen Stellen, an andern *broken by low ridges or rounded bosses of gneiss.* In d. Regel d. *pools* seem by origin nur *accumulations of water* in *natural depressions of the ground* as have *no outlet sufficiently low to drain them* ... aber *their depth u. size* in most instances *artificially increased* dch an *earthen bund* or *embankment*, thrown across the lower side of the depression. In d. drier seasons des Jahrs, as the water bulk shrinks back *towards the bund*, i.e. towards the deeper side, it withdraws from the *greater portion of the tank space*, so that the *jungle* is enabled to flourish there (as it also does *on the embankment itself*) ebenso vigorously als überall sonst in the surrounding tracts. Daher schwer *den tank zu sehn*, selbst wenn man in seiner Nähe. Und when d. *tank voll*, much of it closely resembles *a circuit of flooded forest.* (173-175).
Anuradhapura, the classic city of the *Mahawansa*, für 7-800 Jahre d. metropolis der successiv regierenden dynasties ruling over the larger portion of Ceylon, dann für eben so lange Zeit left to decay, is sehr nah d. *Mittelpunkt* d. neuen Provinz. Ihre Bevölkerung (*1871* nur 16 to □ mi., the inhabitants of the rural villages u. the modern bazar counted together) für sehr lange Periode, bis lately, preserved by the remoteness u. inaccessibility of its situation v. *disturbing action of foreign influences of* ⟨any⟩ *kind*, daher dort a "*living specimen* typical" sehr primitiver agricultural economy u. civilisation. (175-6) D. *People* are *Singhalese* u. class themselves mit d. *Kandyan* or *highlanders* im Unterschied v. d. low-country *Singhalese* who border on the coast on[22] either side; sehr verschieden von d. comparatively slight-limbed, black-complexioned *Tamils*, who constitute the population of the Northern portion des Island. (176, 177) D. *Singhalese language*
147 belongs to the | *Aryan group*, apparently sprung from a root closely allied to the *Sanscritic prakrits of Northern India;* aber d. *Singhalese people* haben Aussehn d. hindeutet auf intermixture of an Aryan with some other, yellow tinted, coarsely built, ethnic element; sind broadshouldered, deepchested, muscular, with a *pronounced calf to the leg*, like all *Mongolian* peoples, unlike the *Aryans of India;* schlagendste peculiarity – *excessive hairiness* of *both male and female.* Dies findet sich nicht bei d. best bekannten mongolischen Stämmen; aber d. *Ainos*, a *Turanian race in the extreme east of Asia*, possess this extraordinary capillary development in noch höherem Grad. (177-178)
The *Tamil* inhabitants der Northern Province sind *ununterscheidbar* von their brethren of the *mainland of India*, with their slight build, black skin, thick lips, open nostrils, coarse hair; they belong unmistakably to the *Dravidian* race. (179) *Exceptionally*, auf d. Grenzmarken der Tamil u. Singhalese districts, to be found *low caste villages*, wo no pure type of either kind preserved. (l.c.)
Ausser d. distribution der population des Districts *by agricultural villages*, Fälle of *petty u. often ephemeral bazars* sprung up at convenient places along the highways – gradually as these have been opened out through the

forest, perhaps never kept by the Kandyans, sondern nur durch low country Singhalese, Moormen, or Tamils. (l.c.)
Controlling element d. village – the paddy tract or paddy field which is itself "a *function* of the supply of water." (179, 180) Meist d. field *attached*, or appended to, a *tank* u. ist oft *strikingly tiny* im Verhältnis zum *size des entire tank;* es wird *irrigirt* by the flow of water passing out from the tank *through a masonry culvert* (Abzugskanal) piercing the lowest part of the *retaining bund* u. öfter noch through a breach or cutting made in the bund itself, u. d. Lage (the lie) *d. Feldes* so, dass the outflow of water can be made to *flood the whole of it* in a succession of flats, *to the lowest* and most remote from it; the line of soil surface from side to side being almost always *horizontal* throughout. Je nach dem local Character des ground hat d. *field* more or less irregular shape, with its longer extension stretching away from the tank bund. Sonst ist es *a single clearing in that universal jungle prevailing on all sides*, selbst bedeckend the actual bund of the tank, and very much of the tank bottom itself. (180)
Jedem Feld entspricht a *gama* or *village*, i.e. group of homesteads wo d. cultivators live; selten hat a village *mehr als ein field;* d. Gruppe steht im Jungle neben d. field, obscured by trees, and *next the bund;* exhibits gewöhnlich no order of arrangement. Die *einzelne homestead*, wenn ihr owner well to do, a *low, thatched, mud-wattled hut*, of perhaps 2 unlighted rooms opening upon the diminutive *veranda*, deren floor die *earth platform* der hut, u. deren roof its projecting eaves; in front dieser hut *small, mud-plastered attawas*, or *roofed cylinders of wicker-work*, raised upon supports for storage of *grain* (ist equivalent der *golas* of Bengal). Auf einer Seite steht ausserdem *a large open shed*, with its little *loft* for *cattle* (if the cottier has any), *implements, curry grinder, rice pounder* (the *dhenki* of Bengal), etc. Under the *back eaves of hut* auch a *place for ploughs*, the *surface-smoother, harrows, etc.* Abutting upon the little homestead's curtillage, or partially enclosing it, – *a garden or loosely cultivated plot for fruit trees*, condiments, curry vegetables (*sāg* of Bengal) etc; the whole meist ill-kept and neglected; d. different homesteads der village group von einander getrennt durch irregular, ill-defined, muddy tracks. (181, 182)
An Spitze a *territorial head*, und in diesen *modern days* (fälschlich!) "*proprietor des village*" genannt; er Nachfolger des primitive chieftain; er mag jetzt d. *Krone* (engl.) sein, or a *religious foundation*, or a private Singhalese gentleman. (182) D. *village field*, or *paddy tract, divided into portions by parallel balks drawn across it from side to side at right angles to the line of water-flow;* each such portion *hereditary share* of some one person or family resident in or belonging to the village. The *principal portion* or *share* – genannt *Mottettuwa* (*Ziraat* in Bengal) gehört dem *head des village;* alle andern share holders hat dem Burschen to make *some contribution of produce in kind*, or *to render him some defined and specific service, domestic or agricultural.*
Dies distinction of tenure[23] – produce in kind oder aber service – ent-

148 spricht genau dem *raiotti* (Ryott) u. *lakhiraj* conditions | of holding in Bengal. Nur d. Unterschied: in *Bengal* d. *raiotti holding* (holding by contributing of share of product) is the *prevalent form* u. *lakhiraj* holding d. exception; in *Ceylon* the holding by rendering of service – nilakariya – is (or rather was) all but universal, and the other the exception. [Dies beweist, dass *Ceylon form* d. primitivere; denn d. Dorfälteste or village chief war kein landlord, hatte keine "rent" zu beziehen, wde abgefunden durch "services".] In Bengal the service or the *lakhiraj holding* stets free u. honourable, such as that of the *priest*, *doctor*, *watchman*, etc; in *Ceylon* that of the *nilakariya* is usually menial. (183, 84)

Meist a *plurality of villages* have a *common head*, u. früher the household establishment of a wealthy native chieftain kept up by *turns of menial service* discharged by villagers, drafted from the many villages in due order upon the footing of their land tenure obligation. Jezt the *service tenure* has so to say become *freehold* (?) Wo a *Buddhist Vihara*, or temple, was oft in d. North Central Province, d. personal service der hier special forms bekleidet, as: *maintaining illuminations*, *thatching* or doing *other repairs* to the *pansala* (the Buddhist priest's residence) etc., noch in vollem Gang. (184, 85)

D. *administrative organisation*, zur Perception d. services for d. head of the village, bestand aus 1 or 2 officials, the *Gamerale* (the village man), the *Lekham* (writer or accountant) etc. Some of the *more wealthy of the share holders in the village field, probably by reason of being by family origin of the same blood with the chieftain*, held their share by the *service of filling hereditarily one of these offices*, or of yielding hospitality to the *head of the village*, when he comes, or to any other visitors whom the village receives. (185-86) Einige dieser services bestehn in doing *smith's*, *carpenter's*, *dhobi's work*, or even that of the *doctor* (Vederale). Im village selbst diese persons paid in their turn by their fellow villagers for their *professional* or *artisan's functions*, either by *labour done for them in the tilling of their shares of the village field*, or *by a quota of the paddy* on *the payer's threshing floor*, measured out and delivered when the harvest completed. Other service consists in *supplying the village head* mit *oil*, *betel-nuts*, *honey from the jungle*, *game*, etc. (186)

Viel wichtiger the *combined action on the part of the villagers for their joint benefit*, necessitated by the *exigencies of cultivation under the primitive conditions* obtaining in the North Central Province, and indeed allgemein in Ceylon, z.B. *fencing the village field every season against the wild animals of the jungle which surrounds it; kein einzelner shareholder könnte unaided execute the whole work;* u. wenn ein *Riss* (Mangel, *flaw*) in it irgendwo so ist *every shareholder's plot open to invasion;* jeder shareholder so direct interessirt in this work, has to bear *his portion of it in proportion to his share in the field.* Ebenso wenn *a breach* im bund (Damm) to be *filled* up, or *some repair* to be done to it, dies done by all the *shareholders jointly furnishing* out of their families or dependents, *each in due proportion*, a *continual supply of labour in successive relays until the work is done.* (187)

Obgleich jeder shareholder in the village paddy field, hat *erbliches Recht in his plot* u. *right of cultivating it exclusively*, dennoch *the mode of cultivation* which is generally pursued *connects him* ... in *almost every step of his tilling with his neighbours, above* and *below*, either in a dominant or a servant character. D. *Process* der *Zubereitung u. clearing the soil for the seed sowing or planting*, of *killing the weeds and keeping them down*, and of *promoting the growth of the paddy plant*, is *from beginning to end* in a large degree effected *by the aid of successive submersions of the plot*, which have to be varied as regards the depth of water *according to the process and the stage of it.* Commonly *3 prolonged submersions* in the *course of tilling*, and *7 shorter ones* during the *growth of the plant.* Da d. *submergence of a relatively lower plot* generally *means* the *submergence of the plots above it*, while the *paddy plant* cannot be depended upon to *grow equally fast in all the plots*, hence, damit *kein risk of one shareholder's operations destroying the young plants of his neighbours*, usual rule dass the *shareholder of the lower end of the field should commence the operations of the tilling season in his plot before any one else*, and so get a safe start of the man next above him. *Selbe order followed by all the others in succession.* (188-89) Wenn in einem Jahr, von *Mangel an Wasserzufuhr* od. sonst welchem Grund *nur ein Theil des village paddy field can be effectively cultivated*, wd *that limited portion taken as the whole u. is divided unter d. village shareholders as the original entirety was.* D. Entscheidung darüber genommen *dch d. shareholders as a body.* Dies jetzt nicht überall known in practice, aber ist oft vorgesehn in the *newly framed Gansabawa* rules, *at the instance of the villagers themselves*, to indicate that it was a deeply rooted ancient custom. (189) |
149 Ganz unabhängig v. d. relations zum head of the village, daher in each village of the North Central Province (u. in fact prevailing univeıs ally) Beamte, the *vel vidahne* u. others *chosen by the shareholders* to *control and carry* out *the system of fencing, ploughing, sowing, shifting of allotment, when necessary*, etc or generally *the internal agricultural economy ds village.* (190)
D. *Reis production d. irrigated fields* nicht genügend to form even the *principal portion of the shareholder's support* in d. Mehrzahl der villages dieser Provinz. D. *ordinary staple of life* the *dry grain, koraccan*, grown upon the *upland*, i.e. on *merely unwatered ground*, or ground which the flow of the water cannot be made to reach. A *piece of the forest* which surrounds the village and the village paddy field, is *felled and burnt*, and a *crop of karaccan* is raised thereupon *for a couple of consecutive years at most*, when the *clearing is allowed to relapse into jungle* again; and *this process is not repeated on the same spot for another 10 years at least.* (190-91) This *process* of *chena clearing* is
*** *often done* in *** the North Central Province by *the joint action of the village shareholders*, under the management of their own officers; and *sometimes the whole course of cultivation which follows is also joint, with a partition only of the produce.* Manchmal aber auch, nachdem the clearing effected, *the land is divided u. allotted previously to the cultivation;* dies immer in case *of the plots required for the growth of each household's vegetables* or *curry stuff.* (191)

(Cabbage garden) – In d. *Maritime Provinces* scheint dies *System of joint clearing* unbekannt; jeder who has *chena land* scheint to own it absolutely, cultivates u. clears it himself at long intervals, or *gets this done for him on some terms of anda* letting. (191-92)
In einigen wenigen instances, it is said, *forest u. chena ground* ⟨is⟩ recognised as *appurtenant to the village* in d. Sinn d. *shareholders des village paddy field* können ohne Erlaubniss of head of village od. Government *clear and cultivate* in obenbeschriebner Art *any portion* on the *foundation of*, and *in proportion to their village holdings*. Generally the *Crown* (John Bull) asserts a paramount claim to all jungle u. waste land wherever situated, which has not been before appropriated to actual use; no tree (!) can be felled or *chena* cultivated thereon ausser mit Gvt license. (192)
D. *actual work of tilling* meist verrichtet dch jeden villager by the hands of his family; *paddy cultivating* speciell so respectable, fst of sacred character, dass *women* unwürdig daran Theil zu nehmen, u. dürfen sich nicht zeigen on the *threshing floor*, namtlich wenn d. so-called *hill paddy*, or more highly valued sort of rice grain, is being threshed. (192-93)
Wenn der shareholder ist Weiberperson ohne Kinder, oder er anderweitig beschäftigt, od. gut genug dran *to be able to abstain from manual labour*, dann common arrangement dass his share *cultivated for him by another person upon the terms of this latter*, die dann renders dem shareowner *a specified share of produce;* dies benamst a letting in *ande;* i.e. *half share;* meist, vielleicht fast immer, the *agreed upon share* = $^1/_2$ *the produce both in straw and paddy;* der cultivator muss ausserdem give a share to the responsible servant usually sent by the shareowner to remain on the ground and look after his interests *from the day of reaping to the day of partition*, and having moreover to feed this man during the interval. (193-94)
Fst alle *vicarious cultivation* assumes this shape; *not known: letting the land for a money rent;* existirt ditto *no class of agricultural labourers, working on the land of another for money hire.* In fact, in d. *rice agricultural village* of
) Ceylon – *practically* = *no money in use.* Vielleicht Mehrzahl der villagers haben *nicht paddy enough to last them for food till next season of harvest* or *for seed*, oder haben no *plough* or no *oxen*. Diese erhalten sie *when* and *as* they are required, vom *Capitalist des village*, on the terms of setting apart for him on the threshing floor *a certain stipulated quantity or share of the produce in return for each item of loan.* Ebenso remunerated the services des Vederale, village blacksmith u. other artizans. *Selbes* mag *manchmal vorkommen auch in the matter of land labour*, aber *general custom for neighbouring shareholders* to *mutually assist one another in this particular when* needed. (194-95) Der *head of the village* mit Bezug auf his *muttettuwa* has this cultivated *umsonst* under Aufsicht of his officers *by the turns of tillage service due to him* from those of the villagers whose tenures involve the service; cultivirt er in this way, so gehört ihm d. ganze Product des harvest. Aber auch er
150 zieht | oft vor to dispense with these services u. to let out the *muttettuwa*

land in *ande* (*ande* in terms of receiving a specified, *originally half*, share of the produce.) (195) D. gegebne Schilderung genommen v. *North Central* u. *Kandyan provinces*. (196) Erst errichtet sich a regal (!) *hierarchy on the basis of the village;* aber d. sovereign power (!), when once constituted, wird in course of time the *instrument* for generating u. developing gz *neue* conditions u. notions (!) of property in land. (l.c.)

2) *Land Tenure and State Economy*

to *Adigars*, *Dessaves* etc u. andern chieftains by the kings conferred – *nicht tracts of land* (zum Lohn für military u. civil services) sondern grants of dominion over populations. Der grantee erhielt the chieftains *customary rights* over the villages u. nun appropriated lands; daher *Nindegama* (village unter private ownership) as opposed to the *royal* or *Gabada-gama*. (197, 198) Sub-infeudation *nicht* in Ceylon to any considerable extent. (198) [Even the *Bengal subtenures* did not attain their extraordinary modern development until after the Permanent Settlement had given the zamindars an absolute right of property in all the *land of their zamindaries*, – a right without parallel in Ceylon.] (199) Einige grants – royal or durch private seignior – became cultivating settlements, having *the grantee* (nicht the grantor) at their head; der grantor had *no* connection mit der new community ausser the *link of service* which bound the grantee to him u. which often in course of time wore out, became un⟨en⟩forceable. Others perhaps were from the beginning exclusive u. free of continuing obligation. (199, 200)

Daher will Phear ableiten die sehr *zahlreichen cases of cultivators* u. even of *non-cultivating proprietors*, who *own lands by a right of an absolute u. independent character*, to be found in all parts of the country, *speciell in the maritime provinces*, obgleich hier the *Dutch dominant authority* probably effected the larger part of the change which has taken place in modern times. (200)

So now *coming into existence* an *agricultural labourers' class;* denn *wealthy native gentlemen*, die *Geld* auf andrem Weg als Agricultur gewonnen, found themselves able *to obtain the labour of the poorer village proprietors for daily money wages*, u. so to "*farm*" *their lands* extensiv im English Sinn des term. (200, 201)

Joint family system ebenso conspicuous in *Ceylon als in Bengal*, doch im erstern selten of so large dimensions; besdrs charakteristisch d. *Ceylon joint-family system: 2 or probably*[24] *more brothers living together under one roof will have one wife between them;* practice discouraged by English legislation, aber keineswegs extinct; still enters as a curious factor[25] in the *law of inheritance*, which has to be administered by the civil courts. (201)

Enjoyment der property der joint-family managed by agreement, express or implied, aller adult joint sharers in the family property, who often separate themselves into smaller groups each taking its own plot of land; jeder dissentient sharer can claim to *have his share divided off for him*. (202) In Fällen von *cocoa-nut* or *areca nut plantations*, of *jak trees* u. selbst of

paddy fields, usual that *every gathering of the crop should be made in the presence of all the sharers*, and the *produce then and there divided according to the shares.* In such cases verrichten *all the sharers together* the necessary work *incidental to the cultivation or the keeping up of the plantation* and *constitute in fact a cooperative society.* Eine andre Praxis ist dass d. *sharers let* out the land or plantation in Ande, entweder to an outsider, or to one or more of themselves. Dann alle sharers to be *present at the division of the produce*, which is effected in 2 steps, *first division into moieties* und dann *a division of one moiety among the sharers.* (202, 203) Manchmal the enjoyment of the property by *tatta maru* succession; erst getheilt (ideell), u. every sharer obtaining his proper number of *parts*, dann takes the *entirety* for the same number of seasons as he is entitled to parts, giving it up at the end of such period of time to the sharer who stands next in the rota etc. Z.B. *A*, *B*, *C* jointly entitled to a paddy field in undivided shares proportionate to 2, 3, and 4, i.e. to a $^{2}/_{9}$, $^{1}/_{3}$, $^{4}/_{9}$ share of the whole respectively, then A would take the whole field for 2 years, B for 3, u. schliesslich C for 4, u. then the *set of turns* repeated in the same order, for *successive periods of 9 years*, until some sharer ⟨should⟩ insist upon having an actual partition of the field. (203, 204)

Aehnliche Sorte of Reihenfolge adoptirt in einigen *villages an d. Küste* zum
151 enjoyment *by the villagers* of the | *fishing grounds* belonging to the village; diese are divided into *localities;* u. d. *recognised boats of the village* fish these localities by turns which are settled by *gansabawa* arrangement. Jedes *dieser boats mit its nets* is a valuable property, belonging to many co-sharers jointly, who are commonly members of one family, and have become entitled to their shares by inheritance.... On a *day's fishing* the *produce is drawn ashore*, divided in a sufficient number of lots, each estimated to be worth the same assigned value, u. *diese lots then so distributed*, dass: $^{1}/_{50}$ to the *owner of the land* on which *the fish* are brought ashore; $^{1}/_{4}$ to *those engaged in the labour;* $^{1}/_{5}$ for the assistance of *extra nets etc*, rendered by third parties in the process of landing and securing the fish, which together $= \frac{2 + 25 + 20}{100} = \frac{47}{100}$; die remaining $\frac{53}{100}$ go to the *owners* of the *boat and net according to their share* therein. (204, 205)

Panguwa = share of the village paddy field, das dem Singhalese *nilacaraya* zukommt. (206)

The *cultivation in ande* bei d. *Singhalese* ist precise counterpart der *batai* cultivation der Bengalese. The *deputing of the right to cultivate the soil*, as distinguished from *the letting out land as a commodity* in beiden agricultural systems. The *usufructuary mortgage*, flowing from this conception, is the *prevailing* form of dealing mit the *panguwa* u. the *jot respectively as commodities.* (207, 208)

In *Ceylon wie in Bengal* double set of village officers, one ernöthigt dch *relation der members der little village* republic to each other, andre dch

relation "with their (!) lord"; d. *gamerale, lekhama, kankaname* entsprechen dem bengal. *naib, patwari, gomashta;* andrerseits der *vel vidane* equivalent dem *mandal.* (208) (3t *Ceylon u. Bengal* p. 206-213.) *batai agreement* (Bengal), under which the tilling is done by a person not the owner – in consideration of a definite share of the produce being yielded to the owner. (237)
4) *The Grain Tax. Obligation des cultivator to pay to the Crown* a *tithe or share of his paddy crop* if he has any, u. in some parts der country, also *of his other grain crops.* (214)
In vielen instances *villages* were kept in hand by the Crown (held *khas* as it is phrased in India) for the especial support of the central establishments: the *muttetuwa* darin was service-tilled, or let out in *ande*, under the direction of royal servants; the produce thus accruing was deposited in *kind* in *royal storehouses* (*gabedawa*), *arsenals* (awudege), or *treasuries* (*arramudale*), according to its sort, u. d. personal services due were rendered at the palace or elsewhere, to meet some immediate royal requirement. D. '*crown villages or lands* were known under various designations, as *ratninda* or *ande*, original⟨ly⟩ crown lands; *nillapalla*, those which had fallen into the crown from failure of the office to which they were attached; *malla palla*, those reverted to the Crown from death of the Grantee. (216, 17)
Unter Portugiesischer Herrscft several native powers at times maintained a separate simultaneous existence in the different provinces; but little continuity of general municipal administration of any kind. Village *system* still in activity, even im Theil d. Landes most affected by foreign influences u. other disturbing forces, in the *low part of the country near the coast;* dch d. *services u. contributions* derivable from this source, first the *native powers of the low country*, u. nach ihnen *the Portuguese, recruited their military forces* u. obtained the means of gvt. The *Portuguese*, when become *superior over the southern maritime circuit* of the island, took up the *position der native kings*, whom they superseded, and *adopted their fiscal and administrative machinery* as it stood. (217, 218)
D. *Holländer*, having turned out the Portuguese, ditto in power über d. maritime provinces, displaced all the *native local heads u. officials;* ihr gvt übernahm the direct collection and benefit der various *dues, cesses* u. *services*, fastened upon the holder of the land to whomsoever they had been rendered. (218, 219)
Engländer, in their turn, assuming the gvt der maritime provinces, folgten zuerst dem Vorgang der Dutch, brauchten d. *services* deren, die *land on tenure of service* hatten (u. on that account *duty free*), nahmen auch an d. *storehouses* etc the *seignior's share of produce in kind*, von den *Mallapalla,*
152 *Nillapalla, Ratninda*, or *Ande lands*, u. nahmen endlich | such benefits as were derivable from holders of land on other u. uncertain tenures, inclusiv the payment of quotas of produce u. of measures of paddy. (219)

Diese letzte *sort of dues* converted dch *Royal Proclamation of 3 May 1800*, in *tax of* 1/10 *des Produce*, scheint sich zu beziehen auf d. *residue of lands*

nach Abzug der Government lands u. der *lands held on tenure of service* to Government. Offenbar waren *private seignior* und the *vihara headship* schon verschwunden vor d. Dutch. (219, 220)
3 September 1801 durch Proclamation d. *obligation to service* on *tenure of land* in d. maritime provinces *abgeschafft* (ab von *1 Mai 1802*) u. solches Land unterworfen to *payment to Gvt of* $^1/_{10}$ *des produce if highland*, $^1/_5$ *of produce if lowland.* Zugleich the *payment of* $^1/_4$ *of the produce* für *Mallapalla, Nillapalla, Ratninda or Ande lands* reserved. (220) Obgleich so *d. obligation to service* divorced from land, ward dem Governor the power reserved to *exact it by special order* von persons *aller castes u. conditions* for *adequate pay* to be given therefore. D. *exigencies of the Kandyan war* gaben dem Gvt dann den Vorwand to renew a *general claim to the services of the people*, nicht mit Bezug auf Grundbesitz, sondern of custom and caste, *payment to be made at rates fixed by Gvt; 1809* wde *Wegbau* zu *gratuitous service* gemacht, lying on the inhabitants des Districts through which they passed. (221) Diese enactments applied nur to the *maritime provinces* acquired von d. Dutch. *1815* erhielten d. Britishers dch *conquest* u. *treaty* auch d. *Government* of the *Central or Kandyan province*, bis dahin solely under the administration der native powers. *1818*, dch Proclamation von *21 November*, alle duties bis dahin payable in royal storehouse, treasury, or arsenal, u. alle andern duties u. taxes *abgeschafft*, ersetzt dch *tax of* $^1/_{10}$ *of the produce on paddy lands*, reduced to $^1/_{14}$ in certain specified *Korles.* (221, 222) Zugleich die *services* due in respect of service tenure lands (auf welche grade die neue Tax fiel) retained, obgleich stipulated that the services *generally* should be paid for at *an established rate;* aber *repair u. making of roads*, wie in d. maritime provinces, *gratuitous service* gemacht. (222) Dch *Proclamation v. 21 Nov. 1818* auch d. liability of certain inhabitants of temple lands to perform *service to Gvt* also retained. (l.c.)
Auf Report v. *24 December 1831* des *Lt. Colonel Colebrooke*, (nämlich dieser u. Mr. Cameron waren commissioned wden die Administration von Ceylon to inquire into) an *Order of Council* d. d. *12 April 1832* erklärte, dass Niemand of His M's native or Indian subjects in island *liable to render any service* in Bezug auf ihre *land tenure*, oder wegen ihrer *Caste* od. sonstwie zu welcher d. *subjects of European birth* were not liable. Aber auch diese Proklamation enthielt the *reservation* of *services* to *the crown* of *holders of land in royal villages in the Kandyan province* u. dasselbe for *vihara* u. *private owners* in the same province. (l.c.)
According to *Ribeyro, Knox* u. *Valentyn*[26] in the *Portuguese* u. earlier times there was almost no money in the country. *All trade* which was not a Crown monopoly *was effected by barter. Paddy was the commodity which commonly filled the place of coin.* Die meisten *presents* which accompanied all service, *took the form of paddy*, and *nearly all obligations by the way of remuneration* or duty were discharged by *a measure of grain* drawn from the contents of the threshing floor at harvest. (225) Von dem *librarian of*

the Malagava, Kandy, dem "learned" *Suriyagoda Unanse*, erhielt der Bursch *Phear* flgde bemerkenswerthe Notiz:

D. *frühste Erwähnung* irgendeiner *tax or contribution des Volks für support of a royal person* to be found in the *historical books of Ceylon*, occurs in the *Aggauna Satha* (a *sermon by Buddha himself*) in Digha Nitraya, u. *in the commentary thereon* called *Sumangali Vilasani* by the learned Buddhist divine *Buddhagosha*. Der passage des sermon lautet: "*We shall give a portion of our paddy.*" Dazu commentirt *Buddhagosha:* "We shall give you at the rate of ammunan of paddy from each field of ours. [Das word "Sali" im Original is literally a *particular kind of rice, soll* aber hier stand for all grain produce]. *You need not follow any trade.* But be you our chief." (227, 228) Weiter keine tax or obligation an governing power erwähnt; nichts von Diensten: diese, meint Phear, späteren Ursprungs; u. the *paddy cesses* ultimately often again superimposed upon the services, came in later still, with an increase in the central power of exaction. (227, 228) D. *Singhalese word "otu"*, wdch d. Gvt tax or claim meistens benamst, heisst "one", also
153 equivalent only to one *portion* or *one share* ohne indication | irgendeiner Proportion der share zum Ganzen. (228, 229)

Also d. $^{1}/_{10}$ im English impost scheint founded upon the *practice* of *the Dutch* in granting out Crown lands. D. *grain tax* folglich nicht älter als the century; in a certain sense return to the earliest u. most widely prevalent form of national revenue developed from the basis of the village organisation, aber charakteristisch dass d. *Ceylon Aryans* from the same basis produced the *service system* in its stead. (229)

III) *Evolution of the Indo-Aryan Social and Landed System.*

At the present time *every settlement report* sent in to the Government (in India) will be found to furnish instances, and to describe the circumstances of *newly created agricultural communities. (234. Phear*[27] hätte besser gethan statt seines hypothetischen Kohls description solcher instances zu geben!)

Dieser respectable Esel bildet sich ein, dass "there grew up, *even from the commencement*, a *gradation of respectability and employment within the village itself.*" [!] (Der asinus lässt auch[28] alles dch private families gründen) (p. 238)

The proprietary conception went no farther than this namely, that the *particular plot of land* which the family, or the individual claimed was the part of the village land, which he or it was *entitled to cultivate*, or to have cultivated for his own benefit. The *business of allotment* (so long as the practice of allotting remained), the *order of cultivation*, the *maintenance of the water supply*, the *keeping up of fences*, and all other affairs of common interest to the little community, were managed by the *heads of families*, entitled to their share of the village lands, in the *panchayat* assembled. (241)

Each little colony or *abad.* (242) *nij* or private lands. (243)

Kshatria caste nur mentioned in *Brahmanical* pages, and it certainly has no reality now. (See *Growse's "Mathura"*) (p. 246) Ebenso the existence *of*

the Vaisya (Kaufmann's) Kaste nur evidenced by Brahmanical writers. (248) The *great bulk* of the *descendants of the original settlers* (speaking of villages in the mass) less careful of purity of blood, or of preserving any mark of descent from the immigrant race ... mit ihnen gradually intermixed people of all kinds, aborigenes, run-aways from other *abads* for cause of pauperism, feud, or otherwise, some of whom came to be even allowed a portion of the village lands. (248, 249) Probably the *Brahman, Kschatria, Vaisya* u. *Sudra der Brahmanical codes* blos Utopian class distinctions of a prehistoric More. (250)

In allem there is at most conceived only the *right to cultivate land*, and a deputing of that right to another in consideration of a share in the produce. (255) Selbst in seinem private land or *nij* d. chief had only the *right to cultivate by himself*, or to get somebody else to do it on condition of dividing the product. (256) The *share of produce* which the Chief could take from the cultivators was not regulated by his own pleasure, or *by the making of a bargain*, but by *custom*, or practice, in regard to which the *village panchayat* was the supreme authority, and the chief had no power to turn the cultivator out of possession. (257) D. Verwandlung dieser quotas of produce *into money payments*, or *their equivalent* (an event which has not happened universally even yet) machte sie nicht zu *rent paid for occupation and use of land* as *an article belonging to and at the disposal of the person paid*, but were dues payable to a superior ruling authority.... D. Chief, though zamindar of *all* the land within the Zamindary, was at most *landlord*, (u. das nur als one merely having the right to dispose of the occupation and tilling of the soil) of his *nij* lands, and in some instances probably of the wastes. Seine machinery was sein *Kachahri*, the centre of local authority, side by side womit the *panchayat*, i.e. the old *abad* self-government. (257, 258)

In *Manu's Institutions* nowhere a mention of land as a subject of property in the modern English sense. *Private ownership of cultivated plots* is recognized, ist aber simply the *ownership of the cultivator;* the *land itself belongs to the village;* no trace of rent; *owner* is only another name for *cultivator*. Er ist under obligation to cultivate lest the Rajah's or lord's dues in kind be shortcoming, aber er might cultivate by servants, or
154 arrange with someone else to *cultivate* on *a division of crops* (i.e. | the *batai system*, a form of metayer). In another place of *Manu*, everyone enjoined to keep a supply of grain *sufficient for his household for 3 years*.... Almost everybody so supposed to be an actual cultivator The *practice of batai ... did not in fact lead to the letting of land;* u. *rent* in any form unknown to Manu. (258, 259) *Selling of land*, or even *of the use of land*, nirgendswo directly alluded to.... *Appropriating a field, giving a field* u. *seizing a field* erscheinen alle bei *Manu*, aber nicht *buying or selling a field.* (259, 260)

Etwas später, nach the *Mitakshara*, separated kinsmen had acquired uncontrolled power of *disposing of their respective shares of the family allot-*

ment; dies was a *mere transfer of a personal cultivating right*, incidental to personal status in the village community, and subject to an obligation to render to the lord his share of the produce. Daher the *transaction to be accompanied by specified public formalities;* and an out-and-out sale discountenanced except for necessity. Ausserdem, when the transfer not absolute, but *conditional by way of security for the repayment of a debt*, it always took the form of what is now called a *usufruct⟨u⟩ary mortgage*. (260, 261) The *usufruct of land by actual tillage* on the footing of a right of partnership in the village cultivating community, and not *the land itself*, constituted the object wor⟨au⟩f sich d. word "*ownership*" in d. Hindu law writers bezieht. (261)

Dies auch bestätigt dch *copper-plates of title, old sanads*, u. ähnliche evidence; sie disclose the pretty frequent grant or assignment of the *right to make collections* u. other *zamindari rights* proceeding from a superior lord, or the *gift of a plot from the waste*, or out of the zamindar's *ziraat*, to a Brahman or other person; but no instance of *private transfer by purchase and sale of actual land*, or even of *the lease of land for a term of years in consideration of a rent*. (261, 262) D. *Sanchi tablet*, wovon a translation given in the *Journal of the Asiatic Society of Bengal*, v. VI, p. 456, bezieht sich nicht auf purchase u. sale of land as between private owners; sondern an *enfranchisement of some sort* (such as redemption of liability to pay revenue to the lord) with the view to the land becoming *debattar*. (*262, nt. 1*)

Mr. La Touche's "*Settlement Report of Ajmere u. Mhairwarra*" recently published, obgleich La Touche nach Phear d. facts verfälscht dch phraseology borrowed from feudal Europe. (263) Die Sache kömmt dar⟨auf⟩ hinaus: *Certain members of the village community* enjoy the permanently cultivated or improved lands of the village by some recognised hereditary or customary right of cultivation, sometimes termed *ownership*, u. sometimes *proprietorship;* zahlen sie the customary share of the produce to the person entitled to receive it, so they consider themselves entitled to continue undistrubed in the occupation and cultivation of their land, or even to transfer it to another; no *such thing as the letting of land on terms of profit; private sales* of land practically unknown u. the *sale of land* by *the Civil Court* (an *English innovation*) has been prohibited because so opposed to ancient custom as to be incapable of being carried into effect; *mortgages* are almost all of an *usufructuary kind*, and in *Mhairwarra* a kind of *metayer system established between the mortgager and the mortgagee:* the *State* – the representative of the former superior Chief – collects the *revenue* (the modern equivalent to the *old customary share of the produce*) from the cultivators by certain agency machinery etc, ausser over lands, wo the *Chief's rights* to collect dues, and of other kind, were assigned by him to *minor Chiefs*, – *istamrardars or jaghirdars* – on conditions of military service, or for other consideration; unter d. rights so exercised by the *State* u. its assignees, *was the right to dispose of waste lands;* obgleich within the *State area of col-*

lection the revenue is *settled in the form of a money payment* in all *jaghir estates* the revenue is collected by an *estimate of the produce*, and *money assessments are unknown.* (p. 263-265) u. sagt *La Touche* selbst: "The land tenures are, as might be expected, *entirely analogous to those prevailing in the adjacent Native*
155 *States.*" (p. 266) | In Europe, im Unterschied vom East, in *place of the produce* ⟨type of⟩ *tribute* was substituted a *dominion over the soil* – the cultivators being turned out of their land u. reduced to the condition of serfs or labourers. (266, 267)[29]

In the East, under the village system, the *people practically governed themselves*, and the contest for power among the Chiefs of the noble class was mainly a struggle for command of the *kachahri tabils.* (271)

PART III

MARX'S EXCERPTS FROM HENRY SUMNER MAINE, *LECTURES ON THE EARLY HISTORY OF INSTITUTIONS*

160 *Sir Henry Sumner Maine: "Lectures on the Early History of Institutions. London 1875."*

In d. Uebersetzten d. *Brehon Laws* – an assemblage of law tracts, wichtigsten:
Senchus Mor (Great Book of the Ancient Law), and the *Book of Aicill.* Nach *Mr. Whitley Stokes* das erstere compiled in od. kurz vor *11 Jhdt;*[1] d. Buch v. *Aicill* ein Jhdt früher. (12)
Edmund Spenser: "View of the State of Ireland."
Sir John Davies[2].
Laws of Wales.
Brehons a class of professional Irish *Lawyers*, whose occupation became hereditary.
[De] B[ello] G[allico] Caesar. VI, 13, 14[3]*:*
The learned writer of one of the modern prefaces prefixed to the Third Volume of the Ancient Law contends that the administration of the Brehon system consisted in references to *arbitration* (p. 38) (See "*Ancient Laws of Ireland*") Will ein vornehmer Mann seine Schuld (a claim upon him) nicht discharge, *Senchus Mor* tells you to "*fast upon him*" (l.c. Ancient Laws etc. vol. I, p. 113) Dies identisch mit was d. Hindu call "*sitting dharna*" (39, 40).
Alle Pfaffenautorität in Irld ging natürlich, nach d. conversion d. Irish Celts über an d. "*tribes of the saints*" (the missionary monastic societies founded on all parts of the island u. d. multitude of bishops dependent on them. D. religious Theil der old Laws daher superseded, ausser so far as the *legal rules* exactly coincided with the rules of the new Christian code, the "*law of the letter*". (38) The one object of the Brehons was to force disputants to refer their quarrels to a Brehon, or to some person in authority advised by a Brehon, and thus a vast deal of the law tends to run into the *Law of Distress*, which declares the various methods by which a man can be compelled through seizure of his property to consent to an arbitration. (38, 39) The Brehon appears to have *invented* (dch hypothetische Conjecturen, i.e. purely hypothetical cases) the facts which he used as the framework for his legal doctrine. His *invention necessarily limited by his experience*, and hence the cases suggested in the law tracts... throw light on the society amid which they were composed. (43, 44) The "*law of nature*" meint d. ancient law (custom) explained by the Brehons, u. dies bindend as far as it coincided with the "*law of the letter*" (i.e. dem Christlichen Kram). (50) The Brehon did claim that St. Patrick and the other great Irish Saints had sanctioned the law which he declared, and that some of them even revised it. (51)
Dch d. Churchmen, die mit notions of *roman law* [rather ditto of *canonical law*] more or less imbued, kam auch d. *röm. Einfluss* (– so far as it goes –) on Brehon law. (55) Daraus im Interesse d. Kirche *Testament* derived

("*Will*"); ebenso conception of "*Contract*" (the "sacredness of promises" etc. sehr wichtig für Pfaffen) Eine Unterabtheilg (published) des *Senchus Mor*, nämlich *Corus Bescna* chiefly concerned mit "*Contract*" u. zeigt sich darin that *the material interests of the Church* furnished one principal motive for (its) compilation. (56)
Nach d. Brehon law giebts 2 Sorten of "*contract*": "*a valid contract, and an invalid contract*"... Anciently, the power of contract is limited on all sides ... by the rights of family, distant kinsmen, co-villagers, tribe, Chief, and, if you contract (später mit Christenthum) adversely to the Church, by the rights of the Church. The Corus Bescna is in great part a treatise on these ancient limitations. (57, 58)
[4]The "*Book of Aicill*" provides for the legitimation not only of the bastard, but of the adulterine bastard, and measures the compensation to be paid to the putative father. The tract on "*Social Connections*" appears to assume that the *temporary cohabitation of the sexes* is part of the accustomed order of society, and on this assumption it minutely regulates the mutual rights of the parties, showing an especial care for the rights of the woman, even to the extent of reserving to her the value of her domestic services during her residence in the *common dwelling*. (59) Dieser tract on "Social Connections" notices a "*first*" wife.[5] (61) Dies hält Maine für Kirchen-einfluss, kommt aber überall in higher state of savagery vor, z.B. bei
161 Red Indians. | The common view seems to have been that (d. christliche) chastity ... the professional virtue of a special class, (monk, bishop, etc) (61) (Die flgden "Extracts" zeigen, einerseits dass Herr *Maine* sich noch nicht aneignen konnte was *Morgan* noch nicht gedruckt hatte, andrerseits, dass er Sachen die sich u. a. schon bei *Niebuhr* finden, darzustellen sucht as "pointed out" by the identical *Henry*[6] *Sumner Maine*! —: "From the moment when a *tribal community* settles down *finally* (dies "finally"! absurd, da der tribe, wie wir sehr[7] oft finden,[8] having once settled down, migrates de[9] nouveau u. *settles again*, either voluntarily, or forced to do so somewhere else) *upon a definite space of land*, the *Land* begins to be the base of society in place of the kinship. The change is extremely gradual etc." (72) [Dies zeigt nur, wie wenig er d. *point of transition kennt.*] Er führt fort: "The constitution of the *Family* through actual blood-relationship is of course *an observable fact*, but, for *all groups of men larger than the Family*, the Land on which they live tends to become the bond of Union between them, at the expense of kinship, ever more and more vaguely conceived." (72, 73) [Dies zeigt, wie wenig die *Gens* a fact observed by the identical Maine is!] "*Some years ago I pointed out* ("*Ancient Law*", p. 103 sq.) the evidence furnished by the history of International Law that the *notion of territorial sovereignty*, which is the basis of the international system, and which is inseparably connected with dominion over a definite area of land, very slowly substituted itself for the notion of tribal sovereignty." (73) Nach Herrn Maine, *first: Hindoo Joint Family*, 2nd, *Household Community of*

the Southern Slavonians, 3d) *the true Village Community as found first in Russia and next in India.* [Dies "first" u. "next" bezieht sich nur auf d. relative periods worin diese things dem great Maine bekannt geworden.] (78)
Ohne d. collapse der "smaller social groups" and the decay of the authority which, whether popularly or autocratically governed, they possessed over the men composing them, wie sagt d. würdige Maine, ⟨we⟩[10] "should never have had *several great Conceptions* which lie at the base of our stock of thought" (86) u. zwar sind diese great conception⟨s⟩: "the conception of land as an *exchangeable commodity*, differing only from others in the limitation of the supply" (86, 87), "*the theory of Sovereignty*", or (in other words) of a *portion in each community possessing unlimited coercive force over the rest*", "the theory of Law as exclusively the command of a sovereign One or Number", "the ever increasing activity of legislation" u. – [asinus!] – der test of the value of legislation ... viz: "the greatest happiness of the greatest number." (87)
The form of private ownership in land which grew out of the *appropriation of portions of the tribal domain to individual households of tribesmen* is plainly recognized by the Brehon lawyers; yet the rights of private owners are limited by the controlling rights of a brotherhood of kinsmen, and the control is in some respects even more stringent than that exercised over separate property by an Indian village community. (89, 90) Dasselbe Wort: "*Fine*" or Family (?) is applied to all the subdivisions of the Irish society, von d. *Tribe* in its largest extension u. all intermediate bodies down to the Family (in the present sense), and even for *portions of the Family.*" (*Sullivan, Brehon Law. Introduction*".) (90) *Sept* = sub-tribe, or *Joint Family* in d. Brehon tracts. (91) The chief for the time being was, as the Anglo-Irish judges called him in the famous "Case of Gavelkind", the *caput cognationis.* (91) Not only was the Tribe or Sept named after its eponymous ancestor, but the territory which it occupied also derived from him the name which was in commonest use – so wie "O'Brien's Country" or "Macleod's Country". (l.c.) Von portions des land occupied by *fragments of the tribe* some are under minor chiefs or "*flaiths*" (93) All the unappropriated tribe-lands are in a more especial way the property of the tribe as a whole, and no portion can theoretically tbe subjected to more than a temporary occupation. (93) Among the holders of tribe-land are groups of men calling themselves tribesmen, bilden in reality associa-
162 tions formed by contract, chiefly for the | purpose of pasturing cattle. (l.c.) Auf dem "waste" – common tribeland not occupied – Stücke beständig brought under tillage or permanent pasture by settlements of tribesmen, and upon it cultivators of servile status are permitted to squat, particularly towards the border. It is the part des territory worüber d. authority des Chief tends steadily to increase, u. here he settles his "*fuidhir*",[11] or stranger-tenants, a very important class – the outlaws and "broken" men from other tribes who come to him for protection ... are

only connected with their new tribe by their dependence on its chief, and through the responsibility which he incurs for them. (92)
Particular families manage to elude the theoretically periodical re-division of the common patrimony of the group; others obtain allotments with its consent as the reward of service or the ap⟨p⟩anage of office; and there is a constant transfer of lands to the Church, and an intimate intermixture of tribal rights with ecclesiastical rights Brehon law shows that by the time it was put into shape, causes etc. tending to result in Several Property ... had largely taken effect. (95) The severance of land from the common territory appears most complete in the case of Chiefs, many of whom have large private estates held under ordinary tenure in[12] addition to the demesne specially attached to their signory. (l.c.)
Dieser asinus bildet sich ein dass "*modern research conveys a stronger impression than ever of a wide separation between the Aryan race and races of other stocks* (!) but it suggests that many, perhaps most, of the differences in kind alleged to exist between Aryan sub-races are really differences merely in degree of development. (96)
Anfang d. XVII Jhdts erklärten d. *Anglo-Irish Judges* the *English Common Law* to be in force throughout Ireland, u. so seit dem lausigen *James I* all land to *descend to the eldest son* of the last owner, unless its devolution was otherwise determined by settlement or will. Der *Sir John Davis*,[2] in seinem report of the case u. d. arguments before the Court, recites that hitherto all land in Ireland had descended under the *rule of Tanistry* oder *those of Gavelkind.* Was dieser Davis[2] sich einbildet as *system of inheritance*, called Gavelkind, he (Davis)[2] describes so: "When a landowning member of an *Irish Sept* died, its chief *made a re-distribution of all the lands of the Sept.* He did not divide the estate of the *dead man among his children*, but used it to increase the allotments of the various households of which the Sept was made up. Aber was diesen English judges nur als "systems of succession" erscheint, war "ancient mode of enjoyment during life". (99)
So in the Hindoo *Joint Undivided Family* the *stirpes or stocks*, dem European law nur bekannt as *branches* of *inheritors*, are *actual divisions of the family*, and *live together in distinct parts of the common dwelling.* (*Calcutta Review*, *July 1874*, p. 208) (100)
Rundale holdings in part of Ireland; jetzt meist common form: *arable land held in severalty* (dies beschreibt d. Sache falsch!), while pasture u. bog are in common. Aber noch vor 50 Jahren, *cases were frequent* wo d. arable land divided in farms which *shifted* among the *tenant-families* periodically, and sometimes annually. (101) Nach Maine "the Irish holdings "in rundale" are *not forms of property*, but *modes of appropriation*",[13] aber d. Bursche selbst bemerkt: "*archaic kinds of tenancy* are constantly evidence of *ancient forms of proprietorship*.... *Superior ownership* arises through purchase from small allodial proprietors (?), through colonization of village waste-lands become in time the lord's waste, or (in an earlier stage) *through the sinking*

of whole communities of peasants into villeinage, and through a consequent transformation of the legal theory of their rights. Aber selbst wenn a Chief or Lord has come to be recognized as legal owner of the whole tribal domain, or of great portions of it, the accustomed methods of occupation and cultivation" are not altered. (102)

D. chief Brehon law tract setting forth the mutual rights of the *collective tribe* and of individual tribesmen or households of tribesmen in respect
163 of tribal property, is | called the *Corus Bescna*, printed in the third volume of the official edition. (103) Das was die ganze Sache verdunkelt ist the "strong and palpable bias of the compiler towards the interest of the Church; indeed, part of the tract is avowedly devoted to the law of Church property and of the organisation of religious houses. When this writer affirms that, under certain circumstances, a tribesman may grant or contract away tribal land, his ecclesiastical leaning constantly suggests a doubt as to his legal doctrine. (104)

In the Germanic countries, their (d. christl. Pfaffen) ecclesiastical societies were among the earliest and largest grantees of public or "folk" land. (*Stubbs: "Constitutional History"*, v. I, p. 104). The Will, the Contract, and the Separate Ownership, were in fact indispensible to the Church as the donee of pious gifts. (l.c.) All the Brehon writers have a bias towards private or several, as distinguished from collective, property. (105)

Weiter über the "Tribe" or "Sept" see "*Ancient Laws of Ireland*", II, 283, 289; III, 49-51; II, 283; III, 52, 53, 55. III, 47, 49. III, 17; III, 5. Der collective brotherhood of tribesmen, wie der *Agnatic Kindred in Rom*, some ultimate *right of succession appears to be reserved.* (111, 112)

The "*Judgments of Co-Tenancy*" is a Brehon law tract, noch unpublished (1875), wovon sich aber Herr Maine, der nur d. *Uebersetzg* kennt, nicht d. *Text*, so pfiffig war sich vor d. Publication flgdes mittheilen zu lassen: D. tract fragt: "Whence does Co-Tenancy arise"? Answers: "From several heirs and from their increasing on the land"; dann bemerkt der tract: the land is, in the first year, to be tilled by kinsmen just *as each pleases*; in the second year they are to exchange lots; in the 3d year the boundaries are to be fixed u. the *whole process of severance is to be consummated in the 10th year.*" (112) Maine bemerkt richtig, dass d. Zeitbestimmgen ideales arrangement des Brehon lawgiver,[14] aber d. Inhalt: "First a *Joint Family* (dies statt *gens*, weil d. Herr *Maine* d. *Joint Family* wie sie in Indien existirt fälschlich als ursprüngliche Form betrachtet), composed of "several heirs increasing on the land", is found to have made a settlement. In the earliest stage the various households reclaim the land without set rule. (!) Next comes the system of exchanging lots. Finally, the portions of land are enjoyed in severalty." (113)

Herr *Whitley Stokes* hat dem Maine 2 passages occurring in non-legal Irish literature mitgetheilt. The "liber Hymnorum" (soll v. 11t Jhdt sein)

contains folio 5A: "Numerous were the human beings in Ireland at that time (i.e. the time of the sons of *Aed Slane A. D. 658-694*) and such was their number that they used not to get but thrice 9 ridges for each man in Ireland to wit, *9 of bog*, and *9 of smooth* (arable), and *9 of wood.*" (114) Another Irish Mscpt, believed of the 12. century, the "*Lebor na Huidre*" says that "there was not ditch, nor fence, nor stonewall round land, till came the period of the sons of Aed Slane, but (only) smooth fields. Because of the abundance of the households in their period, therefore it is that they introduced boundaries in Ireland". (114) Beide schreiben a change from a system of collective to a system of restricted enjoyment zu dem "growth of population". The periodical allotment to each household of a definite portion of bogland, wood land, u. arable land gleicht sehr dem apportionment of pasture and wood and arable land still going on under the communal rules of the Swiss Allmenden (l.c.)

Herr Maine als blockheaded Englishman geht nicht von gens aus, sondern von Patriarch, der später Chief wird etc. Albernheiten. (116-18). Dies passt namtlich für d. älteste Form der gens! – Dieser Patriarch – z.B. bei
164 d. Morganschen Iroquois (wo d. *gens* in female descent!) | Der Blödsinn Maine's gipfelt in d. Satz: "Thus all the branches of human society may or may not have been developed from *joint families* [wo er grade die jetzige Hindooform der letzteren im Aug hat, dies sehr sekundären Character hat, u. deshalb[15] auch – *ausserhalb* d. village communities thront, namentlich in d. *Städten*!] which arose out of an original patriarchal cell; but, wherever the Joint Family is an Institution of the Aryan race (!), *we* (who?) see it springing from such a cell, and when it dissolves, we see it dissolving into a number of such cells." (118)

Property of land has had a twofold (?) origin ... *partly* from the *disentanglement of the individual rights* of the *kindred or tribesmen* from the *collective rights of the Family or Tribe* ... partly from the *growth* and *transmutation of the Sovereignty of the Tribal Chief.* [Also nicht 2 fold origin; sondern nur 2 ramifications of the *same source;* the tribal property u. tribal collective body, which includes the tribal chief.][16] .... Beide in most of Western Europe passed through the crucible of feudalism.... The first (the sovereignty of the Chief) re-appeared in some wellmarked characteristics of *military or knightly tenures* ... the other in the *principal rules of non-noble holdings*, and amongst them of *Socage*, the distinctive tenure of the free farmer. (120) In sehr oberflächlicher Weise: "The *Status of the Chief* left one bequest in the rule of *Primogeniture*, which, however, has long lost its most ancient form; ... in the *right to receive certain dues* and to *enforce certain monopolies*; and drittens *in a specially absolute form of property ... once exclusively enjoyed by the chief* (?), and after him by the Lord, in a *portion of the tribal territory which formed his own dominion.* Andrerseits: *Out of tribal ownership in various forms of decay* have sprung *several systems of succession after death*, among them *the equal division of the land between the*

children u. has left *another set of traces* ... in a number of *minute customary rules which govern tillage* and occasionally *regulate the distribution of the produce.* (120, 121) Nach *Arthur Young* (*Travels: 1787, 88, 89, p. 407*) *more than* $^1/_3$ of France *small properties*, that is, *little farms belonging to those who cultivate them*" (*says A. Young.*) Nach *To⟨c⟩queville* ("*Ancien Régime*") the proportion was growing, dch d. extravagance der nobles which Court life fostered u. compelled them to *sell their domains to peasants in small parcels*". (121, 122) The *law of equal or nearly equal division after death was the general law of France; primogeniture* was allzumeist confined *to lands held by knightly tenure.* "In *Südf⟨ran⟩k⟨rei⟩ch* the custom of equal division verstärkt dch d. *identical rule of Roman jurisprudence* u. dort d. *privileges des eldest son* nur gesichert dch Anwendg d. Ausnahmsregeln des Roman law giving the benefit to *milites* (soldiers on service) when making their wills or regulating their successions, and by laying down that every *chevalier*, u. every noble of higher degree, was a *miles* im Sinn der röm. Jurisdiction. (*122*) D. röm. Gesetz – 12 Tafeln – lässt absolute Freiheit der Verfgg d. *testator;* gleiche Theilung nur bei intestate (sui heredes), später erst d. Recht d. Kinder etc. Daggen (d. Willkühr[17] d. testator) secured etc. *Tocqueville* (I, 18) "*Ancien Régime*" has explained that the *right to receive feudal dues* and to *enforce petty monopolies* made up almost the entire means of living für d. *majority der French nobility.* A certain number of nobles had, besides their feudal rights, their *terres* (domain, belonging to them in absolute property, and sometimes of enormous extent; d. rest lived *mainly*, not on *rent*, but *on their feudal dues*, and eked out a meagre subsistence by serving the king in arms (123, 124)

In Folge d. französischen[18] Revolution: the *land law of the people superseded*
165 *the land law of the nobles;* in *Engld* der | umgekehrte Process: *primogeniture*, once applying only to knightly holdings, came to apply to the great bulk of English tenures, ausser d. *Gavelkind of Kent* u. einige andre Lokale. (123, 124) Dieser Change was rapidly proceeding *zwischen Zeit of Glanville* [whscheinlich *33d*[19] *year of Henry's reign*, hence *1186; Henry II(1154-1189)*] u. *Bracton* [wahrsclich nicht later als *52nd year of Henry III*, i.e. *1270; Henry III (1216-1272)*]. *Glanville* schreibt as if the general rule of law *caused lands held by free cultivators in socage*[19] to be divided equally between all the male children at the death of the last owner; *Bracton*, as if the rule of primogeniture applied universally to military tenures and generally to socage tenures. (125) Optimist *Maine* findet dass andrerseits "the transmutation of customary and *copyhold* into *freehold property* ... proceeding for about 40 years under the *Conduct of the Copyhold and Enclosure Commissioners*" u. dies betrachtet dieser comfortable Bursch as the *English equivalent of the French Revolution.* Risum teneatis! (see d. fellow p. 125) Dieser lächerliche Bursche macht d. röm. Form d. absolute landed property zur "*English form of ownership*", u. fährt dann fort:

"... to the principle of several and absolute property in land [das überall

in occidental Europe *mehr* existirt als in Engd] I hold this country to be committed ... there can be *no material advance in civilisation* unless landed property is held by groups at least as small as Families; ... we are indebted to the "*peculiarly*" *absolute English form of ownership* for such an *achievement as the cultivation of the soil of North America* (*126*, wo grade alles *specifisch English*[20] in landed Property vernichtet! O Du Philister)

The *Norman nobles* who first settled in Ireland are well known to have *become in time*[21] *Chieftains of Irish tribes* ... it is suggested that they were the first to forget their duties to their tenants and to think of nothing but their privileges. (128)

Even according to the (Irish) texts apparently oldest, *much of the tribal territory* appears to *have been permanently alienated to sub-tribes, families*, or dependent chiefs d. glosses u. commentaries show that, before they were written, this process had gone very far indeed. (129) The *power of the Chief* grows first through the process anderswo called "*Commendation*," wdch the free tribesman becomes "*his man*", and remains in a state of dependence having various degrees ferner dch *his increasing authority over the waste lands of the tribal territory* u. *from the servile or semi-servile colonies he plants* there; endlich *from the material strength* he acquires *through the numbers of his immediate retainers u. associates*, most of whom stand to him in more or less servile relations. (130)

The Manor with its Tenemental lands held by the free tenants of the Lord and with its Domain which was in immediate dependence on him, was the *type of all feudal sovereignties in their complete form*, whether the ruler acknowledged a superior above him or at most admitted one in the Pope, Emperor, or God himself. (130-31)

D. abominable *Freeman* ("*Norman Conquest*" I, 88) erklärt sich d. Verwdlg d. tribe chiefs in feudal lords etc leicht, indem er voraussetzt was er entwickeln soll, nämlich dass d. privlged class *always* formed a *distinct class or section of the community*, sagt, l.c. "*the difference between eorl u. ceorl* is *a primary fact from which we start.*" (131)

D. chief source of nobility seems to have been the respect of *the co-villagers or assemblages of kinsmen* for *the line of descent* in which the purest blood of each little society was believed to be preserved. (132) "Every chief", says the text, "rules over his land, whether it be great or whether it be
166 small." (132) | Aber the Brehon law shows the way in which a *common freeman* may[22] *become a chief* u. zugleich ist diese *position to which he attains* "*the presidency of a group of dependents*" – (später wden diese Burschen erst Glieder einer besondern Klasse). (133) Wo aristocracy a *section* of the *community from the first* besondre Umstände, die notabene selbst schon derivative sind, nämlich, wo an *entire tribal group conquers or imposes its supremacy upon other tribal groups also remaining entire*, oder wo an *original body of tribesmen*, villagers, or citizens, *gradually gathers round itself a miscellaneous assemblage of protected dependents.* In *Scottish Highlands* some *entire*

septs or clans stated to have been enslaved to others; u. ebenso frühest in Ireland met a *distinction between free u. rent paying tribes.* (133)
Im Brehon law a *Chief* vor allem *a rich man* (133), nämlich reich – *nicht in Land*, sondern in *flocks u. herds, sheep*, vor allem *Ochsen.* D. Opposition zwischen *birth* u. *wealth*, bes⟨onders⟩ *wealth other than landed property*, ganz modern. See Homer's u. Niebelungen Helden; in späterer *griech. Literatur pride of birth* identified mit pride in 7 wealthy ancestors in succession, ἕπτα πάπποι πλούσιοι, in Rom rasch d. *Geldaristokratie* assimilirt mit *Blutaristokratie.* (134)
Im tract (Brehon Laws): "*Cain-Aigillne*" (p. 279) heissts that "the head of every tribe should be the man of the tribe who is the most experienced, the most noble, the *most wealthy*, the most learned, the most truly popular, the most powerful to oppose, the *most steadfast to sue for profits and to be sued for losses.*" Also *personal wealth.* [Aber Herr Maine, dies only in *Status of Upper Barbarism*, far from being *archaic*] the principal condition of the Chief's maintaining his position and authority. (134, 135)
Brehon law zeigt dass dch d. acquisition of such wealth the *road was always open to chieftainship.* Portion of the *Danish nobility originally peasants* u. in early English laws some traces of a process wdch a *Ceorl* might become a *Thane.* (135)
Brehon law speaks of the *Bo-Aire* (the *cow-nobleman*). Ist simply a peasant, *grown rich in cattle*, probably through obtaining the use of large portions of tribe-land. (135) D. true nobles – the *Aires* getheilt [von d. Pfaffenjuristen, d. *Brehons* notabene; dies wie alle alten Pfaffenbücher (Menu f.i.) voller fictions in Interesse d. Chiefs, höheren Stände etc, schliesslich all das wieder in Interesse der Kirche. Ausserdem sind sie wie Juristen aller Sorten bei d. Hand mit fictive classifications.)] Jeder *Grad* unterschieden von dem anderen dch the *amount of wealth* possessed by the Chief belonging to it, by the weight attached to his evidence, by the power of binding his tribe by contracts (literally of "*knotting*"), by the dues he receives in kind from his vassals, by his *Honor-Price*, or *special damages incurred by injuring him.* At the bottom of the scale is the *Aire-desa;* u. d. Brehon Law provides dass wenn der *Bo-Aire* has acquired 2x the wealth of an *Aire-desa*, and has held it for a certain number of generations, he becomes an *Aire-Desa* himself. "He is an inferior chief – says the *Senchus Mor* – whose father was not a chief". (136) Enormous importance of wealth u. specially *wealth in cattle* reflected in the Brehon tracts. (137) Wahrscheinlich the first *aristocracy springing from kingly favour* consisted of the *Comitatus*, or *Companions of the King.* (138) Major Domus bei d.
167 Franken ward König; das blood | des *Steward* (and Great Seneschal) *of Scotland* runs in the veins of the Kings of England. Noch in England the *great officers of the Royal Council u. Household* haben Vorrang vor allen Pairs, od. mindest of all Peers of their own degree. Alle diese hohen Würden [dies hat *Maurer* u. z. Th. schon *Hüllmann* lang gewusst vor Maine],[23]

wenn nicht marking an office originally clerical, *point to an occupation* ... at *first* ... *menial*." (139) D. *Household* sprang von very humble beginnings. (139) D. stubbige *Stubbs* ("*Constitutional History*") states that "*the gesiths of an (English) king were his guard and private council*", wobei er bemerkt, dass "*the free household servants of a ceorl are also in a certain sense his gesiths*". D. *Companions des king* in the Irish legal literature *nicht noble*, u. associated mit d. *king's body-guard* which is *essentially servile*.

Wsclich dass in a particular stage of society, der *personal service to the Chief or King* was überall rendered in expectation of a reward in the shape of a gift of land. D. *Companions* d. Teutonic Kings shared largely in the *Benefices*, grants of Roman provincial land fully peopled u. stocked; in ancient Engld selbe class *largest grantees* (nach Pfaffen s'il vous plait) of public land; u. dies part of the secret of the *mysterious change* wdch a new nobility of Thanes, deriving dignity u. authority from the King, *absorbed the older nobility of the Eorls*. (141) Aber in countries *lying beyond the northern u. western limits of the Roman Empire*, or just within them ⟨land⟩ was plentiful. Es war noch im Mittelalter d. "*cheapest* commodity". D. practical difficulty was *not to obtain land, but the instruments for making it productive*. (141, 42) D. Chief (Irish) war vor allem reich in *flocks u. herds;* he was *military leader;* great part of his wealth was *spoil of war* u. in his civil capacity he multiplied *his kine* through his growing *power of appropriating the waste for pasture*, and dch a system of dispersing his herds among the tribesmen. D. *Companion*,[24] der followed him to the foray etc auch enriched by his bounty; if already noble, he became greater; if not noble, the way of nobility lay through wealth. (142) (Vergl. *Dugmore:* "*Compendium of Kaffir Laws and Customs.*")

Whenever legal expression has to be given to the relations of the *Comitatus to the Teutonic kings*, the portions of the Roman law selected are uniformly those which declare the *semi-servile relation of the Client or Freedman to his Patron*. Nach d. texts d. Brehon Law a Chief of high degree is always expected[25] to surround himself with *unfree dependents* u. d. *retinue* eines King of Erin was to consist not only of *free tribesmen* but *of a bodyguard of men* bound to *him by servile obligations* ... Auch ... wenn d. Comitatus or Companions of the Chief ⟨were⟩ *freemen*, nicht nothwdig od. gewöhnlich his near kindred. (145)

In d. *Brehon Laws* spielen grosse Rolle *horned cattle, i. e. bulls, cows, heifers, and calves;* auch *horses, sheep, swine, dogs, bees* (the latter = the producers of the greatest of primitive luxuries). Vor allem aber *kine* (cows). *Capitale* – kine reckoned by the head, *cattle* has given birth to one of the most famous terms of law and one of the most famous terms of political economy, *Chattels* and *Capital. Pecunia*. (147) The Primitive Roman law places *oxen* in highest class of property, mit *land* u. *slaves* as items of the *Res mancipi. Kine*, which the most ancient Sanscrit literature shows to |
68 have *been eaten as food*, became at some unknown period sacred and their

flesh forbidden; two of the chief "Things which required a Mancipation at Rome", oxen and landed property, had their counterpart in the *sacred bull of Siwa* and the *sacred land* of India. (148) Horned cattle showed their greatest value when groups of men *settled on spaces of land and betook themselves* to the *cultivation of food-grain.* (l.c.) Erst für ihr flesh u. milk valued, schon in very early times a *distinct special importance belonged to them as instrument or medium of exchange;* bei Homer sind sie *a measure of value;* traditional story dass d. earliest *coined money* known at Rome stamped with the figure of an ox; "*pecus*" u. "*pecunia*". (149)[26] In *Brehon laws* figuriren horned cattle als *means of exchange; fines, dues, rents u. returns are calculated in live-stock*, not exclusively in kine, but nearly so. Beständig referred to *two standards of value*, "*sed*" u. "*cumhal*"; cumhal soll originaliter have meant a *female slave*, aber "*sed*" plainly used for *an amount or quantity of live stock.* Aber, später, cattle hauptsächlich valued for their *use in tillage, their labour and their manure.* Erst nach u. nach as *beasts of plough* ersetzt dch *Pferde in Western Europe* (auch hier nicht überall); in still large portions of the world *horse* noch ausschliesslich employed, wie wohl ursprünglich überall, for *war, pleasure*, or the *chase.* (150) Oxen waren so fst einziger *Representative* of what now called *Capital.* (l.c.) The same causes which altered the position of the ox and turned him into an animal partially *adscriptus glebae*, undoubtedly produced also a *great extension of slavery* Enormous importation of slaves into the central territories of the Roman Commonwealth, and the wholesale degradation of the free cultivating communities of Western Europe into assemblages of villeins. (150, 151)

D. Schwierigkeit – in ancient Ireland – *not to obtain land, but the means of cultivating it.* D. great owners of cattle were the various Chiefs, whose primitive superiority to the other tribesmen in this respect was probably owing to their natural functions as military leaders of the tribe. Andrerseits scheint aus d. Brehon laws zu folgen that the Chiefs pressed by the difficulty of finding sufficient pasture for their herds. Hatten ihrer growing power over the waste land dr particular group worüber sie präsidirten, aber die most fruitful portions of the tribal territory whsclich those which the free tribesmen occupied. Hence d. *system of giving and receiving stock*, to which 2 sub-tracts des *Senchus Mor* are devoted, the *Cain-Saerrath* u. d. *Cain-Aigillne*, the *Law of Saer-Stock tenure* u. the Law of *Daer-Stock Tenure.* (152)
In Feudalgesellscft everybody has become the subordinate of somebody else higher than himself and yet exalted above him by no great distance. (153) Nach *Stubbs* (*Constit. History.* I, 252) Feudalism has "grown up from 2 great sources, the *Benefice* and the practice of *Commendation*". (154) *Commendation*, in particular, went on all over Western Europe. (155) D. *Chief* (*Irish*) – sei er einer d. many *tribal rulers* whom the Irish records call *kings*, or one of those heads of *joint families* whom the Anglo-Irish

lawyers at a later period called the *Capita Cognationum*, – is *not owner of the tribal lands*. His own land he may have, consisting of private estate or of official domain, or of both, and over the *general tribal land he has a general administrative authority*, ever growing greater over that portion of it which is *unappropriated waste*. He is meanwhile the military ⟨leader⟩ of his tribesmen, and probably in that capacity has acquired *great wealth in cattle*. It has somehow become of great importance to him to place out portions of his herds among the tribesmen, and they on their part occasionally find themselves through stress of circumstance in pressing
169 need of cattle for employment in tillage. Thus the Chiefs appear | in the *Brehon law* as perpetually "*giving stock*" and the tribesmen as *receiving* it. (157)

By taking stock the *free Irish tribesman* becomes the *Ceile* or *Kyle*, the *vassal or man of his Chief*, owing him not only rent but service and homage. The exact effects of "commendation" are thus produced. (158) Je *mehr stock* der tribesman accepts from his Chief, desto tiefer der status zu dem er herabsinkt. Hence die 2 classes of *Saer* und *Daer tenants* (entspreche⟨n⟩d dem status der free und higher base tenants of an English manor). D. *Saer Stock tenant* erhält nur *limited amount* of stock from the Chief, bleibt *freeman*, retains his *tribal rights* in their integrity; the *normal period of his tenancy* was *7 years*, and at the end of it he *became entitled to the cattle which had been in his possession*. In d. Zwischenzeit *hatte er the advantage of employing* them in tillage, and the Chief erhielt the *growth and increase* [i.e. *the young and the manure*] *and* milk. Zugleich it is expressly laid down dass d. Chief überdem *entitled to receive homage and manual labour;* manual labour is explained to mean the *service of the vassal in reaping the Chief's harvest* and in *assisting to build his castle or fort;* u. it is stated that, in lieu of manual labour, the vassal might be required to follow his *Chief to the wars*. (158, 159)

Daer-stock tenancy gebildet, wenn entweder any large addition to the stock deposited with the Saer-Stock tenant, od. an *unusual quantity accepted in the first instance by the tribesman*. D. Daer Stock tenant had *parted with some portion of his freedom* u. his *duties invariably referred to as very onerous*. D. Stock, den er vom Chief erhielt, bestand aus 2 portions, wovon *die eine entsprechend dem Rang des Empfängers*, d. andre der *rent in kind* to which t⟨h⟩e tenant became liable. D. technical standard seines Rangs, war des tenant "*honor-price*", d.h. *the fine or damage payable for injuring him*, variable mit the dignity of the person injured. Mit *Bezug auf die rent* heisst's im *Brehon Law:* "The proportionate stock of a calf of the value of a sack with its accompaniments, and refections for three persons in the summer, and work for three days, is three "*sam-haisc*"[27] heifers or their value" (*Cain-Aigillne*, p. 25), in andern Worten: Deponirt der Chief beim tenant 3 heifers[28] so wird er entitled to the calf, the refections, and the labour." Ferner: "*The proportionate stock of a "dartadh" heifer with its accompaniment*,

is 12 "seds" – explained to mean *12 "sam-haisc" heifers, or 6 cows*, etc etc. Diese *rent in kind*, od. *food rent*, hatte in dieser ihrer ältesten Form, *nichts zu thun mit der value of the tenant's land, but solely to the value of the Chiefs stock deposited with the tenant;* sie entwickelte sich erst später in *a rent payable in respect of the tenant's land.* Die lästigste imposition des Daer-Stock tenant sind dies *"refections";* dies war nämlich d. Recht des Chief, der den stock gegeben hatte, to come with a company of a certain number, and feast at the Daer-stock tenant's house, at particular periods, for a fixed number of days. D. Irish chief war wahrscheinlich, sagt Herr Maine, little better housed and almost as poorly furnished out, wie seine tenants, and could not have managed to consume at home the provisions to which his gifts of stock entitled him. The Brehon law defines and limits the practice narrowly on all sides, but its inconvenience u. abuse manifest; from it doubtless descended *those "oppressions"* which revolted such English observers of Ireland as *Spenser* and *Davies*[29] (!), the "coin and livery", and "cosherings" of the Irish Chiefs which they [these self-righteous English canaille!] denounce with such indignant emphasis (!). Der würdige Maine, vergessend die Rundreisen d. englischen Könige u. ihrer Höflinge (*see Anderson u. Macpherson*) (vgl. auch *Maurer*)[30] hat d. Frechheit zu vermuthen: "Perhaps there was no Irish usage which seemed to Englishmen (!) so amply to justify the entire judicial or |
170 legislative abolition of Irish customs" (!) (159-161) Nach d. Brehon lawyers the *relation* out of which *Daer-stock tenancy* and its peculiar obligations arose, *were not perpetual.* After food-rent and service had been rendered for 7 years [Zeit die *Jacob* zu dienen hatte?], if the Chief died, the tenant became entitled to the stock; wenn andrerseits der tenant starb, waren seine heirs theilweis, obgleich nicht ganz, relieved from their obligation. Wahrscheinlich d. Daer-stock tenancy, beginning in the necessities of the tenant, was often from the same cause rendered practically permanent. (162)

The *Heriot of English Copyhold tenure*, the "best beast" taken by the Lord on the death of a base tenant, has been explained as an *acknowledgment* of[31] *the Lord's ownership of the cattle* with which he anciently stocked the lands of his villeins, just as the *Heriot of the military tenant* is believed to have had its origin in a deposit of arms. Adam Smith recognized the great antiquity of the *Metayer tenancy*, wovon er noch in seiner Zeit found in Scotland one variety, the *"steelbone"*. (162) In einer der *prefaces der official translation der Brehon laws* Vergleichg gemacht zwischen *Metayer tenancy* u. *the Saer u. Daer-stock tenancy* of ancient Irish law. Die differences aber: In Metayage giebt landlord *land* u. *stock*, der *tenant* nur Arbeit u. skill; in Saer u. Daer stock tenancy the *land* belonged to the tenant. Ferner: d. ancient Irish relation produced nicht allein a *contractual liability*, sondern a *status;* the tenant had his social u. tribal position distinctly altered by accepting stock. [Wie leicht in ancient times mere *contractual liability* umschlägt,

oder kaum zu ändern ist von *status*, Beweis z.B. Russld wo *persönlicher Dienst* direct in *Sklaverei* umschlägt u. selbst freiwillige *Feldarbeit* etc nur mit Mühe von selbem Umschlag zu schützen. *Sieh darüber* d. *Weitere in d. russ. Quellen.*] (163) In Ireland the *acceptance of stock* not always voluntary; a tribesman in one stage of Irish custom at all events was bound to receive stock from his own "*King*" ... Dies the *Chief of his*[32] *tribe* in its largest extension. In eingen cases the *Tribe* wzu der intending tenant gehörte had in some cases *a veto on his adoption* of the new position. Um d. Tribe opportunity to geben to interpose whenever it had legal power to do so, the *acceptance of stock had to be open and public*, and the consequences of effecting it surreptitiously are elaborately set forth by the law. Hence one of the rules: "no man should leave a rent on his land which he did not find there." (163, 164)

Gehörten der Chief der den stock gab u. der Ceile der ihn accepted zum selben Tribe, so relation geschaffen verschieden von d. tribal connection u. much more to the advantage of the chief. Aber dieser Chief war nicht immer der Chief of the tribe⟨s⟩man's own Sept or Tribe. Brehon law sucht Schwierigkeiten in d. Weg zu legen wo attempt dies *vassalage Verhältniss zu etabliren zwischen a tribesman and a strange Chief.* Aber abundant admission that dies vorkam. Jeder nobleman assumed to be as a rule rich in stock, u. having the Zweck to disperse his herds by the practice of giving stock. Der enriched peasant, der *Bo-aire*, had Ceiles who accepted stock from him. Hence the *new groups* formed in this way were manchmal ganz distinct von den old groups composed of the Chief and his Clan. Auch die new relation nicht confined auf *Aires*, or noblemen, u. *Ceiles* (i.e. free but non noble tribesmen). The Bo-aire certainly and *apparently* the *higher Chiefs* also, accepted stock on occasion from chieftains more exalted than themselves, and in the end to "give stock" came to mean the same thing wie anderswo "*Commendation*".... *By fiction* the *Brehon* Law represents the King of Ireland as "*accepting stock*" from the *Emperor*. Es sagt: "When the *King of Erin is without opposition*
171 (wovon the explanation runs: when he holds the *ports of Dublin*, | *Waterford* and *Limerick*, which were usually in the hands of the Danes – "*he receives stock from the King of the Romans*". (*Senchus Mor.*[33] *II, 225*). The commentary goes on to say, that sometimes "it is by the *successor of Patrick* [dies statt "Pope"] that the stock is given to the King of Erin". (164-166)

This *natural growth of feudalism* was not, as some eminent recent writers have supposed, entirely distinct from the process by which the authority of the Chief or Lord over the Tribe or Village was extended, but rather formed part of it. While the *unappropriated waste lands* were falling into his domain, the villagers or tribesmen were coming through *natural* (?) agencies under his personal power. (167)

The law-tracts (Brehon) give a picture of an *aristocracy of wealth in its most primitive form;* cf. über d. Gallic Celts *Caesar* B. G.[3] I. 4, u. VI. 13. In

ancient world finden wir sehr early *plebejan classes deeply indebted to aristocratic orders.* (167) *Athenian commonalty the bondslaves* through *debts of the Eupatrids;* so the Roman Commons in money bondage to the Patricians. (167, 168) In very ancient times *land was a drug,* while capital was extremely perishable, added to with the greatest difficulty, and lodged in very few hands ... The ownership of the *instruments of tillage other than the land itself* was thus, in early agricultural communities, a power of the first order ... it may be believed (!) that a *stock of the primitive capital larger than usual* was very generally obtained by plunder ... mostly daher in the hands of noble classes whose occupation was war and who at all events had a monopoly of the profits of office. The advance of capital at usurious interest, and the helpless degradation of the borrowers, natural results of such economical conditions. (168, 169) D. Brehon writers der Cain-Saerrath u. Cain-Aigillne, dch their precise u. detailed statements, plainly intend to introduce certainty and equity into a naturally oppressive system. (169)

"*Eric-fines*", or *pecuniary composition* for violent crime. (170) By this customary law, the sept or family to which the perpetrator of a crime belonged etc had to pay in *cattle* (später Geld) dies fine. (171)

Feodum, Feud, Fief, von *Vieh,* cattle. Ebenso *Pecunia* u. *Pecus.* Wie d. Roman lawyers tell that pecunia became the most comprehensive term for all a man's property, so "*feodum*" – originally meaning "cattle". (171, 172)

Nach Dr. Sullivan *feodum* Celtic Sprachursprung; he connects it with *fuidhir.* Nämlich d. territory jedes Irish tribe seems to have had settled on it, neben den *Saer und Daer Ceiles,* certain classes of persons deren status nearer to slavery than to that of the Saer u. Daer tribesmen. Diese classes genannt *Sencleithes, Bothachs* und *Fuidhirs;* diese 2 letzten classes wieder subdivided in *Saer* u. *Daer Bothachs* und *Saer u. Daer Fuidhirs.* Ersichtlich aus d. tracts u. namentlich dem noch unpublicirten "*Corus Fine*", dass d. servile dependents, gleich den freemen des territory, had a family or Tribal organisation; and indeed *all fragments of a society like that of ancient Ireland take more or less the shape of the prevailing model.* D. position d. classes, obscurely indicated in *Domesday* u. other English records as *Cotarii* und *Bordarii* whclich sehr ähnlich denen der Sencleithes u. Bothachs; in beiden Fällen had diese servile orders whsclich *an origin distinct from that of the dominant race,* and belonged to the *older or aboriginal inhabitants of the country.* Ein Theil der families or subtribes formed out of them were certainly in a condition of special servitude to the Chief or dependence on him; diese either engaged in *cultivating his immediate domain-land and herding his cattle,* or were *planted by him in separate settlements* on *the waste land of the tribe; rente* or *service which* they paid scheint von
172 Willkühr des Chief abhängig gewesen zu sein. (172, 173) | D. wichtigste Theil dieser Klassen der settled by the Chief *on the unappropriated tribal*

lands. Diese *Fuidhirs* u. ausserdem *strangers or fugitives* from other territories, in fact *men* who had *broken* the *original tribal bond* which gave them a place in the community. Aus *Brehon law* sichtbar, dass diese Klasse zahlreich; spricht à diverses reprises von the *desertion of their lands by families or portions of families*. Unter gewissen Umständen wden the *rupture of the tribal bond* u. d. *Flucht deren who break it* als "eventualities" von d. Gesetz behandelt. D. *Verantwortlichkeit* von *tribes*, *subtribes*, u. *families for crimes ihrer Glieder* u. even to some extent *of civil obligation* derselben – might be *prevented* by *compelling* or *inducing a member of the group to withdraw from its circle;* and the *Book of Aicill* gives the legal procedure which is to be observed in the expulsion, the tribe paying certain fines to the Chief and the Church and proclaiming the fugitive ... Result probably to fill the country with "broken men" u. diese could find a home and protection by becoming *Fuidhir tenants;* alles tending to disturb the Ireland der Brehon Laws tended to multiply this particular class. (173, 174)

D. *Fuidhir tenant* exclusive⟨ly a⟩ dependent of the *Chief* u. nur dch letzteren connected mit d. Tribe; Chief wde auch responsible für sie; sie kultivirten *sein* Land; sie daher the first "*tenants at will*" known to Ireland. The "*three rents*", says the *Senchus Mor* are the *rackrent from a person of a strange tribe* [dies person undoubtedly the *Fuidhir*], a *fair rent from one of the Tribe*, and the *stipulated rent which is paid equally by the tribe and the strange tribe*". In einer der glosses, was "rackrent" übersetzt ist, verglichen "*to the milk of a cow which is compelled to give milk every month to the end of the year*". (174, 175) Andrerseits hatte Chief grosses Interesse to encourage diese *Fuidhir tenants*. Heisst in one of the tracts: "*He brings in Fuidhirs to increase his wealth*". D. interests really injured *were those of the tribe* ... which suffered as a body *by the curtailment of the waste land available for pasture*. Vgl. *Hunter's* "*Orissa*" wo shown wie d. "*hereditary peasantry*" of Orissa beschädigt dch d. broken "*migratory husbandmen*" etc. (Sieh *Orissa, I, 57, 58*) (175-177)[34] Cf. *Edmund Spenser* (writing not later than *1596*) u.**

Für d. comfortable Maine d. Irish Tenant question "was *settled only the other day*". (178) Mit seinem gewöhnlichen Optimismus d. Sache settled dch d. *Act of 1870* (!)

***Sir John Davis*[2], writing *before 1613*.[35]

The *general bias der writers der Brehon Tracts* rather towards the exaggeration of the privileges of the Chiefs than towards overstatement of the immunities of tribesmen. (180)

The power of the Irish Chiefs u. their severity to their tenants in the *16th century* being admitted, have been accounted for by the *Norman nobles* – the *Fitzgeralds*, *Burkes*, *Barrys* – becoming gradually clothed with Irish chieftainship had first abused it u. thus set an evil example to all the Chiefs in Ireland. (181) Better *Theory of* Dr. *Sullivan* (in his *Introduction*, p. *cxxvi*) wonach dies régime determined "*by the steady multiplication of*

Fuidhir tenants". (182) Und causes at work, powerfully u. for long periods of time, to increase the numbers of this class: *Danish piracies, intestine feuds, Anglo-Norman attempts at conquest*, the existence of[36] the *Pale*, u. the policy directed from the Pale *of playing off against one another the Chiefs beyond*[37] *its borders*. Dch dies civil war etc *tribes far u. wide broken up*, dies implies a *multitude of broken men*. (183) Dann wie in *Orissa* die immigrated cultivators at the disposal of the Zeminders make greatly rise for d. ancient tenantry the standard of rent u. d. exactions d. landlords – selber Einfluss
173 d. Fuidhir tenants in Ireland; altered seriously for the worse the | [38]portion of the tenants by Saer Stock u. by Daer Stock Tenure. (183, 184) *Spenser: "View of the State of Ireland"*.

In d. übrigens sonst kritisch nicht erwähnenswerthen: "*History of Ireland, Ancient and Modern*" (*Dublin 1867*) von *Martin Haverty*, wd bemerkt: "*tanaisteacht (or tanistry)*, a law of succession, bezog sich auf "*transmission of titles, offices, and authority.*" *Says Professor Curry:* "There was no invariable rule of succession... but according to the general tenor of our ancient accounts *the eldest son succeeded the father* to the exclusion of all collateral claimants, unless it happened that he was disqualified etc. The eldest son, being thus recognised and the *presumptive heir and successor to the dignity*, was denominated *tanaiste*, that is, *minor or second*, while all the other sons or persons that were eligible in case of his failure, were simply called *righdhamhna*, i.e. *king-material*, or *king-makings*. This was the origin of *tanaiste*, a successor, and *Holnais Flacht*, successorship. The tanaiste had a separate establishment,[39] as well as distinct privileges and liabilities. He was inferior to the king or chief, but above all the other dignitaries of the State.... Tanistry, in the Anglo-Norman sense, was not an original, essential element of the law of succession, but a condition that might be adopted or abandoned at any time by the parties concerned; and it does not appear that it was at any time universal in Erin, although it prevailed in many parts of it.... Alternate tanaisteacht did not involve any disturbance of property, or of the people, but only affected the position of the *person himself*, whether *king, chief, or professor of any of the liberal arts*, as the case might be; ... it was often set aside by force." [*Prof. Curry* in: "*Introduction*, etc *to the battle of Magh Leana*", *printed for the Celtic Society, Dublin, 1855;* quoted in *Haverty, Hist. of Irld*, p. 49, wo es weiter heisst: "The primitive intention was that the inheritance should descend to the oldest and most worthy man of the same name and blood, but practically this was giving it to the strongest, and *family feuds* and intestine wars were the inevitable consequence." (*Haverty*, p. 49)]

By *gavelkind (or gavail-kinne)* [common also to the Britons, Anglo-Saxons, Francs, etc] the *property* was divided equally between all the sons, whether legitimate or otherwise ...; but in addition to his own equal share, which the eldest son obtained in common with his brothers, he received the dwelling house and other buildings, which would been received by the

father or *kenfinè* – [Dies Wort "*kenfinè*" oder "*Caen-fine*" was (nach Prof. Curry) only applied to the heads of minor families, and never to any kind of chieftains], if the division was made, as it frequently was, in his own life-time. This extra share was given to the eldest brother *as head of the family*, and in *consideration* of *certain liabilities which he incurred for the* security of the family in general. If there were no sons, the property was divided equally among the next male heirs of the deceased, [Nach *Curry:* in default of any male issue *daughters were allowed a life interest in property.*] whether uncles, brothers, nephews, or cousins; but the female line was excluded from the inheritance. Sometimes *a repartition of the lands of a whole tribe, or family of several branches, became necessary, owing to the extinction of some of the branches;* but it does not appear that any such confusion or injustice resulted from the law, *as is represented by Sir John Davis and by other English lawyers* who have adopted his account of it. (p. *50*. He quotes: "*Dissertation upon*[40] *the Laws of the Ancient Irish*, written *by Dr. O'Brien*, author of the Dictionary, but published anonymously by *Vallencey* in the *3d number* of the "*Collectanea de Reb. Hib.*")

The Tenure of land in Ireland was essentially a *tribe or family right* ... all the members of a tribe or family in Ireland had an equal right to their proportionate share of the land occupied by the whole. The equality of title and blood thus enjoyed by all must have created a sense of individual self-respect and mutual dependence, that could not have existed under the Germanic and Anglo-Norman system of vassalage. |
174 The tenures of whole tribes were of course frequently disturbed by war; and whenever *a tribe was driven or emigrated into a district where it had no hereditary claim*, if it obtained land it *was on the payment of a rent to the king of the district;* these rents being in some instances so heavy as to compel the strangers to seek for a home elsewhere. (l.c. p. 50) (*cf.* ib. *p. 28 Nte*, ein (angeblich) Beispiel aus d. Zeit der *Queen Mab*!)

D. Hünde v. Engländern – man kennt d. *Humanität dieser Bestien aus d. Zeiten Henry's VIII, Elizabeth's u. James I*! – machten gross Geschrei über Irish compositio od. "*eric*"*;* vergessend dass sich selbiges findet in *Laws of Athlestan, Leges Wallicae* (Howell Dda's)[41] etc. see l.c. *p. 51 u. daselbst Nte*†.)

Fosterage prevailed, up to a comparatively recent period; *Engl. gvt.* machte oft *stringent laws daggen*, to prevent the intimate friendships which sprung up between the Anglo-Irish families and their "mere" Irish *fosterers*. By the *statute of Kilkenny, 40 Ed. III* (a.d. *1367*) wden *Fosterage* and *gossipred* [*gossipred* or compaternity, by the canon law, is a spiritual affinity, and the juror that was gossip to either of the parties, might, in former times, have been challenged as not indifferent." [*Davies on Ireland*, bei Dr. *Johnson Dict. sub voce: gossipred.*)] as well as *intermarriages, with the native Irish*, declared to be treason. Says *Giraldus Cambrensis* (*Top. Hib. Dist. 3, ch. 23*) "if any love or faith is to be found among them (the Irish), you

must look for it among the fosterers and their foster-children". *Stanihurst, De reb. hib.* p. 49, says, the Irish loved and confided in their foster-brothers more than their brothers by blood: "Singula illis credunt; in eorum spe requiescunt; omnium conciliorum sunt maxime consoci. Collactanei etiam eos fidelissime et amantissime observant". See also *Harris's Ware* v. II, p. 72 (p. 51, 52 l.c.)

Eh wir ftfahren mit dem Maine, zunächst zu bemerken dass *4 Juli 1605* der elende Jacob I [der zur Zeit der Elizabeth, before his accession den Katholikenfreund gespielt u., wie *Dr. Anderson: "Royal Genealogies*, p. 786" sagt, "assisted the Irish privately more than Spain did publicly"] issued a proclamation, formally promulgating für Irland the Act of Uniformity (*2 Eliz.*) and commanding the "Papist clergy" to depart from the realm. Im selben Jahr the ancient Irish customs of *tanistry* u. *gavelkind* were abolished by a judgment of the *Court of King's Bench*, and the inheritance of property was subjected to the rules of English law.

(D. lumpacii affirmed the illegality of the *native Irish tenures of land;* declared[42] the English common law to be in force in Ireland, u. von da the eldest son succeeded, as heir-at-law, both to lands which were attached to a *Signory* and to *estates* which had been divided according to the peculiar Irish custom of *gavelkind. Maine.* 185] D. lausige *Sir John Davis* was King James *Attorney-General for Ireland* u. für diesen Posten war natürlich entsprechender Lump gewählt -ein ebenso "vorurtheilsfreier" u. uninteressirter Patron wie der Elizabeths Arschkissende Poet *Spenser*[43] ("*State of Ireland*"). His remedy for the ills of Ireland, *the employment of large* masses of troops "to tread down all that standeth before them in foot, and lay on the ground all the *stiffnecked people of that land*," u. zwar sollte that war nicht nur im Sommer, sondern auch im Winter geführt werden, u. fährt dann fort: "*the end will be very short*" u. describes in proof what he himself had witnessed in the late wars of Munster" etc. See d. weiteren *Cannibalismus dieses Poeten* bei *Haverty*, l.c. p. 428 Nte.)

D. bewusste Zweck d. *James* was "looting", was d. Bursche *Colonisation* nannte. Vertreibg u. Unterjochung d. Irish, u. confiscation ihres Lands u. Habe, alles das unter d. Prätext von Anti-Popery. *1607 O'Neill* u. *O'Donnell*, noch in possession of vast tracts of country, the last great Irish chieftains, crushed.[44] *1608* d. Chiefs im Norden, Sir *Cahir O'Doherty* etc crushed (ihr Revolt). Nun 6 *counties of Ulster – Tyrone, Derry, Donegal, Fermanagh, Armagh* u. *Cavan* – confiscated to the Crown u. *parcelled out among adventurers from England and Scotland.* Dazu benutzt *Sir Arthur Chichester* (Bacon's plan gefiel nicht dem beastly fool James II), the lord deputy, der zum Dank erhielt the wide lands of *Sir Cahir O'Doherty* for his share in the wholesale spoliation. (see *O'Donovan, "Four Masters"*. Die reichen Spiessbürger der *London City were the largest participators in the plunder.* They obtained *209,800 acres* and rebuilt the city (i.e. *Derry*)
175 since then called *Londonderry.* Nach d. plan finally | adopted for the

"*plantation of Ulster*" the lots into which the lands were divided were classified into those containing *2000 acres*, which were reserved for *rich undertakers* and the *great servitors of the crown;* those containing *1500 acres*, which were allotted to *servitors of the crown in Ireland*, with permission to take either *English or Irish tenants;* and, thirdly, *those containing 1000 acres*, to be distributed with still less restriction. The exclusion of the ancient inhabitants, and the proscription[45] of the Catholic religion, were the fundamental principles to be acted on as far as possible in this settlement. *Cox* says that *in the instructions*, printed for the direction of the settlers, it was especially mentioned "that they should not suffer any laborer, that would not take the oath of supremacy, to dwell upon their land". (p. 497-500 l.c.)

Irish Parlement berufen angeblich für "*Protestant Ascendancy*", aber namentlich auch um Geld für *James I* zu pressen (whose insatiable rapacity u. stete Geldnoth notorious. (p. 501-503 l.c.)

Da der Raub vermittelst der "*plantation*" so gut gelungen, suchte James I Sache jetzt auf andre Theile Irlands auszudehnen; *appointed* commission of inquiry to scrutinize the titles and determine the rights of *all the lands in Leinster;* commissioners worked so rapidly, that in a little time land to the extent of 385,000 acres placed at James's disposal [dieser "silly, pedantic fool", der "*British Solomon*" lauded by *Hume*] for distribution. (Weiteres darüber p. 501-505 l.c.) See *Leland.* Der puritanisch thuende ruffian Arthur *Chichester* [der für jede neue *infamy* additional grant of Irish lands erhielt u. d. Title: Baron of Belfast, hatte *1616* sein Werk gethan u. withdrew from the Irish gvnment] laid down *as the punishment of jurors who would not find for the king on "sufficient evidence"*[46] the Star Chamber; sometimes they were "pillor⟨i⟩ed with loss of ears, and bored through the tongue, and sometimes marked on the forehead with a hot iron etc." (*Commons' Journal. v. I, p. 307.*) (l.c. p. 505. nte†)

D. flgde Passus in einem d. "famous" (why not "infamous"?) cases in which the Anglo-Irish Judges affirmed the illegality of the native Irish tenures of land: "Before the establishment of the (English) common law, all the possessions within the Irish territories ran either in course of *Tanistry* or in course of *Gavelkind. Every Signory or Chiefry with the portion of land which passed ⟨with⟩ it went without partition to the Tanist*, who always came in *by election* or with *the strong hand*, and *not by descent;* but *all inferior tenanties were partible between males in Gavelkind*". (*Sir J. Davis' Reports; "Le Cas de Gavelkind", Hil. 3, Jac. 1, before all the Judges.*) (p. 185)

[Dass *Tanistry* (see d. vorigen Ausz. aus *Haverty*) eine *ältere Form* (archaische) der *Primogenitur*, ist keine Entdeckg d. Herrn Maine, sondern wie d. Auszüge aus Haverty zeigen war von Dr. *O'Brien, Prof. Curry* etc lang vorher als fact angenommen. Es beruht einfach d⟨arau⟩f, dass d. Chief, sei es der gens, sei es d. Tribe, theoretisch *gewählt*, praktisch vererbbar in d. Familie (u. für tribe, rather die gens) der der defunct Chief

angehört; meist ältester Sohn, relativ Onkel (modificirt dch descent linie); ist bereits *eignes head* verbden mit d. function, so geht dies natürlich mit d. Function.]

Von *Gavelkind* sagt Sir John Davis: "By *the Irish custom of Gavelkind*, the *inferior tenanties were partible among all the males of the Sept*, both Bastards and Legitimate; and, after partition made, if any *one of the Sept had died, his portion was not divided among his sonnes*, but the *Chief of the Sept made a new partition of all the lands belonging to that Sept*, and *gave everyone his part according to his antiquity*." (186) [D. *Irish Sept* = *Gens.*] *Skene* citirt observation eines engl. Engineer officer in d. Highlands abt 1730: "They (the Highlanders) are divided into *tribes or clans* under chiefs or chieftains, and *each clan is again divided into branches from the main stock, w⟨h⟩o have chieftains over them.* They are *subdivided into smaller branches of 50 or 60 men,*
176 *who deduce their original from their | particular chieftain.*" (*Skene: "Highlanders"* I, p. 156) Was Davis describes passirt ähnlich in a *Hindoo Joint Family* in case of death of one of its members. (187) Dort nämlich, all the property being brought into the "common chest or purse", the lapse of any one life would have the effect, potentially if not actually, of distributing the dead man's share among all the kindred united in the family group. And if, on a dissolution of the Joint family, the distribution of its effects were not *per capita* but *per stirpes*, this would correspond to *Davis's* Chief giving to each man '*according to his antiquity.*' (p. 187, 188) Gavelkind entspringt aus d. gleichen od. period. Theilung d. Lands in rural commune; zuletzt "the descendants (aber vorher dies auch *schon bei Lebzeit*) of the latest holder take his property, to the exclusion of everybody else u. d. rights of the portion of the community outside the family dwindle to a *veto on sales*, or to a right of controlling the modes of cultivation." (189)

Das was in Davis's Report (sieh oben) in Widerspruch scheint mit d. *Brehon Laws*, u. a. mit *Corus Bescna* (which deals with rights over tribal lands) ist dass er ausser rule of Tanistry *nur die* of "Gavelkind" kennt, whd in Brehon Laws andre (nicht tribal oder gentilician) "property" excluding the "Sept." Dr. *Sullivan* in *Introduc.* (Breh. Laws *p. CLXX*) says: "According to the Irish custom, property descended at first only to the male heirs of the body, each son receiving an equal share.... Ultimately, however, daughters appear to have become entitled to inherit all, if there were no sons." (Dies analog dem *Gavelkind of Kent.*) *Corus Bescna* implies that under certain circumstances *land might be permanently alienated*, at all events to *the Church.* (191) Ist möglich, dass in certain time the *Irish Gavelkind* (in distinct sense d. *Vertheilung unter Sept* d. Landes d. defunct), the modern Gavelkind known to Kent, and many forms of succession intermediate between the two, co-existed in Ireland. The *Brehon writers* als lawyers u. *friends of the Church* ["Comfortable" *Maine* adds in his usual Pecksniff unctuosity: "and (it may be) as *well wishers to their country*"!]

sehr biassed für descent of property in individual families. (193) Beständig kam vor in *Irland* u. *schott. Highlands* dass a Chief, ausser *domain* appertaining to his office, had *a great estate* held under what the English lawyers deemed *the inferior tenure.* D. Beispiele on record wo 2 grosse Irish chiefs *distributed such estates among their kindred.* Im *14 Jhdt Connor More O'Brien* assigned the *bulk of the estate to the various families of the Sept formed by his own relatives* (also *Gens*), behielt sich nur $^1/_2$ of a 3d = $^1/_6$ vor, u. dies $^1/_6$ divided er unter his 3 sons, *reserving only a rent to himself.* Am *Ende d. 15 Jhdts Donogh O'Brien*, son of *Brien Duff*, son of *Connor, King* of Thomond, *divided all his land unter seine 11 sons*, reservirte für sich nur mansion u. the demesne in his vicinity. Diese 2 cases getrennt dch a century. Im ersten Fall d. land had remained in a *state of indivision* whd several generations; in 2ten had been periodically divided. Der Connor More O'Brien distributed the inheritance of *a Sept; Donogh O'Brien* that of *a family.* (*Vallancey: "Collectanea de Rebus Hibernicis,"* I, 264, 265. Cf. *Haverty.* Maine exploits former Irish writers without naming them.)
Connor More O'Brien scheint (!) to have paid regard to the various *stirpes* or *stocks*, worin d. gens sich branched out; entsprechend was Davis sagt dass d. Chief divided a lapsed share *between the members of a sept "according to their antiquity"*. In d. most archaic form der *Joint Family* (soll heissen *Gens*) u. d. institution which grew out of it, the *Village Community*, diese distributions *per capita*, später distribution *per stirpes*, wo careful attention is paid to the lines into which the descendants of the ancestor of the *joint-family* (read: *gens*) have separated, and separate rights are reserved to them. Finally, the *stocks themselves* escape from the sort of shell constituted by the Joint Family (gens); each man's share of the property, now *periodically divided*, (diesen *Uebergang* d. period. *gleichen Theilung* erklärt Maine nicht) is distributed among his direct descendants at his death. *At this* point, *property in its modern form has been established;* but the Joint Family has not wholly ceased to influence successions. [Keineswegs ist ddch "property in its[47] modern form" established; see *Russian communes* f. i.] Fehlen direct descendants, it is even now the rules of the Joint Family which determine the taking of its inheritance. *Collateral successions*, when distant, follow the more primitive form – *per capita;* when they are *those of the nearer kindred ... per stirpes.* (194-96) |
177 D. *Theilung bei Lebzeiten*, das sich bei beiden Chiefs findet, auch in *Hindoo Joint-Family;* auch *Laertes* in *Odyssee*,[48] the Old Chief, wenn krackschelig, parts with his power u. retains but part of the property he has administered; daggen d. *"poorer freeman"* wd einer der *"senior"* pensioners des tribe *so often referred to in the tracts* (Brehon). (196)
[Es ist *modernes* Vorurtheil, d. *Theilung post mortem*, hervorgegangen aus d. *testamentarischen Erbsc*ft, als etwas Specifisches zu betrachten. D. Eigenthum an Land z.B., common selbst nach *Verwandlg in privates Familieneigthm*, nämlich common property d. family, worin jeder seinen

ideellen Antheil hat, bleibt so nach Tod, sei es dass d. Familie zusammenbleibt, sei es dass sie *faktisch theilt;* folgt daher dass d. *Theilung*, wenn der Chief d. family (od. wie bei Hindoo *joint-family* der gewählte od. erbliche *Repräsentant* der family dazu gezwungen wd dch d. co-parceners) will, bei seinen Lebzeiten stattfindet. D. *ganz falsche Vorstellung* des *Maine*, der d. *Privatfamilie*, wenn in Indien auch in d. Form, worin sie dort existirt, – u. zwar in d. Städten mehr als auf d. Land, u. bei d. Grundrentbesitzern mehr als bei d. wirklichen arbeitenden Gliedern einer village community – als d. *Basis betrachtet*, woraus sich *Sept* u. *Clan* entwickeln etc, zeigt sich auch in flgder Phrase: Nachdem er gesagt, dass d. "*power of distributing inheritances vested in the Celtic Chiefs*" essentially dieselbe Institution sei, die dem "Hindoo father" reserved ist dch die "*Mitakshara*", fährt er fort: "It is part of the *prerogative* (eselhafter Ausdruck für die gens u. Tribe verhältnisse) belonging to the representative of the purest[49] blood in the joint family; but in proportion as the *Joint Family*, *Sept*, or *Clan becomes more artificial*, the *power of distribution* tends more and more to look like mere *administrative authority*". (196, 197) D. Sache ist grad umgekehrt. Für Maine, der sich d. English Private family after all nicht aus d. Kopf schlagen kann, erscheint diese *ganz natürliche Function des Chief of gens, weiter of Tribe*, natürlich grade weil er ihr *Chief* ist (u. theoretisch immer "gewählter") als "artificial" u. "mere administrative authority", whd d. Willkühr d. modernen *pater familias* grade "*artificial*" ist, wie d. Privatfamily selbst, vom archaischen Standpunkt.]

In einigen systems of *Hindoo law*, hat der Vater, der bei Lebzeiten d. Eigenthum vertheilt, d. *Recht to retain a double share* u. nach einigen Hindoo customs, nimmt der *älteste Sohn*, wenn d. patrimony theilend mit seinen Brüdern, 2 × grösseren Antheil als d. anderen. Aehnlich "*the birthright*" of the Hebrew patriarchal history. Dies nicht zu verwechseln mit Recht *of the rule of Primogeniture*. [Sieh oben *Haverty*, zum Beweis, dass d. *irischen* Vorgänger des Herrn Maine *dies lange vor* ihm constatirt hatten, wo sie diese *Ungleichheit bei Gavelkind sehr genau scheiden von Tanistry* u. auf *Pflichten d. ältesten Sohns* etc reduciren.] Er sucht sich dann the double share plausible zu machen [sie sei "reward or security for impartial distribution" (!)] u. bemerkt das sei oft coupled with the right to take exclusively such things *deemed incapable of division*, the *family house*, f.i., and *certain ustensils*. Statt d. *ältesten Sohns* dies Privileg manchmal dem *jüngsten Sohn* zufallend. (197) *Primogenitur* unbekannt *Griechen u. Römern* u. *Semiten* (*Juden* u. a. auch). Aber wir *finden* als familiar fact dass d. *letzten Königs ältester Sohn* ihm folgt; d. *griech. Philosophen* speculiren auch dass in älteren states of society, smaller groups of men, *families u. villages*, governed by eldest son after eldest son. (198)

Auch beim Einfall d. *Teutonic Barbars* in *West Europa* Primogenitur nicht d. gewöhnliche Regel der Nachfolge. D. *Allodial Property d. Teutonic freemen* – theoretisch d. share he had got bei original Erobrungssettlement

d. tribe etc. wenn getheilt, *gleichgetheilt zwischen Söhnen* od. auch *zwischen Söhnen u. Töchtern.* Doch erscheint erst mit diesen Barbaren Primogenitur rasch ausgebreitet über Westeuropa. Und nun findet Maine neue Schwierigkeit, die jedoch nur aus seiner Unbekanntsc⟨ha⟩ft mit *Wesen der gens* herstammt, nämlich dass statt ältesten Sohns *the eldest male relative of the deceased* eintritt (dies bei *Vorherrschen d. gens d. Normale*, da der eldest male relative – wo female descent also superseded – näher dem *Vater des deceased* als der son des deceased) oder dass *neither the succession of the eldest son nor that of* the eldest *relative could take effect without election or confirmation by the members of the aggregate group to which they belong.* (*199*) [Dies ist noch *normaler* als alles andre; da d. Chief immer theoretisch *elective* bleibt, only selbstverständlich, within the gens, resp. within the tribe.] Um sich
178 letzteren Punkt | klar zu machen, pflückt Herr Maine wieder in seiner beliebten *Hindoo Joint Family*, wo nach Tod d. Familienhaupts, wenn d. Familie separates, gleiche Theilung stattfindet; wenn nicht, *election*, meist ältester Sohn; wenn dieser als improper set aside, nicht sein Sohn, sondern meist d. brother of deceased manager gewählt; so sort of *mixture of election and doubtful succession*, was auch gefunden wird in the early examples of European primogeniture. (200) So d. *Tribe* Chief gewählt from the Chieftain's family "as representing the purest[49] blood of the entire brotherhood". (Blödsinn, wenn von wirklich primitive communities Rede. See *f.i.* Red Indian *Iroquois*. Umgekehrt, weil meist d. Wahl traditionell in derselben, od. gewissen gentes ftführt, u. dann wieder in einer bestimmten Familie derselben gens, mag diese später, unter changed circumstances als "representing the purest[49] blood" gelten.) u. instances of the choice being systematically made from 2 families in succession. (200) Ist auch eine Fiktion d. Herrn Maine, dass der *war chief* ursprünglich der Tribe chief ist. Dieser wde umgekehrt nach seinen individual capacities gewählt. *Spenser*, aus dem Maine flgde Stelle citirt, ist authority good enough for stating the facts he saw, but their origin cannot be elucidated from Spenser's plausible reasons for the facts observed. Folgendes d. Stelle aus Spenser: "It is a custom among all the Irish that presently after the death of any of their chief lords or captains, they do presently assemble themselves to a place generally appointed and known to them to choose another in his stead, where they *do nominate and elect for the most part*, not *the eldest son*, nor any of the children of the lord deceased, but *the next to him* of blood that *is eldest and worthiest*, as commonly the *next brother* if he have any, or the *next cousin* ⟨...⟩ as any is elder in that kindred or sept; and then, *next to him*,[50] *they choose the next of the blood to be Tanaist, who shall succeed him in the said*[51] *Captaincy*, if he live thereunto.... For when their Captain dieth, if the Signory should descend to his child, and he perhaps an infant, another might peradventure step in between or thrust him out by strong Hand, being then unable to defend his right and to withstand the force of a forreiner; and therefore they do appoint the eldest of the kin to have

the Signory, for that commonly he is a man of stronger year⟨s⟩ and better experience to maintain the inheritance and to defend the country... And to this end the Tanaist is always ready known, if it should happen to the Captain suddenly to die, or to be slain in battle, or to be out of the country, to defend and keep it from all such dangers." (*Spenser: "View of the State of Ireland"*, bei *Maine*, p. 201, 202) [Maine, der gar nicht erwähnt (cp. oben *Haverty*) was d. Irisch writers gesagt, giebt als seine Entdekkung:] "*Primogeniture*, considered as a rule of succession to property, appears to me a *product of tribal leadership in its decay.* (20⟨2⟩) *Glanville* (unter Henry II, whslich *1186*)[52] writes mit Bezug auf English *military tenures:* "When anyone dies, leaving a younger son and a grandson, the child of his eldest son, a great doubt exists as to which of the two the law prefers in the succession to the other, whether the son or the grandson. Some think the younger son has more right to the inheritance than the grandson but others incline to think that the grandson might[52a] be preferred to his uncle." (Glanville, VII. 7) Ebenso disputes among Highland families about the title to the chieftaincy of particular clans. (l.c. 203) Maine versteht d. ganzen case nicht; meint d. Onkel z.B. gewählt, weil mehr wehrhaft; daggen sobald times had become friedlicher unter central authority of a king "the *value of strategical capacity in the humbler chiefs would diminish*, and in the smaller brotherhoods the *respect for purity of blood would have unchecked play*". (203) [Dies reiner Blödsinn. D. Sach' ist allmälig Ueberwigen (zusammenhängend mit Entwicklg v. Privatgdeigenthum) der *Einzelfamilie* über d. *Gens*. Des Vaters Bruder näher dem ihnen beiden gemeinscftlichen Stammhaupt, als irgendeiner der Söhne des Vaters; also der Onkel der Söhne näher als einer von diesen selbst. Nachdem schon mit Bezug auf d. Familie d. Kinder d. Vaters theilen, u. d. gens nur noch wenig od. gar nicht an d. Erbscft betheiligt, kann für öffentliche Funktionen[52b], also gens chief, tribe chief, etc *noch d. alte gens rule* vorwiegend bleiben; nothwendig entsteht aber struggle zwischen beiden.] Dieselbe Streitfrage arose zwischen d. descendants of daughters in d. controversy zwischen Bruce u. Baliol über Krone von Schottland. (204) (*Edward I* liess für Baliol entscheiden, danach d. descendants of an elder child must be exhausted before those of the younger had a title.) *Sobald d. älteste Sohn statt d. Onkel* folgte to "the humbler chieftaincies" he doubtless also obtained that "portion of land attached to the Signory which went without partition to the Tanaist."[53] (204) So "the demesne", as it was afterwards called, assumed more and more the character of mere property descending according to the rule of primo-
179 geniture". (p. 204) | Nach u. nach dann this principle of primogeniture extended from the demesne to all the estates of the holder of the Signory, however acquired, and ultimately determined the law of succession for the privileged classes throughout feudalised Europe. (204, 5) French "*Parage*" under which the near kinsmen of the eldest son still took an

interest in the family property, but held it of him as his Peers. (205)

Unter act of the *12th year of Elizabeth* (1570) the Lord Deputy was empowered to take surrenders and regrant estates to the Irishry. "The Irish Lords", says *Davis*, "made surrenders of entire counties and obtained grants of the whole again to themselves only, and none other, and all in demesne. In passing of which grants, *there was no care taken of the inferior septs of people*.... So that upon every such surrender or grant, there was *but one freeholder made in a whole country, which was the lord himself;* all the rest *were* [made dch Elizabeth's Act] but tenants at will, or rather *tenants in villeinage.*" (bei *Maine* p. 207)

In *Brehon Laws* (*Book of Aicill*, namentlich Third Vol.) *Irish family* getheilt in *Geilfine*, *Deirbhfine*, *Iarfine* u. *Indfine* (wovon d. 3 letzten übersetzt: the *True*, the *After* u. d. *End Families*). D. Editor d. Third Volume (*Brehon Laws*, wovon d. *Book of Aicill*) sagt: "Within the Family, 17 members were organised in 4 divisions, of which the *junior class*, known as the *Geilfine division*, consisted of 5 persons; d. *Deirbhfine* – 2nd in order, *Iarfine* – 3d in order, and the *Indfine – the senior of all* – consisted respectively of 4 persons. The whole organisation consisted, and could only consist, of 17 members. [(3 × 4 + 5.)][54] If *any person was born into the Geilfine division*, its *eldest member* was promoted into the Deirbhfine, the *eldest member of the Deirbhfine* passed into the *Iarfine*, the eldest member of the Iarfine – moved into the Indfine, and the eldest member of the In⟨d⟩fine passed out of the organisation altogether. It would appear that this transition from a lower to a higher grade took place upon the *introduction of new members, not upon the death of* the seniors." (citirt bei Maine, 209)

Nach Maine (Bei diesem Bursch nöthig d. Irländer zu vergleichen): any *member of the Joint family* or Sept might be selected as the starting ⟨point⟩, and become a root from which sprung as many of these groups of 17 men as he had sons. Sobald einer dieser Söhne 4 Kinder hat, ist a full *Geilfine sub-group* formed of 5 persons; wd ein neues male Kind (Sohn) zugeboren diesem Sohn or to any of his male descendants, so d. *älteste Glied der Geilfine sub-group* – provided always he were not the person from whom it had sprung – sent into the Deirbhfine. A succession of such births completed the Deirbhfine Division, and went on to form the Iarfine and the In⟨d⟩-fine, the After and the End Families. D. *yte Person in d. Geilfine division* soll sein the parent von dem d. 16 descendants spring; er scheint to be referred to in the tracts as the Geilfine Chief. (210)

The *Geilfine group* is several times stated by the Brehon lawyers to be at once the *highest and the youngest. Whitley Stokes* told dem Maine, dass *Geilfine = hand-family;* nämlich "*Gil*" sei = *hand* (also the rendering of *O'Curry*) and sei in fact = χείρ; u. *hand* in several Aryan languages = *power*, namtlich für family or patriarchal power; so, in Greek, ὑποχείριος u. χέρης, for the person under the hand; *latin.* "*herus*" (*master*) von an old word, cognate to χείρ;[55] ebenso lat. *manus, in manu* etc, in Celtic "*Gilla*"

(a servant, bei Walter Scott "*Gillie*") (216, 217) Hence der gewaltige Gedanke des Maine, dass hinter dieser Irish distribution der Family d. *Patria Potestas* u. founded (d. Eintheilung) on the *order of emancipation von Paternal authority.* The *Geilfine*, Hand family, consists of father u. 4 natural or adoptive sons immediately under his power; d. other groups of *emancipated descendants* diminishing in dignity in propertion to their distance from the group which ... constitutes the true or representative |
180 family. (217) Aehnlich in *Roman family*, wo die enumerated members der family underwent a capitis deminutio. (218)

The Irish division of the Family seems only to have been wichtig mit Bezug auf law of succession after death. Aber dies rule in all societies. When the *ancient constitution of the Family has ceased to affect anything else*, it affects inheritance. (219) D. authors *der Brehon law tracts* oft *compare the Geilfine Division* der family ⟨mit⟩ der *human hand.* Dr. *Sullivan* says: "as they represented the roots of the spreading branches of the Family, they were called the *cuic merane fine* or the '*five fingers of the Fine*'." (p. 220) Patria potestas referred to in the Irish tracts as the father's power of "judgment, proof, and witness over his sons. (l.c.) See *Tylor* über "*Finger-Counting*" (in "Primitive Culture". Weil menschliche Hand 5 *Finger* zählt, 5 a primitive natural maximum number. *Early English Township* represented by the *Reeve* and the 4 men; the Indian *punchayet.* (221)

"*Borough English*", unter which law *the youngest son* and not *the eldest* succeeds to the *burgage-tenements* of his father. (222) *Blackstone*, um dies zu erklären, citirt von Duhalde that the *custom* of *descent to the youngest son prevails among the Tartars;* sobld d. älteren sons fähig to lead a pastoral life, verliessen sie den father to migrate "*with a certain allotment of cattle*", and go to seek a new habitation. D. younges⟨t⟩, who continues longest with his father, is naturally the heir of his house, the rest being already provided for. (222) In d. *Leges Wallicae*, diese Gewohnheit for all Welsh cultivating villeins: "Cum *fratres inter se dividunt hereditatem, junior debet habere tygdyn*, i.e., *aedificia patris sui, et octo acras de terra, si habuerint.*" (*L. Wall.* v. II, p. 780), ausserdem certain ustensils; – the other sons are to divide what remains. (223) D. youngest, *remaining under patria potestas*, preferred to the others. (l.c.) Primogeniture ... comes from the Chief (of clan); "Borough English" wie "*Geilfine*" dagegen von ancient conception of family as linked with patria potestas. (l.c.)

D. Irish word *Fine* – in the Brehon Laws – used for d. family in present sense, for d. *Sept*, for *Tribe* etc. (231)

Irish family liess *Adoption* zu; the *Sept* admitted strangers on stated conditions, the *Fine Taccair;* d. Tribe included refugees from other tribes, die nur im Zusammenhang mit ihm dch Chief. (231, 232)

In Dr. Sullivan's introduction he traces the origin of *Guilds* to the *grazing partnerships* common among the ancient Irish; the *same words* used to

describe *bodies of co-partners*, formed by contract, and bodies of co-heirs or co-parceners formed by common descent. (232)
"*Tribe of Saints*" or Verwandtscftsideen applied to monastic houses with its monks and bishops, ebenso to the collective assemblage of *religious houses* etc. (p. 236, sq.) The abbot of the parent house and all the abbots of the minor houses are the "*comharbas*" *od. co-heirs of the saint.* (l.c.) An entire *sub-tract* in the *Senchus Mor* devoted to the *Law of Fosterage*, setting out with the greatest minuteness the rights and duties attaching to all parties when the children of another family were received for nurture and education. (*241 sq.*) This classed with "*Gossipred*", religious Verwdtşcft. (p. 242) [The *same mother's milk* given to children of different origin. Dies reminds one d. *Mutterrecht* und the rules flowing from it; but *Maine* noch unbekannt hiermit, it seems.] "*Literary Fosterage.* (p. 242 sq.) D. *Brehon lawyers* selbst sind betrachtet by the English writers who have noticed them as a *caste.* Nach evidence d. Irish records jedoch anyone who went through a particular training might become a Brehon. Zur Zeit wo Ireland began to be examined by English observers, the art and knowledge der Brehon had become *hereditary* in *certain families* attached to or dependent on the Chiefs of particular tribes. Dieser selbe change has obviously occurred with a vast number of *trades and professions* in India, jetzt popularly called *castes.* Mit a native Indian schwer zu verstehen why z.B. a son should *not* succeed to the learning of a father, and consequently his office and duties. In d. *States von Engl. Indien governed by native princes*, it[56] is still praktisch allgemeine rule that *office is hereditary.* Aber dies erklärt nicht the growth of *those castes* which *are definite sections of great populations.* Nur eine einzige dieser *castes* really survives in *India, that of the Brahmins* u. it is strongly suspected that the whole *literary theory of Caste, which is of Brahmin origin,* is *based on the existence of the Brahmin caste alone.* (245) Bei d. Irish gesehn wie all sorts of *groups* of men considered as connected through blood relationship (247); so "associations of kinsmen shading off into assemblages of partners and guild-brothers-; foster
181 parentage, spiritual parentage, and preceptorship | (Teacher and pupil) taking their hue from natural paternity – ecclesiastical organisation blending with tribal organisation. (248)
Grösster Theil des Senchus Mor – the largest Brehon law-tract – handelt v. *Distress.* Es handelt sich hier um *Procedur*, die bei d. Rechtsanfängen d. wichtigste.
In Anfang d. *Book IV* des *1816* von Niebuhr disinterred manuscript of *Gajus* fragmentary u. imperfect account of the old *Legis actiones.*
Actio generally = Handlung, Vollbringung, That. (*Cic. N. D.* Deos spoliat motu et *actione* divina. *actio vitae, id.* Off. I, 5 (= *vital action;* ferner actiones = public functions[57] or duties, wie *actio consularis;* dann: *negotiation, deliberation* wie: "discessu consulum *actio de pace* sublata est etc; *political measures or proceedings, addresses of the magistrates to the People.* Nun

kommen wir aber zum sense worin *legis actio:* an *action, suit, process* with a defining *genitive: actio furti* action for theft; auch mit *de*: "*actio de repetundis*" action (prosecution for refunding money extorted by magistrates). *actionem alicui intendere, actionem instituere* (bring an action agst som⟨e⟩body). "Multis *actiones* (*processes, suits*) et *res* (the property in suit) peribant. *Liv.*)

Daher allgemein: *a legal formula* or *form of process* (procedure) "inde illa *actio:* ope consilioque tuo, furtum aio factum esse." *actiones Manilianae,* forms relative to purchase and sale.) "*Dare alicui actionem*", Permission to bring an action which was the office of the Prätor. "*Rem agere ex jure, lege, causa* etc "to bring an action, to manage a cause or suit.
Lege, respective *legem – agere,* to *proceed according to law, mode of executing law,* to *execute* a sentence. "Lege egit in hereditatem paternam ex heres filius." *Cic. de Orat. I, 38*)[58]
Bentham unterscheidet zwischen *Substantive Law,* the law declaring rights and duties, and *Adjective Law,* the rules wonach that law is administered. In älteren Zeiten rights and duties ⟨were⟩ rather the *adjective of procedure* als umgekehrt. Difficulty in such times not in conceiving what a man was *entitled to,* but in *obtaining it*; so that the *method,* violent or legal, *by which an end was obtained,* was of more consequence than the nature of[59] the end itself.... D. wichtigste sehr lange Zeit the "*remedies*". (252)
D. first dieser alten (Roman) actiones ist die: *Legis Actio Sacramenti,* the undoubted parent of all the Roman actions u. daher of most of the *civil remedies* now in use in the world. [*sacra mentum* in *law: the sum* which the *parties* to a suit at first *deposited with the tresviri capitales,* but for which they subsequently gave security to the praetor, so called because *the sum deposited by the losing party was used for religious purposes,* esp. for the *sacra publica;* or rather, perhaps, because *the money* was deposited in a *sacred place. Festus.* "*ea pecunia, quae in judicium venit in litibus,* sacramentum a sacro. Qui petebat et qui infitiabatur, de aliis rebus utrique quingenos aeris ad pontem deponebant, de aliis rebus item certo alio ligitimo numero assum; qui judicio vicerat, suum sacramentum e sacro auferebat, victi ad aerarium redibat." *Varro.*][60]
Diese Actio sacramenti is a dramatisation of the Origin of Justice; 2 Bewaffnete Männer ringen mit einander, Prätor geht vorbei, interposes to stop the contest; d. disputants state him their case, agree that he shall arbitrate; arrangirt dass der loser, ausser resigning the subject of the quarrel shall pay a sum of money to the umpire (the Prätor)(p. 253) (Dies scheint rather Dramatisation of how law disputes were becoming a source of *fees* profit to lawyers! u. dies nennt Herr Maine, als a lawyer, "*the Origin of Justice*"!)
In dieser dramatisation the claimant holds a *wand in his hand,* der nach Gajus *a spear* repräsentirt, the emblem of the strong man armed, served as the *symbol of property* held absolutely and agst the world (rather the symbol

of Gewalt als origin of Roman u. other property!) in Roman u. several Western societies. *Quarrel between plaintiff u. defendant* [assertions u. reassertions – formal dialogue dabei] was a mere pretence among the Romans, long remained *a reality* in other societies u. survived in the *Wager of Battle*, der als English Institution erst "finally abolished in our father's day". (255)

The disputants staked a sum of money – the Sacramentum – on the merits of their quarrel, and the stake went into the public exchequer. The *money thus wagered*, das erscheint in a large number of archaic legal systems, is the *earliest representative of Court Fees*.... [D. Legis Actio Sacramenti so conducted, u. dies wieder showing the intimate nature of the *Lawyer* – dass d. Lex, d. geschriebne Recht, aber auch *literally* – nicht d. Geist,
182 sondern | der Buchstabe d. Gesetzes, d. Formel d. Wichtigste] So sagt *Gajus:* if you sued by *Legis Actio* for injury to your vines, and *called them vines*, you would fail; you must call them *trees*, because the *Text of the 12 Tables* speaks only of Trees. Ebenso enthält d. alte collection of *Teutonic legal formulas* – the *Malberg Gloss* – provisions von genau derselben Natur. If you sue for a *bull*, you will miscarry if you describe him as a bull; you must give him his ancient juridical designation of "*leader of the herd*". You must call the fore-finger the "*arrow*" *finger*, the *goat* the "*browser upon leeks*". (255, 256)

Flgt bei Gajus the *Condictio* [in Digests: demand for *restitution*]; er sagt sie sei gegründet, soll aber nur regulated wden sein dch 2 Roman Statutes of the *6th Century B.C.*, the *Lex Silia* u. the *Lex Calpurnia;* becam Namen von a notice die der Kläger dem Beklagten gab in 30 Tagen vor Prätor zu erscheinen, damit ein *judex oder referee* might be nominated. [*condicere*, to speak with, agree upon, decide, *appoint*, ansagen. "condicere tempus et locum coëundi". "condicere rem", demand restitution, "*pecuniam alicui*" Ulp. I.[61] Nach d. condictio the parties entered into "*sponsio*" u. *restipulatio*". *Sponsio*, a solemn promise or engagement, guarantee, security. "*sponsio* appellatur omnis stipulatio promissioque." *Dig.* 50, 16, 7.[61] "non *foedere* pax Caudina sed *per sponsionem* (by giving surety) facta est." (*Liv.*) Speciell in *civil* Suits, ein agreement between 2 parties in a suit, dass der der *den Process verliert should pay a certain sum to him who gains* it. "*Sponsionem facere*". (*Cic.*) Endlich: *a sum of money deposited according to agreement*, a *stake* (Einsatz beim Spiel, bei Wette, that which is laid down, as the amount of a wager etc.)[62]

Restipulatio. A counter-engagement or ⟨counter-⟩obligation (*Cic.*) *restipulor* to stipulate or engage in return.][63]

Nachdem diese condictio gegeben, the parties entered into a "sponsio" and "restipulatio", i.e. laid *a formal wager* (distinct from the so called[64] Sacramentum) on the justice of their respective contentions. D. sum so staked always[65] = $^1/_3$ of the amount in dispute, went in the end to the

successful litigant, and not, like Sacramentum, to the State. [Hat ausserdem d. innern ironischen Sinne, dass die Parteien d. Processes dasselbe unsichre Hazardspiel treiben wie beim Wetten, ddch dies ein d. röm. jurisprudenz unbewusster Witz!]

Gajus proceeds von der *Condictio* zur *Manus Injectio* u. *Pignoris Capio*, actiones legis die nichts mit modernem Begriff von actio gemein haben. Manus injectio ausdrücklich stated to have been *originally the Roman mode of execution against the person of a judgment debtor;* war the *instrument der Cruelties prakticirt*[66] *dch röm. Aristokratie on their defaulting plebejan debtors*, gab so impetus to *series of popular movements* affecting the whole history of Roman commonwealth. D. *Pignoris Capio* war zuerst ein völlig *extrajudicial proceeding.* D. Person die es anwandte *seized* (beschlagnamte) in certain cases *the goods* of a fellow citizen, agst whom he had a claim, *but against whom he had not instituted a suit.* Dies zuerst beschränkt – diese power of seizure – auf *soldiers against public officers bound to supply them with pay, horse, or forage;* ditto auf *seller* of a *beast for sacrifice* against a defaulting purchaser; später extended to demands for *overdue arrears of public revenue.* Etwas Aehnliches in *Plato's Leges*, auch als remedy for breach of public duties connected with military service or religious observance. (Dies dem Maine verrathen von *Post.*). Gajus sagt dass d. *Pignoris Capio* could be resorted to in the *absence of the Prätor* and generally of the *person under liability*, and also that *it might be carried out even when the Courts were not sitting.* (256-59)

The Legis actio sacramenti assumes that the quarrel is at once referred to *a present arbitrator;* the *Condictio*, dass d. Referenz to the decision of an arbitrator nach 30 days; aber *meantime* the parties have entered into a *separate wager* on the merits of their dispute. Noch zu Cicero's Zeit, als *condictio* eine der most important Roman actions geworden, an *independent penalty attached to the suitor* in dieser Klage. (260)

Glaubt dass die *Pignoris Capio*, obgleich dies schon veraltet zur Zeit d. 12 Tables, taking *forcible possession der moveable property* des adversary and detain it till he submits. (260)

So in English Law *Power of Distraint* or *Distress* – (womit connected als Remedy d. socalled *Replevin*) – z.B. heut zu Tag landlord's right to *seize the goods of his tenants for unpaid rent*, and the right of the lawful possessor of land to *take and impound stray beasts* which are damaging his crops or soil. (261, 262) Im letztren Fall cattle kept bis satisfaction made for the injury. (l.c.)

Aelter als Roman Conquest in Engld the practice of Distress, – of taking *nams*, word erhalten im law-term *withernam.* (262, 63) Zur Zeit v. *Henry III* confined to certain specific claims u. wrongs. Damals: Person seizes
183 the goods (almost always *cattle*) | der Person von der er sich benachtheiligt glaubt; treibt d. beasts to *a pound* (von angels⟨ächsisch⟩ *pyndan*), an enclosed piece of land reserved for the purpose, and generally open to

the sky ... eine d. ältesten Institutionen Englands; the *Village-Pound* far older than the King's Bench, and probably than the Kingdom. While the cattle were on their way to the pound the owner had a limited right of rescue which the law recognised, but which he ran great risk in exercising. Once lodged within the enclosure, the *impounded beasts*, when the *pound was uncovered*, had to be *fed by the owner* and not by the distrainor; this rule only altered in the present reign. (263) Wenn d. Eigner d. cattle altogether denied the distrainor's right to distrain, or refuse to release the cattle, on *security being tendered to him*, dann d. cattle owner might apply to the King's Chancery for a writ commanding the Sheriff to "make replevin", or he might verbally complain himself to the Sheriff, who would then proceed at once to "replevy". (264)

Replévin (to), *Spenser*, to "*replévy*", *replegio* Law Latin, of *re* u. *plevir* or *plegir*, fr. *to give a pledge;* bdtet nach Johnson: to take back or set at liberty, upon security, anything seized; er citirt aus *Hudibras:*

"That you're a beast and turn'd to grass,
Is no strange news, nor ever was;
At least to me, who once, you know,
Did from the *pound replevin* you."

In d. action of Replevin, wenn d. Sache vor Gerichtshof kam, der owner des distrained cattle war der Kläger u. der Distrainor was the defendant. (265) "*Taking in withernam*" of Old English Law means, wenn d.distrainor dem *Sheriff* d. distrained cattle nicht seizen wollte od. es in distance out of his jurisdiction removed, so erhob dieser wegen Brechen of King's Peace, "hue u. cry" wider ihn u. *seized von* des *distrainor's cattle double the value of the beasts which were not forthcoming;* letztres "*taking in withernam*". (l.c.) Dies seizure, rescue u. counterseizure ursprünglich *disorderly proceeding* which the law steps in to regulate. (l.c.) In *d. Form of impounding*, wo d. person distrained must *feed the cattle* (als Zeichen of deren continued *ownership*), Verbot für distrainor to work them. – *Distress becomes* a *semi-orderly contrivance for extorting satisfaction.* (266) *Blackstone* hat bemerkt, that *the modified exemption of certain classes of goods from distraint* – z.B. *plough-oxen* u. *instruments of trade*, ursprünglich nicht intended als *kindness to owner*, sondern weil *ohne d. instruments of tillage or handicraft*, the debtor could never pay his debt. (l.c) D letzte – u. auch historisch letzt entwickelte incident des proceeding ist: *the King steps in*, dch his deputy, den *Sheriff;* selbst wenn dieser obtains his view, he can do nothing *unless the cattle owner* is prepared with *security* that he will try the question between himself u. den distrainor in a *Court of Justice;* dann erst steps in the judicial Power of the Commonwealth; its jurisdiction *acquired* through the act *of the Sheriff in restoring the cattle* upon pledge given. D. distrainor has lost his material security, the cattle; the owner of the cattle has become personally bound; so both placed under a compulsion which

drives them in the end to a judicial arbitration. (267) [D. ganze Proceeding implies dass d. Power of State – i.e. *Court of Justice* – noch nicht so firmly settled, dass people de *prime abord* submit to its judicial authority.]

Fast alle *Leges Barbarorum* refer to *Pignoratio* od. *distraint of goods*. D. *Lex Visigothorum verbietet* es ausdrücklich; d. *Lex Lombardorum*, permits it after simple demand of payment. D. *Salic Law* – nach d. neusten deutschen Autoritäten – redigirt zwischen Tacitus Zeit u. d. Zeit d. Invasion des Roman Empire dch d. Franken, enthält sehr genaue Bestimmungen die zuerst fully interpreted by *Sohm*. In diesem System *Distress* not yet a judicial remedy; ist noch an *extrajudicial mode of redress*, but it has been incorporated with a regular and highly complex procedure. Eine succession of notices to be given in solemn form dch d. complainant der Person über die sich der would be dist⟨r⟩ainor beklagt u. whose property he proposes to seize. Er kann nicht saisiren bevor er jene person vor d. *Volksgericht* geladen u. bevor d. Popular Officer dieses Gerichts, der Thunginus, pronuncirt hat eine Formel licensing distraint. Dann erst kann er *distress* auf seinen Gegner machen. Entsprechend eine *Ordon⟨n⟩anz von Canut* that no man is to take *nams* unless he has demanded 3 times in the Hundred; erhält er d. 3t mal keine justice, so geht er zum *Shire-gemot;* d. Shire appoints him a 4th time, u. when that fails, he may take the distress. (269, 270)

D. fragment of the system which has survived in the English *Common Law* (and it is to this that it probably owes its survival) was *from the first* pre-eminently a *remedy by which the lord compelled his tenants to render him their services*. Was *archaischer* im engl. Gesetz als in den *leges barbarorum: notice of the intention to distrain* was never in England *essential to the legality of distress*, obgleich d. *Statute-law renders it necessary* to make *a sale of the distrained property legal;* ebenso im ältesten state d. Common Law, obgleich distraint sometimes followed a proceeding in the lord's Court, yet it did not necessarily presuppose or require it. (270-71) D. Frankish
184 procedure was completely at the disposal of the complainant. | It is a procedure *regulating extrajudicial redress*. Beobachtet der complainant the proper forms, so ist the part of the Court in licensing seizure purely passive .... When the defendant submitted or was unsuccessful in attacking the proceedings of the other side, he paid not only the original debt but *various additional penalties* entailed by neglect to comply with previous notices to discharge it. Dies founded *on the assumption that plaintiffs are always in the right* u. *defendants always in the wrong*, whd the *modern* principle *compels the complainant* to establish at all events a *prima facie* case. Früher the man most likely to be in the right the man who faced the manifold risks attending the effort to obtain redress, to complain to the Popular Assembly, to cry for justice to the king sitting in the gate.... In einem Fall, wo King Kläger, d. Presumption dass Kläger in

the right lang aufrecht erhalten in engl. Recht u. hence the *obstinate dislike of (Engl.) lawyers* to *allowing prisoners to be defended by Counsel.* (271-73)
Gajus sagt v. d. *Legis Actiones* im allgemeinen dass "sie in discredit fielen, weil wegen der excessive subtlety der ancient lawyers things came to such a pass that he who *committed the smallest error* failed altogether."
Ebenso *Blackstone* remarks on English Law of Distress: "The many particulars which attend the taking of a distress used formerly to make it a hazardous kind of proceeding; for, if any one irregularity was committed, it vitiated the whole." (273)
[Diese excessive *technicality of ancient law* zeigt[67] Jurisprudenz as feather of the same bird, als d. religiösen Formalitäten z.B. bei Augur's etc, od. d. Hokus Pokus des medicine man der savages!]
Nach *Sohm* the power of seizing a man's property extrajudicially in satisfaction of your demand mit grossen risks verbunden; ging der complainant who sought to distress nicht dch *alle acts u. words* required by the law with the most rigorous accuracy so, besides failing in his object, incurred a variety of penalties, which could be just as harshly exacted as his own original demand. (273, 74) Ha⟨u⟩ptsache bei d. Barbaren to compel the *appearance of the defendant* and *his submission to jurisdiction*, was damals noch keineswegs selbstverständlich. (275) In d. *Fränkischen Gesetz*, wenn *in gewissen cases* auch selbe von Anfang an bis judgment judicially tried, so noch nicht *the judgment by its own force operative.* Hat der defendant *ausdrücklich erklärt to obey it*, the *Court or royal deputy*, on being properly summoned, will execute it; but *if no such promise has been made, the plaintiff has no remedy except an application to the King in person.* (275)
Später sobald d. Franks settled in Roman Empire, the *royal deputy* will execute the judgment *ohne promise des defendant to submit.* In England dieser change u. d. Macht der Courts *greatly due to the development of royal justice at the expense of popular justice.* Doch savoured Engl. judicial proceedings noch long of the old practices. Hence on the smallest provocation the King *constantly took the lands of the defendant into his hands* or *seized his goods, simply to compel or perfect his submission to the royal jurisdiction.* [See bei *Walter Scott*, dass ein Mann wegen Schulden eingesperrt wird wegen d. Fiction seiner *contempt of the King.*]
D. survival of *distress* in Engld den Herrn landlords zu lieb. *The modern* – dem Ursprünglichen ganz wiedersprechde – *theory of distress:* ist that a
x landlord is allowed to distrain because x *by the nature of the case he is always compelled to give his tenant credit*, and that he can distrain without notice because every man is supposed to know when his rent is due. (277)
Ursprünglich *distress treated as willful breach of the peace;* ausser wo it was connived at so far as it served to *compel the submission of defendants to the jurisdiction of courts.* (278)
Ueber Hälfte d. *Senchus Mor* taken up with *Law of Distress.* Senchus Mor pretends to be the Code of Irish Law prepared unter the influence of

St. Patrick upon the introduction of Christianity in Ireland. (279) Er gleicht sehr d. *Teutonic Laws* u. *English Common Law. Putting in a pound* kommt noch darin von d. Speciality drin: "If the defendant or debtor were a person of chieftain grade, it was necessary not only to give notice, but also *to fast upon him.* The fasting upon him consisted in
185 going to his residence and waiting there a certain time without | food. If the plaintiff did not within a certain time receive satisfaction for his claim, or a pledge therefore, he forthwith, accompanied by a law-agent, witnesses, and others, seized his distress" etc. (p. 280-81. Cf. *Senchus Mor.* 1st vol. remarks of the Editor.) Erlaubte d. Schuldner nicht his cattle to go to pound u. gab er sufficient pledge (e.g. *his son*, or some article of value, to the creditor, that he[68] would within a certain time try the right to the distress by law, the creditor was bound to receive such pledge. If he did not go to law, as he so undertook, *the pledge became forfeited for the original debt.*" (p. *282.* [Noch heut zu Tag bei distress in *Oudh* d. creditor landlord takes *ausser cattle* (dies vor allem etc) auc⟨h⟩ *Personen* als Sklaven. *See The Garden of India* von *Irwin.*] [Im *Wesentlichen* d. Irische law hier mehr identisch mit d. *Leges Barbarorum* als mit d. Englischen.] "The distress of the Senchus Mor is not, like the Distress of the English Common Law, a remedy confined in the main to *demands of the lord on his tenants;* as in the *Salic* u. andren *Leges Barbarorum* it extends to *breaches of contract* u., so far as the Brehon law is already known, it would appear to be the universal method of prosecuting claims of all kinds." (p. 283) The Irish *stay of proceedings* (*Dithim*) entspricht einigen provisions in d. *leges barbarorum.* In einigen derselben when a person's property is about to be seized he makes a mimic resistance; im *Salic law* he protests against the injustice of the attempt; im *Ripuarian law* he goes through the formality of standing at his door with a *drawn sword.* Thereupon the *seizure* is interrupted u. opportunity given for enquiring into the regularity of the proceedings etc. (284) Mit d. English law hat d. *Irische* speciell gemein – was ganz absent from the Teutonic procedures – the "*impounding*", the "taking in withernam" u. namtlich dass nicht required "assistance od. permission from any Court of Justice. (284)[69] Dies nur im *Lombardic law* (unter den *leges barbarorum*) (l.c.) Ferner – u. dies in England erst dch *Statute Law* eingeführt – im *Brehon Law* the *seizure of cattle* nicht nur als a method of satisfaction, sondern it provides for their *forfeiture in discharge of the demand for which they are taken.* (285)

Sohm sucht zu beweisen dass d. *Fränkischen Volksgerichte nicht ihre eignen Dekrete exequirten;* versprach der defendant to submit to an award, the local deputy of the King might be required to enforce it, aber, when no such promise, the plaintiff was forced to *petition the King in person* u. in d. älteren Zeiten, vor full development der kgl. Gewalt, Courts of Justice existed less for the purpose of doing right generally than for the purpose of *supplying an alternative to the violent redress of wrong....* The *Norse*

literature (see Mr. *Dasent*) shows that *perpetual fighting* and *perpetual litigation may go on side by side*, and that a *highly technical procedure* may be scrupulously followed at a time when homicide is an everyday[70] occurrence.... *Contention in Court takes the place of contention in arms*, but only gradually takes its place.... In our day,[71] when a wild province is annexed to the British Indian Empire, there is ... *a rush of suitors to the Courts* which are immediately established.... The men who can no longer fight go to law instead ... Hasty appeals to a judge succeed hurried quarrels, and hereditary law-suits take the place of ancestral blood-feuds. (288,[72] 289)
Im Allgem. probable that, in proportion as Courts grow stronger, they first take under their control the *barbarous* (aber d. *Sache bleibt ja*, auf das legale übersetzt) practice of making reprisals on a wrongdoer by seizing his property, and ultimately they absorb it into their own procedure. (290)
D. Irish Law of Distress offenbar in Zeit wo action of Courts of Justice feeble and intermittent. (291) Statt dieser – d. *law agent* (Brehon lawyer) d. grosse Rolle spielend. (l.c.)
The Irish used the *remedy of distress, because they knew no other remedy*, u. d. Hunde von Engländern made *it a capital felony* (mit Todesstrafe) in
186 *an Irishman to follow the only law with which he | was acquainted.* (294 Cp. *Spenser.* "*View of the State of Ireland.*") Nay, those very subtleties of Old English Law which, as Blackstone says, made the taking of distress 'a hazardous sort of proceeding' to the civil distrainor, might bring an Irishman to the gallows, if in conscientiously attempting to carry out the foreign law he fell into the smallest mistake. (*l.c.* Also gehangen, wenn er seinem native law nach handelte, ditto gehangen wenn er sich dem aufgezwungnen englischen zu adoptiren suchte!)
Mit Bezug auf d. "*fasting upon*" *the debtor* heisst es in *Senchus Mor:* "*Notice* precedes every distress in the case of the inferior grades except it be by persons of distinction or upon persons of distinction. *Fasting precedes distress in their case.* He who does not *give a pledge to fasting* is an evader of all; he who disregards all things shall not be paid by God or Man."
Dies, wie *Whitley Stokes* zuerst pointed out, diffused *over the whole East*, entspricht dem Hindoo "*sitting dharna*". (Cf. *Strange*: *Hindoo Law.*) (297) Heute noch sehr striking examples davon in *Persien*, wo a man intending to *enforce payment of a demand by fasting begins by sowing some barley at his debtor's door and sitting down in the middle.* (l.c.)
D. Wort *dharna* soll exact equivalent sein von Roman "*capio*", and meaning "detention" or "arrest". Soll VIII, 49 bei *Manu* vorkommen. (l.c.) Im *Vyavahara Mayukha*, Brihaspiti is cited as enumerating, among the *lawful modes of compulsion* by which the debtor can be *made to pay*, "*confining his wife, his son, or his cattle, or watching constantly at his door.*" (298)
See *Lord Teignmouth's* description (in *Forbes* "*Oriental Memoirs*" *II, 25*) d. form dieses "*watching* constantly at the door" in British India vor Ende d. 18. Jhdts.)

In einem *Law of Alfred* heissts:
"Let the man who knows his foe to be *homesitting* fight not before he have demanded justice of him. If he have power to beset his foe and besiege him in his house, let him keep there for 7 days but not attack him if he will remain indoors. If then, after seven days, he be willing to surrender and give up his weapons, let him be kept safe for thirty days, and let notice be given to his kinsmen and friends. But if the plaintiff have no power of his own, let him ride to the Ealdorman, and, if the Ealdorman will not aid him, let him ride to the King before he fights." Schliesslich kommt dann a provision that if *the man who is homesitting be really shut up in his house with the complainant's wife, daughter, or sister, he may be attacked and killed without ceremony.*" (Dies letztere auch *in 324. Code Pénal* des Herrn Napoleon....) *The Anglo-Saxon rule* is to be enforced by the civil power, the Ealdorman or the King; the *Hindoo Brahminical rule* by the fear of punishment in another world. (303, 4) "*Sitting dharna*" placed under the ban of the Brit, law, still common in the Native Indian States, u. dort hptsächlich an expedient *resorted to by soldiers to obtain arrears of pay*, wie "*pignoris capio*" beim *Gajus* surviving in 2 cases, wovon einer the default of a military paymaster. (304, 5)
In *Lecture XI* "*The Early History of the Settled Property of Married Women*" hat comfortable Maine noch keine Bekanntscft mit *Mutterrecht* (Bachofen etc.) gemacht, hatte auch *Morgan's* Buch noch nich⟨t⟩ für "elegante" Vermöblg seinerseits.
A man of *continuous servile occupation* in a *Roman household* wde dch *Usucapio* (was später Prescriptio) a slave of the paterfamilias. (315) Später d. ordinary Roman marriage a *voluntary conjugal society, terminable at the pleasure of either side by divorce.* (317) Nach dem *Ancient Irish Law* women had some power of *dealing with their own property without the consent of their husbands*, and this was one of the institutions *expressly declared by the*
187 [*English blockheaded*] *Judges to be illegal at the beginning of the 17th century.* (324) Die Brahminical Indian Lawyers haben ganz | ausgearbeitet (u. dies beginnt fast with Manu) the *doctrine of* "*Spiritual Benefit*", as they call it. Inasmuch as the *condition of the dead could be ameliorated by proper expiatory rites, the property descending or devolving on a man* came to be regarded by them partly *as a fund for paying the expenses of the ceremonial* by which *the soul of the person from whom the inheritance came could be redeemed from suffering or degradation*, and partly *as a reward for the proper performance of the sacrifices.* (332, 333) Ebenso *Catholic Church:* the first and best destination of a *dead man's goods to purchase masses for his soul*, u. out of these views grew the *whole testamentary* and intestate jurisdiction of the Ecclesiastical Courts. (332)
Im *Mitakshara* heissts: "The *wealth of a regenerate man* is designed for religious uses, and a woman's succession to such property is unfit because she is not competent to the performance of religious rites." (332, 33)

D. Gunst der indischen Gesetzgebung für d. Frauen, die sich bis jetzt in dem *Stridhan* (settled property of a married woman), incapable of alienation by her husband, u. ebenso darin verspricht, dass d. Habe der Frau auf d. Töchter od. die female members ihrer family übergeht (cf. *Strange:* "*Hindoo Law*") etc – alles dies von Herrn Maine nicht richtig gedeutet, weil ihm alle Einsicht in *gens* u. daher auch *ursprüngliche Vererbung* in *female*, – nicht *male*, *line of descent* – abgeht. Der Esel sagt selbst mit welchen *gefärbten Brillen* er sieht: "Among the Aryan [the devil take this "Aryan" cant!] sub-races, the Hindoos *may be as confidently asserted as the Romans* to have had their society organized as a *collection of patriarchally governed families*. [Aus Niebuhr konnte er schon wissen, dass d. *röm. family* noch eingehüllt in der *gens*, selbst nachdem sie in ihrer specif. Form mit d. patria potestas ausgebildet.] If, then, (a nice "If" only resting upon Maine's own "*confident assertion*") *then*, (dies "then" Pecksniffian), at *any early period*, [Maine transports his "patriarchal" Roman family into the very beginning of things] the married woman[73] had among the Hindoos *her property altogether enfranchised from her husband's control* ["enfranchised", that is to say, from Maine's "confident assertion"], it is not easy to give a reason why the *obligations of the family despotism* [a principal pet-doctrine of blockheaded John Bull to read in original "despotism"] were relaxed in this one particular. (323)

Maine citirt folgende Stelle aus d. *treatise Mitakshara* u. zwar Stelle schon citirt von *Sir Thomas Strange* "*Hindu Law*" (see Daselbst t. I, p. 26-32) in Strange's Buch (obgleich schon *1830 publicirt citirbar als 2nd edit.* seines Werks: "*Elements of Hindu Law*", enthält viel *vollständigere Quellenangaben* u. Auseinandersetzg über diesen Punkt. Man ersieht ferner aus dem was Strange aus d. Quellen angiebt, das schon im *Mitakshara*, nicht zu sprechen von späteren Hindu juristischen Commentaren, ihr *Verfasser* den Ursprung der *Stridhana* nicht mehr versteht u. sich selbe ganz so falsch rationalistisch plausibel zu machen sucht, wie etwa d. röm. Juristen aus Cicero's Zeit ihnen unverständliche altrömische (für sie "archaische") Rechtsgebräuche od. Formeln. Eine solche rationalistische Erklärung ist es z.B., wenn *in Mitakshara* d. "*fee*" der Braut "what is given her in her bridal procession, upon the final ceremony, when the marriage already contracted and solemnized, is about to be consummated, the bride having hitherto remained with her mother" (*Strange*, t. I, p. 29); Strange bemerkt of this *domi-ductio*, this bringing of the bride home, which, with the Hindoo, is a *consequence only of the antecedent contract*, that, among the Romans, it was an ingredient wanting to its completion; till when, the bride was a "*sponsa*" only; becoming "*uxor*" statim atque *ducta* est, quamvis nondum in cubiculum mariti venerit"; und fährt *Strange* fort: "The *fee* of a Hindu
188 wife has moreover this *anomaly* attending it, | that, upon her death, it descends in a *course of inheritance peculiar to herself.*" Diese "*anomaly*" ist nur fragmentarisches, auf bestimmten Theil d. Vermögens reducirte, *survival*

d. alten *normalen rule*, die gegründet auf *descent der gens in der female line*, der[74] primitiven. So verhält es sich allzuerst mit den "Anomalien" in Recht etc. (In d. Sprache d. *Ausnahmen* auch allzuerst *Ueberbleibsel* d. älteren, ursprünglicheren) D. alte Norm erscheint in veränderten relativ modernen Zustand als "Anomalie", als unverständliche *Ausnahme*. Sämtliche indische Rechtsquellen u. Commentare verfasst, nachdem d. *descent in female line* schon seit lange übergegangen in *descent in male line*. (Aus *Strange* ferner ersichtbar, dass in *verschiednen Theilen Indiens* d. *Anomalie mehr od. minder "vollständiges"* Ueberbleibsel.)
Die von Maine citirte Stelle aus *Mitakshara* lautet:
"That which is given (to the wife) by the father, the mother, the husband, or a brother, at the time of the wedding, before the nuptial fire." Aber d. compiler of the Mitakshara adds a proposition not found elsewhere: "also property which she may have acquired by inheritance, purchase, partition, seizure, or finding, is denominated by Manu and the others *"woman's property."* (*Mit.* XI. 2) (p. 322)
Hierüber heftige controversies unter d. Brahminical commentators. U. a. erklärt sich d. pfiffige Maine d. Sache wie folgt:
Unter d. Aryan Communities findet[75] man "the earliest traces of the separate property of women in the widely diffused ancient institution known as *Bride-Price*. Part of this price, which was paid by the bridegroom either at the wedding or the day after it, went to the bride's father as *compensation* (!) *for the Patriarchal or Family authority which was transferred to the husband*, but another part went *to the bride herself* and was generally enjoyed by her separately and kept apart from her husband's property. It further appears that under a certain number of Aryan customs the *proprietary rights of other kinds which women slowly acquired* were assimilated to their rights in their portion of the *Bride-Price*, probably (!) as being the only existing type of women's property." (324) Richtig dagegen was Maine sagt: "There are in fact clear indications of a sustained *general effort on the part of the Brahminical writers on mixed law and religion*, to limit the privileges of women which they seem to have found *recognized by older authorities*." (325. In Rom selbst die Stellung d. patria potestas vis-à-vis der Frau exaggerated in opposition to the old *contrary tradition*.)

D. Sauerei der Brahminen gipfelt in d. "*Suttee*" or *widow burning*. Dass diese practice "malus usus", nicht "law" sagt schon *Strange*, da sich bei *Manu* u. other high authorities nichts davon finde; dieser "as the condition on which the widow may aspire to Heaven" have simply required that she should, on the decease of her husband, live a life of seclusion, privation, and decency." (*Post*, p. 245) Im *Shaster* auch noch d. *suttee* (Strange l.c. p. 241) nur recommended. Aber sieh oben, wie d. *Brahminen* selbst d. Sache erklären (*"property designed for religious uses"*) u. d. *Interesse der Burschen*, denen sie d. Nachlassenscft zuwälzen (die *dafür have to pay* the *expenses of the ceremonial*). Strange spricht ausdrücklich of *"designing Brahmins"* u. *"interested relatives"* (l.c. p. 239)

Nämlich: "*the wife surviving her husband, succeeds as heir to him*, in *default of male issue*. (*Strange*, t. I, p. 236) Ausserdem "her *claim to be maintained by* his (the defunct husband's) *representatives*. (l.c. p. 246) Mit Ausnahme der "*Stridhana*", die sie in her own right besitzt, geht das was sie von ihrem husband ererbt, (sofern dieser kein male issue hatte) über to her *husband's heirs*, not the immediate ones merely, but the whole living at the time." (p. 247) Hier d. Sache klar: d. *suttee* einfacher *religiöser Mord*, um d. Erbscft theils für religiöse Feierlichkeiten (für d. Verstorbnen) in Hände d. Brahmanen[76] (geistlichen) zu bringen, theils der dch d. brahmin. Gesetzgbg an Beerbung d. Witwe[77] interessirten gens, nearer family *des husband*. Hence d. *violence* u. *infamies*, meist von Seiten der "connexions" to bring the widow to Flammentod. (239, 240 *Strange*, t. I)

Herr Maine selbst fügt dem, was man schon bei Strange findet nichts zu.
189 Und selbst | wenn er generalisirt, dass: "The Hindoo laws, religious and civil, have for centuries been undergoing transmutation, development, and, in *some* [! *Maine* always mild when speaking of clergy and lawyers! and higher class people generally!] points, depravation at the hands of successive Brahminical expositors." (326) So weiss dies *Strange* auch, setzt aber hinzu, dass d. Kirchenpfaffen es anderswo nicht besser machten!

Das ganze Primitive fasst d. englische Philister *Maine* auf as "*the despotism of groups over the members composing them*" (p. 327)! Damals hatte *Bentham* –nämlich in d. Urzeiten – noch nicht die nach *Maine* merkwürdig die Neuzeit repräsentirende Formel u. Treibwerk d. "modernen" Gesetzgebg erfunden: "*The greatest happiness of the greatest number*". O Du Pecksniff!

Wir haben gesehn, dass wenn der Mann *ohne issue* stirbt, *the widow comes in for her life* (diese Herabsetzung auf *tenure for life* auch erst später, wie genaue Musterung des von Strange angeführten Quellen zeigt) *before the collateral relatives* (*of her husband, not her own*, was Maine zu sagen vergisst; ihre eignen Verwandten hatten beim suttee bloss d. Interesse, dass sie sich "religiös" bewährte). "At the present moment, *marriages among the upper classes of Hindoo being very commonly infertile*, a *very considerable portion of the wealthiest Indian province* (Bengal) *is in the hands of widows as tenants for life*. But it was exactly in *Bengal proper* that the English, on entering India, found the *Suttee "not merely* an *occasional, but a constant and almost universal practice with the wealthier classes.*" [*Strange*, dessen Buch 45 Jahr älter als das des Maine, u. der *Chief Justice of Madras* gewesen war, u. *1798 entered upon the administration of justice, at the Presidency of Madras* (*l.c. Preface* VIII) wie er selbst uns in Vorrede seines Buchs erzählt, sagt daggen mit Bezug natürlich auf d. Präsidentschft v. Madras: "It (the custom of Suttee) *is confined pretty much to the lower classes*," – a proof that it has no deeper root in the religion, than it has in the law of the country. *T. I*, p. 241)] "and, as a rule, it was only the childless widow, and never the widow with minor children, who burnt herself on her husband's

funeral pyre. There is no question that there was the closest connection between the law and the religious custom, and the widow was made to sacrifice herself in order that *her tenancy for life might be got out of the way.* The anxiety of *her family* [Umgekehrt: *of her husband's family*, die erbte; nur die *weiblichen Glieder ihrer family* waren interessirt in her *Stridhana;* im übrigen konnte *ihre* family nur dch religiösen Fanatismus u. Einfluss der Brahminen interessirt sein] that the rite should be performed, which seemed so striking to the first English observers of the practice, was, in fact, explained by the coarsest motives; but the *Brahmins* [ausser d. ecclesiastical Brahmins could, namentlich in d. higher classes, d. Verwandtscft d. Mannes musste es gröss⟨t⟩entheils aus *weltlichen* Brahminen bestehen!] who exhorted her to the sacrifice were *undoubtedly* (! naiver *Maine*!) influenced *by a purely professional dislike to her enjoyment of property.* The ancient [i.e. dies auch modificirtes survival vom Archaischen] rule of the civil law, which *made her tenant for life*, could not *be got rid of*, but it was combated by the modern institution which made it her duty to devote herself to a frightful death." (335, 336)

Obgleich *Suttee* eine *Neuerung*, v. d. Brahminen eingeführt, hindert dies nicht, dass in d. Brahminenköpfen d. *Neuerung* selbst wieder auf Reminiscenz auf älterer Barbarei (Begraben d. Mannes mit seinem Eigenthum)
190 beruhte! Namentlich in Pfaffenköpfen revive d. urältesten Greuel aber ihrer Naiven Ursprünglichkeit beraubt. | Wenn Herr Maine sagt: "There can be no serious question that, in its ultimate result, the *disruption of the Roman Empire* was very unfavourable to the personal and proprietary liberty of women" (337), so dies verdammt cum grano salis zu nehmen. Er sagt: "The place of women under *the new system* (d. Barbaren) when fully organised (d.h. nach Entwicklg d. Feudalwesens) was worse than it was under Roman law, and *would have been very greatly worse but for the efforts of the Church*" (337) so dies abgeschmackt, considering dass d. Church den *divorce* (röm.) aufhob od. so viel als möglich erschwerte u. überhaupt d. Ehe, obgleich sacrament, als Sünde behandelte. Mit Bezug auf "proprietary right" hatte d. Güterschleichde Kirche allerdings Interesse den Weibern einiges zu sichern (umgekehrtes Interesse wie die Brahminen!) Herr *Maine* in *Lecture*[78] *XII* theilt d. erstaunten Europa mit, dass England d. Privileg d. s. dort[79] g. "*Analytical Jurists*" besitzt, wovon d. bedeutendsten *Jeremy Bentham* u. *John Austin.* (343) *Austin's:* "*Province of Jurisprudence Determined*" has long been one of the higher classbooks in this *University.* (345) (andre lectures des Kerl more recently given to the world.) Seine Vorgänger *Bentham* u. *Hobbes.* Folgendes d. grosse Entdeckung selbigen *John Austin's:*

"If (says the immense John Austin) a *determinate human superior*, not in the habit of obedience to a like superior, *receive habitual obedience* from the *bulk of a given society*, that determinate superior is *Sovereign* in that society, and the *society*, including the superior, is a society political and indepen-

dent." "To *that superior* the other members of the society are *subject;* or on *that determinate superior* the other members of the society are dependent. The *position of its other members* towards that *determinate superior is a state of subjection or a state of dependence.* The *mutual relation* which subsists between that superior and them, may be styled the *relation* of *Sovereign and Subject*, or the Relation of Sovereignty and Subjection" (citirt bei Maine p. 348, 349) D. "determinate human superior" so der Sovereign is "an *individual or a collegiate Sovereign*" (diese Phrase für single person or group auch eine Erfindg d. Austin) (349) Herr Maine erklärt d. Aussichten d. Austin weiter dahin: If the community be violently or voluntarily divided into a number of separate fragments, then, as soon as each fragment has settled down (perhaps after an interval of anarchy) into a state of equilibrium, the Sovereign will exist and will be discoverable in each of the now independent portions. (349, 350) Das gemeinsame Charaktermal aller shapes of dr Sove⟨r⟩eignty – whether the Sovereign a person or a combination of persons – ist, dass er has* *the possession of irresistible force, not necessarily exerted but capable of being exerted.* Ist d. Sovereign a *single person*, so nennt ihn Austin a *Monarch;* if a *small group – Oligarchy;* if a group of considerable dimensions, an *Aristocracy;* if very large and numerous, a *Democracy.* Austin hates the name of "*Limited Monarchy*", in his days more fashionable than now, u. d. *Government of Great Britain* he classes with *Aristocracies.* Was *alle forms of Sovereignty* gemein haben is *the power* (but not necessarily the will) *to put compulsion without limit on subjects or fellow-subjects.* (350) Wo kein solcher sovereign erkennbar – *Anarchie.* (351) The question of determining his (the Sovereign's) character [in a given society] is always a *question of fact ... never a question of law or morals.* (l.c.)

D. Sovereign must be a *determinate* human superior. Besteht er aus mehren Personen,[80] so he must be a number of persons *capable of acting* in a *corporate or collegiate* capacity ... since the Sovereign must *effect his exertions*
191 *of power, must issue | his orders, by a definite exercise of his will.* The *possession of physical power* unentbehrliches Merkmal. (351) The *bulk of the society must obey the superior* who is to be called Sovereign. *Not the whole of the Society*, for in *that case sovereignty would be impossible*, but *the bulk, the large majority, must obey.* (352)

The *Sovereign* must *receive an habitual obedience from the bulk of the community.* (353) Ferneres characteristic desselben: is *immunity from the control of every other human superior.* (l.c.)

[Dies d. Grundtext nach, wie Maine selbst zugiebt, v. Austin, wie so weit damit identisch, von Bentham[81] aus *Hobbes* (*Leviathan: Ch. De Cive*, first published in Latin, in the *Elementa Philosophiae*)]

Aber sagt *Maine:* Hobbes' Object war politisch; das des Austin "*strictly scientific*" (*355*) [*Scientific*! doch nur in d. Bdtg, dies dies Wort im Kopf of blockheadish British lawyers haben kann, wo altmodische Classification,

Definition etc als *scientific* gilt. *Vgl.* übrigens 1) *Machiavelli* u. 2) *Linguet.*]
Ferner: *Hobbes* will origin of *Staat* (*Government* u. *Sovereignty*) ergründen; dies Problem existirt für lawyer Austin nicht; für ihn dies *fact* gewissermassen *a priori* vorhanden. Dies sagt *Maine* p. *356*. D. unglückliche *Maine selbst hat keine Ahnung* davon, dass da wo *Staaten* existiren (after the primitive Communities etc) i.e. eine *politisch* organisirte Gesellschaft, der Staat keineswegs d. *Prinz* ist; er *scheint* nur so.
Herr Maine bemerkt über Austin's Ausgabe der Hobbes'schen "force" theory:
If all the members of the community had equal physical strength and were unarmed, the power would be a mere result from the superiority of numbers; but, as a matter of fact, *various causes, of which much the most important* have been the superior physical strength and *the superior armanents of portions of the community* have conferred on *numerical minorities* the power of applying *irresistible pressure* to the individuals who make up the community as a whole. (358)
Die assertion which the great "Analytical Jurists" (Bentham u. Austin)[81] cannot be charged with making, but which some of their disciples go very near to hazarding, that the Sovereign person or group *actually wields the stored-up force of society by an uncontrolled exercise of will*, is certainly never in accordance with fact. *The vast mass of influences*, which we may call for shortness *moral*, [dies "moral" zeigt wie wenig Maine von der Sache versteht; so weit diese influences (*economical* before everything else) "*moral*" modus of existence besitzen, ist dies immer ein abgeleiteter, secundärer modus u. nie das *prius*] perpetually shapes, limits, or forbids the *actual direction* of the forces of society by its Sovereign. (359) The Austinian view of Sovereignty really is – that *it is the result of Abstraction* [Maine ignores das viel Tiefere: dass d. scheinbare supreme selbständige Existenz des *Staats* selbst nur *scheinbar* u. dass er in allen seinen Formen eine *excrescence of society* is; wie seine[82] *Erscheinung* selbst erst auf einer gewissen Stufe der gesellschaftlichen Entwicklung vorkömmt, so verschwindet sie wieder, sobld d. Gesellscft eine bisher noch nicht erreichte Stufe erreicht hat. Erst[83] Losreissung[84] [85] der Individualität von d. ursprünglich *nicht despotischen Fesseln* (wie blockhead Maine es versteht), *sondern befriedige⟨n⟩den u. gemüthlichen Banden der Gruppe*, der primitiven Gemeinwesen, – [86]damit d. einseitige Herausarbeitung der *Individualität.*[87] Was aber die wahre Natur der letzteren zeigt sich erst wenn wir d. Inhalt – d. *Interessen* dieser "letzteren" analysiren. Wir finden dann, dass diese Interessen selbst wieder gewissen gesellscftlichen Gruppen gemeinsame u. sie charakterisirende[88] Interessen, *Klasseninteressen* etc sind, also diese Individualität selbst Klassen- etc Individualität ist u. diese in letzter Instanz haben alle *ökonomische Bedingungen* zur Basis. Auf diesen als Basen baut sich der Staat auf u. setzt sie voraus.] It is arrived at by throwing aside all the characteristics and attributes of Government and (!) Society

except one, and by *connecting all forms of political superiority* together through *their common possession of force.* [Das ist nicht der Grundfehler; dieser |
192 ist, dass d. *political superiority*, whatever its peculiar shape, and whatever the ensemble of its elements, is taken als etwas über d. Gesellschaft stehendes, auf sich selbst beruhendes.] The elements neglected in the process are always important, sometimes of extreme importance, for they consist of *all the elements controlling human action except force directly applied or directly apprehended.* [Z.B. die *bessere Bewaffnung* ist schon ein direct auf *Fortschritt in d. Productionsmitteln* (diese fallen z.B. bei Jagd u. Fischfang direct zusammen mit *Zerstörungsmitteln*, Kriegsmitteln) berühendes Element.] but the operation of *throwing them aside for purposes of classification* is ... perfectly legitimate." (359) We reject in the process of abstraction by which the conception of Sovereignty is reached ... the *entire history of each community* ... the *mode* in *which the result has been arrived at.* (360)

Seine flache Kritik,[89] die er unter zum Theil richtig klingender Phraseologie verbirgt, windet sich ab erstens in folgender Phrase: "It is its history[90] (des Gemeinwesens), the *entire mass* of its historical antecedents, which in each community determines how the Sovereign shall exercise or forbear from exercising his irresistible coercive power," (p. 360) aber diese ganze Geschichte löst sich bei Maine in socalled "moral elements" auf, denn er fährt wieder, als either Jurist od.[91] Ideolog *unmittelbar* fort: "All that constitutes this – the whole enormous aggregate of *opinions, sentiments, beliefs, superstitions,* and *prejudices of all kinds*, hereditary and acquired, some produced by institutions and some by the *constitution of human nature* – is rejected by the Analytical Jurists. And *thus* it is that, so far as the restrictions contained in their definition of Sovereignty are concerned, the Queen and Parliament of our own country might direct all weakly children to be put ⟨to⟩ death or establish a system of *lettres de cachet*" (p. 360) (such as the English now have established by their *coercion bill in Irld.* Dies geschrieben Juni 1881)[92] [Gutes Beispiel d. halbverrückte Iwan IV. Whd wüthend gegen Bojaren u. auch gegen rabble in Moskau, sucht er, u. muss er, sich halten als *Vertreter* d. *Bauerninteressen.*]

Daggen werden d. "assertions" des Austin "self evident propositions", sobld man weiss dass "in *his system the determination of Sovereignty* ought to *precede the determination of Law*", it being once understood that the Austinian *conception of Sovereignty* has been reached through mentally uniting *all forms of Government* in a group by conceiving them *to be*[93] *stripped of every attribute except coercive force*", and (hier zeigt sich wieder der *Eselsfuss*) when it is steadily born⟨e⟩ in mind that the deductions from an abstract principle *are never from the nature of the case completely exemplified in facts.*" (362)

Weitere Dogmen des Austin: "Jurisprudence is the science of *Positive Law.* Positive Laws are *Commands*, addressed by Sovereigns to their

Subjects, imposing a *Duty*, or condition of obligedness, or obligation, on those Subjects, and threatening a *Sanction*, or *Penalty*, in the event of disobedience to Command. A *Right* is the faculty or power conferred by the Sovereign on certain members of the community to draw down the sanction on a[94] fellow-subject violating a Duty." (362)
Alle diese kindischen Trivialitäten – Höchste[95] *Obrigkeit* ist wer d. Macht hat zu zwingen, *Positive Gesetze* sind *Befehle* der Obrigkeit an ihre *Unterthanen;* sie legt dadurch diesen Unterthanen Verpflichtungen auf, u. dies ist *Pflicht*, u. droht mit Strafe für Ungehorsam gegen d. Befehl; *Recht* ist die Macht welche d. Obrigkeit gewissen Gliedern der Gesellscft überträgt pflichtwidrig handelnde Gesellscftsglieder zu strafen – dies Kindische, u. viel mehr kann selbst ein *Hobbes* aus der blossen obrigkeitlichen Gewaltstheorie nicht herausklauben – dies von *John Austin* ernsthaft doctrinair gepredigte nennt Maine eine "Procedur" der analytischen Juristen, die closely analog sei mit der in Mathematik u. d. Politischen
193 Oekonomie befolgten u. "strictly scientifick"! | Alles dreht sich hier nur um d. *formelle Seite*, die natürlich für einen Juristen überall d. Hauptsache. "*Sovereignty*, for the purposes of Austin's system, has no *attribute but force*, and consequently the view here taken of "law", "obligation", u. "right" is a view of them regarded exclusively as products of coercive force. The "sanction" (penalty) thus becomes the primary and most important member of series of notions and gives its colour to all the others". (363)
Niemand, sagt Maine, wd es schwer finden dies zuzugeben ("allowing") "that laws have the character given to them by Austin, so far as such laws have proceeded from formal Legislatures." (l.c.) Aber manche Personen protestiren dagegen. Z.B. with regard "to the customary law of all countries which have not included their law in Codes, and specially the English Common Law. (l.c.) The way in which *Hobbes* and he (Austin, the great Pompejus!) bring such bodies of rules as the Common Law under their system by insisting on a maxim which is of vital importance to it: "*Whatever the Sovereign permits, he commands*" (p. 363) Until customs are enforced by Courts of Justice, they are merely "positive morality", rules enforced by opinion, but, as soon as Courts of Justice enforced them, they become commands of the Sovereign, conveyed through the Judges who are his delegates or deputies. (364) [Hier Austin ohne es zu wissen (sieh oben *Sohm* p. 155-59)[96] hat als engl. Jurist d. engl. fact in Knochen, dass d. normänn. Könige in Engld dch ihre *normänn. courts of justice* erzwungen (Aenderungen in Rechtsverhältnissen), die sie auf legislativem Weg nicht hätten erzwingen können] D. Herr Maine erklärt dies weiter: "They *command* (d. Sovereigns) what they permit, "because, *being by the assumption possessed of uncontrollable force*, they *could innovate without limit at any moment.* The Common Law consists of their commands because they can repeal or alter or re-state it at pleasure." (364)
Law is (by Austin) regarded as *regulated force.* (365)

Der comfortable Maine glaubt: "The one doctrine of this school of jurists which is repugnant to laywers would lose its air of paradox if an assumption were made which, *in itself theoretically unobjectionable* (!), manifestly approximates to practical truth as the course of history proceeds – the *assumption that* what the Sovereign *might* (!) *alter, but does not alter, he commands.* (366) Dies d. Mainesche Ausgabe von *Hobbes* u. his little man *Austin.* Dies blosse scholastische Spielerei. D. Frage ist "what he *might* alter". Nehmen wir selbst etwas juristisch Formelles. "*Laws*", ohne abgeschafft zu werden,[97] fallen in "*desuetude*". Da "positive laws" commands des sovereign, so bleiben sie sein command, so lange sie existiren. Da he not alters them – he "might" do so, because the fact of their falling into "desuetude" proves, that[98] the social state has outgrown them; shall we now say, that he[99] *commands* them, because he does not abrogate them, though he "might" do so, as Maine's panacea runs; or shall we say, that he *commands* them to fall into "*desuetude*", because he does not enforce them? In that case he *commands* that his *positive commands* shall not be obeyed, i.e. executed, which shows that his "command" is a very imaginary, fictive sort of command. Austin's "*own ethical*[100] *creed* ... was *Utilitarianism in its earlier shape.*" (*368.* Benthamism g⟨an⟩z würdig des Maines)

The 2nd, 3d, and 4th Lectures (of Austin) are occupied with an attempt to identify the *law of God* and the *law of Nature* (so far as these last words can be allowed to have any meaning) with the rules required by the *theory of utility* .... The identification ... is quite gratuitous and valueless for any purpose (369) The jurist, properly so called, has nothing to do with any ideal standard of law or morals." (*p. 370.* Very true this! as little as theology has!)

Lecture XIII. Sovereignty and Empire. (Dies letzte Lecture des Maine'schen Buchs)

The word "*law*" has come down in close association with two notions,
194 the notion of "*order*" and the notion of "force". (371) | The principal writings of Austin are not much more than 40 years old. (373)

From the point of view of the Jurist, *law* is only associated with order through the necessary condition of every *true law* that it must prescribe a *class of acts or omissions*, or a number of acts or admissions determined *generally;* the *law which prescribes a single act* not being a *true law*, but being distinguished as an "*occasional*" or "*particular*" command. Law, thus defined and limited, is the subject-matter of Jurisprudence as conceived by the Analytical Jurists. (375)

Austin in his treatise examines "a number of existing governments or (as he would say) *forms of political superiority and inferiority*, for the purpose of determining the *exact seat of sovereignty* in each of them. (375, 376)

Austin recognizes the existence of communities, or aggregates of men, in which no dissection could disclose a person or group answering to his

definition of a Sovereign.[101] D'abord, er, wie Hobbes (whose little man he is) fully allows that there is a *state of anarchy. Wherever such a state is found,* the *question of Sovereignty is being actively fought out,* u. er giebt als Beispiel that which was never absent from Hobbes's mind, the struggle zwischen Charles I u. his Parliament. An acute critic of Hobbes u. Austin, der gewaltige *Fitzjames*[102] *Stephen,* insists that there is a condition of *dormant* anarchy, z.B. United States (d. Beispiel v. Maine before the War of Secession. (377) Dies alles most characteristic of "acute" English jurists! Grausser Maine seinerseits declares ... there may be deliberate abstinence from fighting out a question known to be undecided, and I (Maine him selber!) see no objection to call⟨ing⟩ the temporary equilibrium thus produced a state of dormant anarchy. (p. 377)

Austin further admits the theoretical possibility of a *state of nature;* giebt ihm nicht d. Wichtigkeit wie Hobbes u. andre, aber allows his existence, wherever a number of men, or of groups not numerous enough to be political, have not as yet been brought under any common or habitually acting community. (378)

Austin sagt, p. 237, Ist vol., 3d ed.:

"Let us suppose that a single family of savages lives in absolute estrangement from every other community. And let us suppose that the father, the chief of this isolated family, receives habitual obedience from the mother and children. Now, since it is not a limb of another and larger community, the society formed by the parents and children, is clearly an *independent society,* and, since the rest of its members habitually obey its chief, this independent society would form *a society political,* in case the number of its members were not extremely minute. But since the number of its members *is* extremely minute, it would, I believe, be esteemed a *society in a state of nature*"; that is, a *society consisting of persons not in a state of subjection.* Without an application of the terms, which would somewhat smack of the ridiculous, we could hardly style the society a society *political* and independent, the imperative father and chief *a monarch* or *sovereign,* or the obedient mother and children *subjects.*" (Sehr tiefe!)

Dies so far Wasser auf d. Mühle Maine's, "since, wie er sagt, the form of authority about which it is made, the *authority of the Patriarch* or *Paterfamilias* over his family, is, at least according to one (Maine's u. consorts) modern theory, the element or germ out of which all permanent power of man over man has been gradually developed". (379)

Aber nun kommt Maine mit "schwerem Geschütz". D. *Punjaub,* after passing dch every conceivable phase of anarchy and dormant anarchy,
195 fell, about 25 Jahre vor seiner Annexation, under the tolerably | consolidated dominion of a half military, half religious oligarchy, known as the Sikhs, sie selbst reduced to subjection by a single chieftain belonging to their order, Runjeet Singh. Dieser allgewaltiger Despot. He took, as his revenue, a prodigious share of the produce of the soil. He harried

villages which recalcitrated at his exactions, and he executed great numbers of men. He levied great armies; he had all material of power, and exercised it in various ways. *But he never made a law.* The rules which regulated the life of his subjects were derived from their immemorial usages, and these rules were administered by domestic tribunals, in families or village-communities. (380, 381) Runjeet Singh *never did* or *could* (!) have dreamed of changing the civil rules under which his subjects lived. Probably he was as strong a believer in the independent obligatory force of such rules as the elders themselves who applied them. An Eastern or Indian theorist in law, to whom the assertion was made that Runjeet Singh *commanded* these rules, would etc feel it etc absurd etc. (382)

Dieser state d. Punjab under Runjeet Singh may be taken as the type of all Oriental communities in their native state during their rare intervals of peace and order. They have ever been despotisms etc. D. commands der despots at their head, harsh and cruel as they might be, implicitly obeyed. But then these commands, save in so far as they served to *organise administrative machinery for the collection of revenue*, have not been true laws; were of the class called by Austin occasional or particular commands. The truth is that *the one solvent of local and domestic usage* ... has been not *the command* of the Sovereign but the supposed command of the Deity. In India, the influence of the Brahminical treatises on mixed law and religion *in sapping the old customary law of the country* has always been great, and in some particulars it has become greater under English rule. (382, 383)

D. *Assyrian, Babylonian, Median u. Persian Empires*, for occasional wars of conquest, levied vast armies from populations spread over immense areas; verlangten absolute obedience to their occasional commands, punished disobedience with the utmost cruelty; dethroned petty kings, transplanted whole communities etc. Aber mit all dem interfered but little with the every day religious or civil life of the groups to which their subjects belonged. The "*royal statute*" and "*firm decree*" preserved to us as a sample of "*law of the Medes and Persians which altereth not*", ist kein law in modernem Sinn, sondern a "particular command", a sudden, spasmodic, and temporary interference with ancient multifarious usage left in general undisturbed. Selbst d. Athenian empire, so weit es nicht Attica betraf, sondern d. subject cities u. islands, was clearly a *tax-taking* Empire wie die Asiatischen, nicht a *legislating Empire.* (384, 385)

A new order of *legislation* introduced into the world dch d. *empire of the Romans.* (386)

Nach d. Burschen Maine d. *origin of the political communities called States* is that they were formed by the *coalescence of groups*, the *original group* having been in no case *smaller than the patriarchal family.* (*Again*!) Aber dies coalescence was soon arrested. (386)

In a later stage, political communities ... often of very great territorial extent, are constructed by one *community conquering another* or *one chieftain, at the head of a single community or tribe*, subjugating great masses of population. But ... the separate local life of the small societies included in these great States was not extinguished or even much enfeebled. (386,
196 387) | The "complete trituration in modern societies of the groups which once lived with an independent life has proceeded concurrently with *much greater activity in legislation.*" (387)

If the powers of the Village Council (später Athenian Ekklesia etc.) must be described by modern names, that which lies most in the background is *legislative power;* that which i⟨s⟩ most distinctly conceived is *judicial powers.*[103] The laws obeyed are regarded as having always existed, and usages really new are confounded with the really old. (388, 389) The village communities of the Aryan (! again this nonsense!) race do not therefore exercise true legislative power so long as they remain under primitive influences. Nor again is legislative power exercised in any intelligible sense of the word[104] by the Sovereigns of those *great States*, now confined to the East, which preserve the primitive local groups most nearly intact. *Legislation, as we conceive it, and the break up of local life appear to have universally gone on together.* (389) The Roman Empire was the source of the influences which have led, immediately or ultimately, to the formation of highly-centralised, actively legislating, States. It was the first great dominion which did *not merely tax*, but *legislated* also. The process was spread over many centuries .... Its commencement and completion, I should place ... roughly at the issue of the first *Edictum Provinciale*, and at the *Extension of the Roman citizenship to all subjects of the Empire.* But, in the result, a vast and miscellaneous mass of customary law was broken up and replaced by new institutions .... It (the Roman Empire) devoured, brake in pieces, and stamped the residue with its feet. (390, 391) Dann wirkte d. Roman Empire u. sein law auf d. neuen dch d. Barbaren gegründeten Reiche etc. (391)

Customary law ... is not obeyed, as enacted law is obeyed. When it obtains over small areas and in small natural groups, the penal sanctions on which it depends are partly opinion, partly superstition, but to a far greater extent an instinct almost as blind and unconscious as that which produces some of the movements of our bodies. The *actual constraint* which is required to secure conformity with usage is inconceivably small. When, however, the rules which have to be obeyed once emanate from an *authority external to the small natural group* and forming no part of it, they wear a character wholly unlike that of a customary rule. They lose the assistance of superstition (par exemple Christian Religion. Roman Church?), probably that of opinion, certainly that of spontaneous impulse. The *force* at *the back of law* comes therefore to be *purely coercive force* to a degree quite unknown in societies of the more primitive type. Moreover,

in many communities, *this force has to act at a very great distance from the bulk of the persons exposed to it*, and thus the Sovereign who wields it *has to deal with great classes of acts and with great classes of persons*, rather than with isolated acts and with individuals. Daher d. indifferency, inexorableness, u. generality ihrer "laws". (392, 393)

Their generality (of the Laws) and their dependence on the coercive force of a Sovereign are the result of the great territorial area of modern States, of the comminution of the sub-groups which compose them, and above all of the Roman Commonwealth etc. (394)

We have heard of a village Hampden, but a village Hobbes is inconceivable. Flüchtet v. England wegen civil disturbance; a⟨u⟩f continent sah d. Bur⟨s⟩che *governments rapidly centralising* (i.e. was Maine zu tief zu sagen:
197 Richelieu, Mazarin etc), local privileges u. jurisdictions in | extreme decay, the old historical bodies, such as the French Parliaments, tending for the time to become furnaces of anarchy, the only hope discoverable in kingly power. These were among the palpable fruits of the wars which ended in the Peace of Westphalia. The old multiform local activity of feudal or quasi-feudal society was everywhere enfeebled or destroyed. (Dagegen hingegen *Locke Holland* vor Augen, ebso wie Petty). Was dahingegen d. graussen Bentham betrifft, was hatte er hinter sich: (Französ. Revol. u. Napoleon). A Sovereign who was a democrat commenced, and a Sovereign who was a despot completed, the *Codification of the laws of France*. There had never before in the modern world been so striking an exemplification of the proposition that, what the Sovereign permits, he commands, because he could at any time substitute an express command for his tacit permission, nor so impressive a lesson in the far-reaching and on the whole *most beneficial results* (!) which might be expected from the increased activity of Sovereigns in legislation proper. (396)

PART IV

MARX'S EXCERPTS FROM JOHN LUBBOCK, *THE ORIGIN OF CIVILISATION*

(33) 1

B 150

1 *Sir John Lubbock: "The Origin of Civilisation and the Primitive Condition of Man." London, 1870.*

Lubbock citirt in Vorrede *Müller* (F. G.) "*Geschichte der Amerikan. Urreligionen*", *M'Lennan: "Primitive Marriage"*, *Bachofen: "Das Mutterrecht,"* Lord *Kames "History of Man."*

Er sagt in *ch. I (Introduction)* mit Bezug auf *Maine's "Ancient Law"*, dass dieser Bursch, wenn er sich bekannter gemacht hätte mit Reisebeschreibungen etc. u. a. nicht als "an obvious proposition" aufgestellt haben würde that: "the organisation of primitive societies would have been confounded, if *men had called themselves relatives of their* mother's relatives" while I (viz. Lubbock) shall presently show that, as indeed Mr. McLennan has already pointed out, relationship through females is a common custom of savage communities all over the world. (p. 2, 3)

Heisst in the *People of India* (by J. F. Watson and J. W. Kaye) von den *Teehurs* of Oude, dass they "*live together almost* indiscriminately in large communities, and even *when two people are regarded as married the tie is but nominal*" (cit. bei L. p. 60).

McLennan, like Bachofen, starts with a *stage of hetairism or communal marriage* [u. *Lubb.* sagt p. 70, dass er diesen Blödsinn glaubt, i.e. also *communal marriage* u. *hetairism* identificirt; whd offenbar *hetairism* eine Form ist, welche *Prostitution* (u. diese existirt nur *im Gegensatz* zu *marriage*, whether communal etc or monogamic) voraussetzt. Dies also Hysteron Proteron.] The next stage was, in his (McLennan's) opinion, that form of polyandry in which *brothers had their wives in common;* afterwards came that of the *levirate*, i.e. the system under which, when an elder brother died, his second brother married the widow, and so on with the others in succession. Thence he considers that some tribes branched off into *endogamy*, others into *exogamy;* that is to say, some forbade marriage out of, others within, the tribe. If either of these two systems was older than the other, he considers that exogamy must have been the most ancient. Exogamy was based upon infanticide, and led to the practice of marriage by capture. In a further stage *the idea of female descent, producing as it would a division in the tribe*, obviated the necessity of capture as a reality and reduced it to a symbol. (69, 70)

Lubb. admits the *prevalence of infanticide* among savages, aber "among the lowest boys were killed as frequently as girls", wie *Eyre* (d. Berüchtigte!) ("*Discoveries in Central Australia*") dies z.B. express statuirt[1] in Australien. (70) Schlagdes Beispiel der Kritik des *Lubb.*, dass er *McLennan's* Blödsinn mit "*Exogamie*" *u.* "*endogamie*" *annimmt*, aber dann als Pfifficus sich d. Sache so "*pragmatisirt*":

"*Communal marriage* was gradually superseded by *individual marriage founded on capture*, and that this first led to exogamy *and then* to female infanticide; thus reversing McLennan's order of sequence. Endogamy and regulated polyandry, though frequent, I regard as exceptional, and as not entering

into the normal progress of development. (p. 70) Even under communal marriage, a warrior who had captured a beautiful girl in some marauding expedition would claim a peculiar right to her, and, when possible, would set custom at defiance (!) There are other cases of the existence of marriage under two forms; and there is, therefore, no real difficulty in assuming the co-existence of communal marriage and individual marriage... A war captive ... was in a peculiar position: the tribe had no right to her; her capturer might have killed her if he chose; if he preferred to keep her alive he was at liberty to do so; he did as he liked, and the tribe was no sufferer." (70, 71)

He (McLennan) also considers that marriage by capture followed, and arose *from that remarkable custom, namely, of marrying always out of the tribe*, for which he has proposed the appropriate name of exogamy. I believe that exogamy arose from marriage by capture etc." (72) Lubb. weiss
2 also nichts v. d. Basis – der *gens* | die *innerhalb d. tribe* existirt, so wenig wie *McLennan*, obgleich er einige facts citirt, die ihm d. Sache unter d. Nase reiben, u. sie in d. That etwas kitzelten.

Lubb. schreibt nun d. McLennan ab, um zu zeigen "how widely 'capture', either actual or symbolical, enters into the idea of marriage. Mr. McLennan was, I believe, the first to appreciate its importance. I (Lubb.) have taken some of the following evidence from his valuable work, *adding, however* (!), *several additional cases.*" (*73*. Great, greatest Lubb.!) If we assume the case of a country in which there are *four certain neighbouring tribes*, who have the custom of exogamy, and who trace pedigrees through the mother, and not through the father – ... after a certain time the result would be that each tribe would consist of four septs or clans, representing the 4 original tribes, and hence we should find communities in which each tribe is divided into clans, and a man must always marry a woman of a different clan. (75)

Among agricultural tribes, and under settled forms of government, the chiefs often have very large harems, and their importance even is measured by the number of their wives, as in other cases by that of their cows or horses. (104)

"Among many of the lower races *relationship through females is the prevalent custom*", daher "the curious (!) practice that *a man's heirs* [aber sie sind ja dann nicht the *man's heirs;* diese civilisirten Esel können ihre eignen conventionalities nicht los werden] are not his own, but *his sister's children.*" (105) Thus when a rich man dies in Guinea, his property, excepting the armour, descended to the *sister's son*, expressly, according to Smith (*Smith's "Voyage to Guinea"* p. 143. See also *Pinkerton's Voyages* v. XV, p. 147, 421, 528); *Astley's Collection of Voyages*, v. II, p. 63, 265), on the *ground* (Pragmatisirung!) that he must certainly be a relative." (105) *Battel* (in *Pinkerton's Voyages*, v. XVI, p. 330) mentions that the town of Longo (Loango) is governed by 4 chiefs, which are sons of the king's

sisters; for the king's sons never come to be kings." Quatremère (*Mém. géogr.* sur l'Egypte et sur quelques contrées voisines, Paris, 1811, quoted by *Bachofen* (p. 108) mentions that: "Chez les *Noubiens*,[1a] dit Abou Selah, lorsqu'un roi vient à mourir et qu'il laisse un fils et un neveu du côté de sa soeur, celui-ci monte sur le trône de préférence à l'héritier *naturel* (!)" (*Caillié's Travels*, v. I, p. 153, dieser sagt: von *Central Africa:* "the sovereignty remains always in the same family, but the *son never succeeds his father;* they choose in preference a son of the king's sister, conceiving that *by this method the sovereign power is more sure to be transmitted to one of the blood royal.*" (p. 105) Wenn nicht Caillié, sondern die Afrikaner selbst dort d. sagten, beweists, dass d. weibliche Nachfolge sich nur noch für die höchsten Funktionäre (chiefs) erhalten u. sie selbst d. Grund nicht mehr wussten). In *Northern Africa* we find the same custom among the Berbers; and *Burton* mentions it as existing in the *East.* (105) *Polybius* (maternal ancestry in the female line) bemerkt dies mit Bezug auf *Locrier;* u. on *Etruscan tombs* descent is stated in the female line. (p. 106)

In *India* the *Kasias*, the *Kocch*, and the *Nairs* have the *system of female kinship.* Nach *Buchanan*, among the Buntar in Tulava a man's property does *not descend to his own children*, but to *those of his sister*". Nach *Sir W. Elliot* the *people* of *Malabar*, "notwithstanding the same diversity of caste as in other provinces, *all agree* in one remarkable usage – *that* of *transmitting property through females only.*" He adds on the authority of Lieutenant Conmer, that the same is the case in *Travancore*, among all the castes except the Ponans and the Namburi Brahmans. *Latham states* (*Descriptive Ethnology* v. II, p. 463) "no Nair son knows[2] his own father, and *vice versâ*, no Nair father knows his own son. What becomes of the property of the husband? It descends to the children of his sisters." (106)

Among the *Limboos* (India), a tribe near Darjeeling, the boys become the property of the father on his paying the mother a small sum of money, *when the child is named*, and *enters his father's tribe:* girls remain with the *mother, and belong to her tribe.*" (*Campbell, Trans. Ethn. Soc.*) *Marsden* (*History of Sumatra*, p. 376) tells: dass among the *Battas of Sumatra*, "the succession to the *chiefships does not go, in the first instance*, to the *son of the deceased*, but to the nephew by a sister; and that the same extraordinary (!) rule, with *respect to the property in general* prevails also among the *Malays* of that part of the island, and even in the neighbourhood of *Padang.*" (106, 107)

Sir John Richardson (*Boat Journey*, v. I, p. 406) tells dass unter den *Kenaiyers* of *Cook's Inlet* a man's property descend⟨s⟩ not to his own children, but to those of his sister. Selbes d. Fall mit d. *Kutchin* (*Smithsonian Report*, 1866, p. 326) p. 107. *Carver* (*Travel⟨s⟩ in North America*) mentions dass unter
3 den Hudson's Bay | Indians the children "are always distinguished by the name of the mother; and if a woman marries several husbands, and has issue of each of them, they *all are called after her.*" (107) Similar rule

prevailed in *Haiti* u. *Mexico* (*F. G. Müller*, Amerikan. Urreligionen, p. 167, 539)] (p. 107)
Mit Bezug auf Polynesia Mariner states dass in d. *Friendly or Tonga Islands* (in his "*Tonga Islands*", v. II, p. 89, 91) "*nobility descends by the female line*, for when the mother is not a noble, the children are not nobles." (p. 107) Nach einem andern passage bei Mariner[3] scheint's dass these islanders were passing the stage of relationship through females to that through males.) D. existence of inheritance through females is clearly indicated in the *Fijian* custom known as Vasu. (107, 108) So auch in *Western Australia* "children of either sex, always take the family name of their mother" (Eyre) (p. 108)
Nach Herrn Lubbock, stages in religion:
1) *Atheism;* in sense, that absence of any definite idea on the subject. 2) *Fetichism;* wo man supposes he can force Deity (Deity immer of bösartiger Natur) to comply with his desires. 3) *Nature worship or Totemism*, wo natural objects, trees, lakes, stones, animals, etc.[4] (celestial bodies etc.) worshipped. 4) *Shamanism;* wo d. superior deities are far more powerful than man, and of a different nature. Their place of abode also far away, u. accessible only to the Shamans. 5) *Idolatry or Anthropomorphism;* gods still more completely take the nature of men ... more powerful; still amenable to persuasion; they are a part of nature, and not creators; are represented by images or idols. 6) Deity and Author, not merely a part, of nature; wd for *the first time a supernatural being.* [Dies meint, Herr Lubbock: wd ein Verstandesgespinst.] 7) Morality wd associated mit religion. (119)
The savages almost always regard spirits as *evil beings* ... a member of an invisible tribe. (129)
Vgl. über die dem Lubbock unbewusste Ueb⟨e⟩rl⟨e⟩g⟨en⟩heit[5] d. "raisonnements" d. Wilden über das d. Gottesgläubigen Europäer. Lubb. p. 128 sqq.
The *Sumatrans* tell of a man in the moon *who is continually spinning cotton*, but that every night a rat gnaws his thread, and obliges him to begin his work afresh. (138)
Sacred dance der natives of Virginia zwischen *cercle of upright stones*, die, except that they are rudely carved at the upper end into the form of a head, exactly resemble our so-called Druidical temples. (See Lubb. p. *156* fig., taken from *Lafitau's* "*Moeurs des Sauvages*")
Interessant über d. *Indians in California* u. ihren Unglauben u. equality etc. (v. father *Baegert*, a Jesuit Missionary: "*Nachrichten von der Amerik. Halbinsel Californie. 1773.* Transl. in *Smithsonian Reports 1863-4*)[6]
D. *Zulus* – die Unglücklichen! – "it never entered," sagt Callaway, "their heads that the earth and sky might be the work of an invisible Being" (162, 163), aber sie haben a belief in *invisible beings*, founded partly on the *shadow*, but principally on the *dream.* They regard the *shadow* as in some way the spirit which accompanies the body (übliche idea unter d. Greeks).

Glauben an d. Reality d. fathers or brothers (als still living), die ihnen im Traum erscheinen, *grandfathers* dagegen regarded as generally dead. (163) *Worship of Idols* characterises a somewhat higher stage of human development; no traces of it among the lowest races of man in *Lafitau* (*Moeurs des Sauvages Américains*, v. I, p. 151) sagt mit Recht: "On peut dire en général que le grand nombre des peuples sauvages n'a point d'idoles". Sind nicht zu verwechseln mit Fetisch; *fetichism* is an attack on the Deity, Idolatry an act of submission to him. (225)

The *idol* usually assumes the *human form*, and idolatry is closely connected with that form of religion which consists in the worship of ancestors. (p. 228) The worship of ancestors ... more or less prevalent among *all the aboriginal tribes of Central India.* (229) The *Kaffirs* sacrifice and pray to their deceased relatives. (l.c.) Other races endeavour to preserve the memory of the dead by *rude statues. Pallas* (*Voyages, v. IV*, p. 79) mentions that the *Ostyaks of Siberia* "rendent un culte à leurs morts. Ils *sculptent des figures de bois* pour représenter les *Ostiakes célèbres.* Dans les *repas de commémoration on place devant ces figures une partie des mets.* Les femmes qui ont chéri leurs maris ont de *pareilles figures, les couchent avec elles*, les parent, et ne mangent point sans leur présenter une partie de leur portion." *Erman* ("*Travels in Siberia*," v. II p. 56) also mentions that when a man dies "the relatives form a rude wooden image *representing*, and in honour of, the deceased, which is set up in their *yurt*, and receives *divine honours*"
4 for a certain time. "At every meal they set an offering | of food before the image etc." (l.c.) In ordinary cases this *semi-worship* only lasts a few years, after which *the image is burned.* "But when a Shaman dies, this custom changes in his favour, *into a complete and decided canonisation;*" dann (fährt Erman fort) erhält "*the dressed block of wood which represents the deceased*" nicht nur "homage for a limited period", sondern "the priest's descendants do their best to keep him in vogue from generation to generation; [sieh den *Phear*, "The Aryan Village,[7] wo ganz dasselbe noch heute in Bengal für Aristocraten etc] and by well-contrived oracles and other arts, they manage to procure *offerings for their families' penates*, as abundant as those laid on the altars of the universally *acknowledged gods.* But that the latter (sagt *Erman*) also have an *historical origin*, that they were originally monuments of distinguished men, to which prescription and the *interest of the Shamans* gave by degrees an arbitrary meaning and importance, seems to me not liable to doubt; and this is, furthermore, corroborated by the circumstance ⟨that⟩ *of all the sacred yurts* dedicated to these saints, which have been numerous from the earliest times in the vicinity of the river, *only one has been seen* (near Samarovo) containing the *image of a woman.*" (p. 230)

[Lubb. citirt den Salomon d. Weisen (*Wisdom, ch. XIV, p. 12*) wo dieser wiseacre figdes orakelt über d. origin des worship of statues as of deities.

"13. Neither were they from the beginning, neither shall they be forever.

14. For by the *vain glory of men they entered into the world*, and therefore shall they come shortly to an end.

15. For a father afflicted with untimely mourning, when he hath made an image of his child soon taken away, now honoured him as a god, which was then a dead man, and delivered to those that were under him ceremonies and sacrifices.

16. Thus, in process of time, an ungodly custom grown strong was kept as a law, and *graven images were worshipped by the commandments of kings:*

17. Whom men *could not honour in presence*, because they dwelt far off, they took *the counterfeit of the visage from far*, and made an express image of a king whom they honoured, to the end that by this their forwardness, *they might flatter him that was absent, as if he were present;*

18. Also the *singular diligence of the artificer* did help to set forward the ignorant to more superstition.

19. For he, (viz: the artificer), peradventure *willing to please one in authority*, forced all his skill to make the resemblance of the best fashion.

20. And so ⟨the⟩ multitude, *allured by the grace of the work*, took him now for a god, which a little before was but honoured as a man."]

The idol is by no means regarded as a mere emblem. In India (*Dubois*, p. 407), when the offerings of the people have been less profuse than usual, the Brahmans sometimes "*put the idols in irons*, chaining their hands and feet. They exhibit them to the people in this humiliating state, into which they tell them they have been brought by *rigorous creditors, from whom their gods had been obliged*, in *times of trouble, to borrow money to supply their wants.* They declare that *the inexorable creditors refuse to set the god at liberty, until the whole sum, with interest, shall have been paid.* The people come forward, alarmed at the sight of their divinity in irons; and thinking it the most meritorious of all good works to contribute to his deliverance, they raise the sum required by the Brahmans for that purpose." (p. 231)

(Vgl. hierzu *Don Quixote*, 2 Theil, ch. XXIII, wo der Brave in d. Höhle des *Montesinos*. Während er mit letzterem sich unterhält, sieht er una de las dos compañeras de la sin ventura Dulcinea zu ihm kommen, y llenos los ojos de lagrimas, con turbada y baxa vos me dixo: mi señora Dulcinea del Toboso besa á vuesa merced las manos, y suplica á vuesa merced se la haga de hacerla saber cómo está, *y que por estar en una gran necesidad, asimismo suplica á vuesa merced cuan encarecidamente puede, sea servido de prestarle sobre este faldellin que aquí traigo de cotonía nuevo, media docena de reales, ó los que vuesa merced tuviere, que ella da su palabra de volvérselos con mucha brevedad.* Suspendióme (*erzählt Don Quixote* dem Sancho Panza u. dem Studiosus) y admiróme el tal recado, y volviéndome al señor Montesinos, le pregunte: *¿ es posible*, señor Montesinos, *que los encantados principales, padecen necesidad?* A lo que el me respondio; *créame vuesa merced*, señor Don Quixote de la Mancha, *que esta que llaman necesidad, adonde*

quiera se usa, y por todo se entiende y á todos alcanza, yaun hasta los encantados no perdona: y pues la señora Dulcinea del Toboso envía á pedir *esos seis reales, y la prenda es buena, segun parece*, nota y sino dárselos, que sin duda debe de estar puesta en algun grande aprieto. *Prenda no lo tomaréyo* (sagt Don Quixote), le respondí, ni menos le daré lo que pide, porque no tengo sino *solos quatro reales*, los quales le di ... y la dixe: decid, amiga mia, á vuesa señora, que á míme pesa en el alma de sus trabajos, *y que qui siera ser un Fúcar* (Fugger) para remediarlos etc.")[8]

D. in *Tyros* worshipped *Statue des Herkules* selbst die als Gottheit betrachtet; daher während der Belagerung durch Alexander Magnus fast bound in chains *to prevent him from deserting to the enemy.* (p. 231, 32)

As civilisation advances u. die *Chiefs mehr despotisch* werdend, exact more and more respect, the *people are introduced to conceptions of power and magnificence higher* than any which they had previously entertained. (232) u. diese dann auch auf d. Götter übertragen. | Idol worship zeigt higher mental condition as worship of animals and even the heavenly bodies. Selbst *sun-worship* generally, though not invariably, associated with *a lower idea of the Deity than is the case with Idolatry.* [D.h. der *Hofdienst* gegen die Götter "lower" als unter idol worship]. This arises partly from the fact that the *gradually increasing power of chiefs and kings* has familiarised the mind with the existence of a power greater than any which had been previously conceived. (l.c.) So, in *Westafrika, the slave trade* having added considerably to *the wealth* and consequently to *the power of the chiefs or kings*, they maintained much state, and insisted upon being treated *with servile homage.* No man was allowed to eat with them, nor to approach them *excepting on his knees with an appearance of fear*, which no doubt was in many cases sufficiently well-founded. (233) These marks of respect so much *resembled adoration*, that "the individuals of the lower classes are persuaded that the king's power is not confined to the earth, and that he has credit enough to make rain fall from heaven etc." (233, citirt aus: "*Proyart's History of Loango*" etc.) The *tyrants of Natal*, says Casalis, "exacted almost divine homage." (233) The king and queen of Tahiti were regarded as so sacred that nothing once used by them, not even the sounds forming their names, could be used for any ordinary purposes. The *language of the court* was characterised by the most ridiculous adulation. The king's "houses were called the aarai, the clouds of heaven etc." (l.c.)

Manworship would not long be confined to the dead. In many cases it extends to the *living* also. Indeed, the savage who worship⟨s⟩ an animal or a tree, would see no absurdity in worshipping a man. [As if the civilised Englishman did not "worship" the Queen or Mr. Gladstone!] *His chief* is, in his eyes, *almost as powerful, if not more so, than his Deity.* Yet *man-worship* does not prevail in *altogether uncivilised communities*, because the chiefs (flacher Hund!), associating constantly with his followers, *lack that*

mystery which religion requires, and which *nocturnal animals* so eminently possess. As, however, civilisation progresses, *and* the *chiefs separate themselves more and more* from their *subjects* (!), this ceases to be the case and *man-worship becomes an important element of religion.* (235) The *worship of a great chief* seems quite as natural as that of an idol. "Why, said a Mongol to Friar Ascelin, (*Astley, Collection of Voyages*, v. IV, p. 551) since *you Christians* make no scruple to adore sticks and stones, why do you refuse to do the same honour to Bayoth Noy, whom the Khan has ordered to be adored in the same manner as he is himself?" This worship fast immer begleitet mit a belief in higher beings. (234)

Wo Shamanism noch nicht ganz replaced Totemism, the *establishment of monarchical government* with its usual pomp and ceremonial led to a *much more organised worship of the old gods.*[9] Of this the *serpent-worship* in *Western Africa*, and the *sun-worship in Peru*, are striking examples. (235) White men often taken for deities, so *Captain Cook* in the Pacific etc. "*Tuikilakila*, the chief of Somosomo, sagte zu Mr. Hunt: "If you die first, I shall make you my god". "No certain line of demarcation between departed spirits and gods, nor between gods and living men, for *many of the priests and old chiefs are considered as sacred persons*, and not a few of them will also claim to themselves the right of divinity. "*I am a god*", Tuikilakila would sometimes say; and he believed it too." (*Erskine, "Western Pacific." p. 246*)

Lubb sagt: "It seems at first sight *hard to understand how men can be regarded immortal* [meint hier: not capable of suffering a natural death; Lubbock spottet seiner selbst u. weiss doch nicht wie; er findet es quite natural, that they are "capable" of an unnatural death", d.h. dass sie fortleben, obgleich eines natürlichen Todes verstorben]. *Yet even this belief* has been entertained in various countries". (235)

Merolla tells (in *Pinkerton's "Voyages"*, v. XVI, p. 226 sq.), that in his time the *wizards of Congo* were called *Scinghili*, that is to say Gods of the Earth. The head of them is styled "Ganga Chitorne, being reputed God of all the Earth.... He further asserts that his body is not capable of suffering a natural death; and, ... to confirm his adorers in this opinion, whenever he finds his end approaching, either through age or disease, he calls for such a one of his disciples as he intends to succeed him, and pretends to communicate to him his great powers"; lässt sich von dem hängen od. todtschlagen coram publico etc" (p. 235, 36) So d. Great Lama of Thibet.

Sacrifices, to propitiate the Spiritual Beings for good or evil. (237) Erst supposed that the spirits actually eat the food offered to them; aber observed that animals sacrificed did not disappear; hence geschlossen that the Spirit ate the *spiritual part* of the victim, leaving the grosser part to his devout worshipper. Thus the Limboos near Darjeeling (India) eat their sacrifices, dedicating as they forcibly express it, "the *life-breath* to the gods, the flesh to ourselves." (p. 237)

In *New Zealand* die fairies, when Te Kanawa gave them his jewels, *carried*

off the shadows only, not caring for the earthly substance. (*Sir G. Grey:* Polynesian Mythologie) In Guinea, nach Bosman, "The idol has only
6 the blood, | because they like the flesh very well themselves. Anderswo Fleisch von d. Devotees gefressen, wie bei d. Ostyaks, aber the idols *smeared mit d. blood*, on their mouths (in case d. Ostyaks). Even this seems at length to be replaced in some cases by – *red paint;* so oft (Col. Forbes Leslie) d. sacred stones in India; so in Congo d. fetiches daubed mit red every new moon etc. (237, 38)

Bei d. great offerings of food unter den Fijians "native belief apportions *merely the soul thereof to the gods*, who are described as being enormous eaters; the substance is consumed by the worshippers. (*Williams: Polynesian Researches*)[10]

Abendmal vorgedeutet: In many cases it seems to be a *necessary portion of the ceremony* that *the victim should be eaten* by those present. Thus in India (*Dubois*, p. 401) when the sacrifice "is over, the *priest* comes out, and *distributes part of the articles* which had been offered to the idols. This is received *as holy, and is eaten immediately*". Among *the Redskins*, (*Schoolcraft:* "Indian *Tribes*," v. III, p. 61, *Tanner:* "Narrative", p. 287) at the feast held when the hunting season begins, the victim "must be all eaten and nothing left." ... Among the Algonquins ... at the same feast ... *not a bone of the victim* must be broken." (239)

Oft curious *Identification* (er sagt "Confusion") arises between the victim and the Deity, and the former is worshipped before it is sacrificed and eaten. So in *ancient Egypt*, *Apis the victim was also regarded as the God* (*Cox: Manual of Mythology*, p. 213) u. *Iphigenia* was supposed by some to be same as *Artemis*. (Nicht nur d. Ox *Apis*, das victim, sondern auch das *Opferlamm* Christus the same as the God, his inborn son.) *F. G. Müller* sagt von *Mexico*, dass in gewisser Zeit des Jahrs: "Die Priester verfertigen nämlich ein Bild von allerlei Samen, die *mit dem Blute geopferter Kinder* zusammengebacken wurden. Mancherlei religiöse Reinigungen und Sühnungen, Waschungen mit Wasser, Aderlassen, Fasten, Prozessionen, Räucherungen, Wachtelopfer, Menschenopfer bereiteten zur Feier vor. Alsdann schoss ein *Priester Quetzalcoatls* einen Pfeil gegen jenes Bild Huitzilopochtlis, und durchschoss den Gott. *So galt dieser nun für todt*, es wurde ihm wie den Menschenopfern vom Priester das *Herz ausgeschnitten*, und vom Könige, dem Stellvertreter des Gottes auf Erden, *gegessen. Den Leib aber vertheilten* sie für die verschiedenen Quartiere der Stadt so, dass jeder Mann ein Stückchen erhielt." (p. 239, 40)

Ebenso in Mexico jährlich grosses Opfer zu Ehren von Tezcatlipoca; a beautiful youth, meist a war captive, chosen as the victim; for a *whole year treated and worshipped as a god etc.* Anfang d. letzten Monats erhielt er 4 schöne girls als wives; schliesslich am fatal day placed at the head of a solemn procession, taken to the temple, dann sacrificed with much ceremony and every token of respect, dann *eaten by the priests and chiefs.* –

Unter d. *Khonds of Central India* ebenfalls solch Menschenopfermal. A stout stake is driven into the soil, and to it the victim is fastened, seated, and *anointed* with ghee, oil, and turmeric, decorated with flowers, and *worshipped* during the day by the assembly. Abends ist diese revelry[11] resumed; am 3t Morgen erhält d. victim some milk to drink, when the presiding priest implores the goddess to shower her blessings on the people etc etc. The priest recounts the origin and advantage of the rite and concludes by stating that the goddess has been obeyed and the people assembled etc. After the mock ceremony, nevertheless, the victim is taken to the grove, where the sacrifice is to be carried out; and, to prevent resistance, the *bones of the arms and legs are broken*, or the *victim drugged with opium or datura*, when the janni wounds his victim with his axe .... The crowd now press forward to *obtain a piece of his flesh*, and *in a moment he is stripped to the bones.* (240, 241)

So in some parts of Africa "*eating the fetish*" [was auch so far bei Eidnehmen z.B. symbolisch geschieht, by "rasping or grating a little of the fetish in water or of an edible, and so put it in their mouth without swallowing it"] is a solemn ceremony, by which women swear fidelity to their husbands, men to their friends." (241)

The *sacrifices* as a general rule not eaten by all indiscriminately; in Fejee confined to the old men u. priests; women and young men being excluded from any share. Gradually *the priests establish their claim to the whole*, dies *stimulirt d. practice of sacrifice.* Affects auch the character of the worship. Thus, as *Bosman* tells, the priests encouraged offerings to the Serpent rather than to the Sea, weil im letzteren Fall, wie er sagt, "there happens no remainder to be left to them." (241, 242)

D. feeling, das led to the *sacrifice of animals* culminated naturally in *that of men*, in Guinea, Pacific Islands, war captives in *Brazil;* various nations in *India*, ausser d. Khonds, die bereits erwähnt; auch jezt dort in einigen Plätzen, wo *human sacrifices* nicht mehr erlaubt, machen sie *human figures of flour, paste, or clay*, and then cut off their heads in honor of their gods. (242) Ebso in ancient history *bei Carthager, Assyrians, Greeks;* bei d.
7 Römern bis zum 2 od. 3 Jhdt nach Christ, | *Peru, Mexico.* In letztrem nach F. G. Müller, jährlich in d. Tempeln geopfert 2,500 (a moderate estimate) but in one year über 100,000. Bei *Juden* system of *animal sacrifices* on a grand scale and *symbols of human sacrifices*, die hindeuten that they were once usual.

Japhet's daughter: see *7th chapter of Leviticus.* (241-43).

Ursprünglich *keine Tempel or sacred buildings;* in *New World* nur in *Central America u. Peru* (244) In Indien the *tumulus* has developed *into the temple.* (*Fergusson, "Tree and Serpent Worship".*)

The *Lower Races of mankind have no priests*, properly so called. (244) In Greece *priests, but no priesthood.* (245)

In the *Tonga Islands* the chiefs regarded as immortal, the *Tooas*[12] or com-

mon people as mortal; as to the *intermediate class* or *Mooas*[12] there is a difference of opinion. (l.c.)
The *belief* in the *soul* (not identical with ghosts) *in an universal, independent and endless existence* is *confined* to the *highest* (?) races of *mankind.* (l.c.)
D. Reverend Lang[13] in his "*The Aborigines of Australia*" had a friend, the which friend "tried long and patiently to make a very intelligent Australian *understand* (sollte heissen make him believe) *his existence without a body*, but the black never would keep his countenance ... for a long time he could not believe ("he" is the intelligent black) that the "gentleman" (i.e. d. Pfaffen Lang[13] silly friend) *was serious*, and when he did realise it (that the gentleman was an ass in good earnest), the more serious the teacher was the more ludicrous the whole affair appeared to be." (245, 246) (Spottet Lubbock seiner selbst u. weiss doch nicht wie.)
Caesar assures us that among *the ancient Britons money was habitually lent* on *postobits* – promises to pay in another world. (248)
Says Viech Lubbock:
"The immense service which *science* has ... rendered to the *cause of religion* ... has not hitherto received the recognition which it deserves. Science is still regarded by many excellent, but narrow-minded (large minded philistine!), persons as hostile to *religious* truth, while in fact she is only opposed to *religious error.*" (256)
Remarkable custom in *Tahiti* that the *king abdicated* as soon as a son was born to him; and the *landowners* under similar circumstances lost the fee-simple of their land, and became mere trustees for the infant possessors. (See *Ellis, Polynesian Researches*, v. II, p. 346, 47) The *Basutos* have a *strict system of primogeniture*, and, even during the father's life, the eldest son has considerable power both over the property and the younger children (*Casalis: Basutos*[14])xxx Among the *Australians*[15] (not like the American *Red⟨s⟩kins* ⟨feeding⟩ on the larger game, with only *tribal property* in land, common to hunting communities) feeding on *opossums, reptiles, insects, roots*, etc., generally only able to obtain food each on his own property – "*every male has some portion of land*, of which he can always point out the exact boundaries. *These properties are subdivided* by a father among his sons during his own lifetime, and descend in almost hereditary succession. A man can dispose of or barter his lands to others, but a female never inherits, nor has primogeniture among the sons any peculiar rights nor advantages." Some tracts of land peculiarly rich in gum etc., over which, at the period when the gum is in season, numerous families have an acknowledged right, although they are not allowed to come there at other times. (*Eyre: Discoveries in Australia*, v. II, p. 297; *Grey's*[16] *Australia*, v. II, p. 232, 298, 236.).... "Even the *water of the rivers is* claimed by some Australian tribes.... *Trespass for the purpose of hunting* is in Australia considered as a capital offence."
In *Polynesia*, where cultivation was carefully attended to, as in *Tahiti*,

every portion of land has its respective owner; and even the *distinct trees on the land had sometimes different proprietors*, and *the tree*, and *the land it grew on, different* owners." (*Ellis, Polynesian Researches*, v. II, p. 362) In *New Zealand* there were *3 distinct tenures of land, viz. by the tribe, by the family, and by the individual.* The *common rights of a tribe* were often very extensive, and complicated by intermarriages.... *Children, as soon as they were born, had a right to a share of the family property.* (*Taylor: New Zealand and its Inhabitants*, p. 384)

xxxSelbe System of *Primogeniture*, in *combination* with *inheritance through females*, is also in full force in *Feejee*, where it is known as *Vasu;* which |
8 means a *nephew or niece*, "but *becomes a title of office in the case of the male*, who, in some localities, has the extraordinary privilege of appropriating whatever he chooses belonging to his uncle, or those under his uncle's power ... However high a Feejee chief may be, if he has a *nephew, he has a master.*" (315)

Vielleicht mit ähnlichem zusammenhängend "the curious custom of naming the father after the child. In *Australien* sehr allgemein when a *man's eldest child is named*, the father takes "the name of the child, Kadlit-pinna, the father of Kadli; the mother is called Kadlingangki, or mother of Kadli, from ngangki, a female or woman." In *America* the same habit. (*Smithsonian Report. 1866*) Thus with the "Kutchin the *father takes his name from his son or daughter;* des Vater's Name gebildet dch addition d. Worts *tee* to the end of the son's name; z.B. Que-ech-et may have a son and call him Sah-neu. The father is now called Sah-neu-tee u. his former name Que-ech-et is forgotten."

In Sumatra (*Marsden, "History of Sumatra"*, p. 286) the father, in many parts of the country is distinguished by the name of his first child, as "Pa-Ladin" or "Pa-Rindu" (Pa for bapa, signifying 'the father of') and loses, in this acquired, his own proper name ... The women never change the name given them at their birth; yet frequently they are called through courtesy from their eldest child: "Ma si ano", "the mother of such an one", but rather as a polite description than a name."

Bei lower races of men, the chiefs scarcely take any cognisance of offences, unless they relate to things directly concerning, or supposed to concern, the interests of the community generally. As to *private injuries*, everyone must protect or avenge himself. *Du Tertre* (*History of the Caribby Islands*, p. 316; see also *Labat: Voyage aux Isles d'Amérique, v. II, p. 83*) sagt: die administration der *Justice* "among the *Caribbians*, is not exercised by the *Captain, nor by any magistrate;* but, as it is among the *Tapinambous*, he who thinks himself injured gets such satisfaction of his adversary as he thinks fit, according as his passion dictates to him, or his strength permits him; the public does not concern itself at all in the punishment of criminals, and if anyone among them suffers an injury or affront without endeavouring to revenge[17] himself, he is slighted by all the rest, and accounted a coward, and a person of no esteem."

Among the North American Indians, if a man was murdered, "the *family of the deceased* only have the right of taking satisfaction; they collect, consult and decree. The rulers of a town or of the nation have nothing to do or say in the business." (Trans. Americ. Antiq. Society) Indeed, it would seem that the object of legal regulations was at first not so much to punish the offender, as to restrain and mitigate the vengeance inflicted by the aggrieved party. (317)

The *amount of legal revenge often strictly regulated.* Z.B. in *Australia:* "crimes may be compounded for by the criminal appearing and submitting himself to the ordeal of having *spears thrown at him* by all such persons as perceive themselves to have been aggrieved, or by permitting spears to be thrust through certain parts of his body; such as through the *thigh, or the calf of the leg,* or *under the arm.* The *part which is to be pierced by a spear,* is fixed for all common crimes, and a native who has incurred this penalty sometimes quietly holds out his leg for the injured party to thrust his spear through." So *strictly is the amount of punishment limited,* that if in inflicting such spear wounds, a man, either *through carelessness or from any other cause,* exceeded the recognised limits – if, for instance,[18] he wounded the femoral artery – he would in his turn become liable for punishment. [Shylock Affaire!] (*G. Grey,*[16] *Australia,* v. II, p. 243).

NOTES

NOTES TO INTRODUCTION

[1] Karl Marx, Letter to Ferdinand Lassalle, Jan. 16, 1861. *Werke*, v. 30, 1964, p. 578: "Sehr bedeutend ist Darwins Schrift und passt mir als naturwissenschaftliche Unterlage des geschichtlichen Klassenkampfes. Die grob englische Manier muss man in den Kauf nehmen. Trotz allem Mangelhaften ist hier zuerst der "Teleologie" in der Naturwissenschaft nicht nur den Todesstoss gegeben, sondern der rationelle Sinn derselben empirisch auseinandergelegt." Marx mentioned Charles Darwin's work, *The Origin of Species*, 1859, in a letter to Engels, Dec. 19, 1860 (*Werke*, op.cit., p. 131) in terms of which those to Lassalle are the expansion. In the latter, the 'naturhistorische Grundlage für unsere Ansicht' is formulated one month later as the "naturwissenschaftliche Unterlage des geschichtlichen Klassenkampfes.' The 'death blow given to teleology' is a wholly new thought in this connection. By teleology Marx intended a formative process which is wholly external to a natural object, whether animate or inanimate, or to nature as a whole. In *Kapital*, v. 1, 4th-7th ed., 1914, p. 306, Marx quoted Darwin in regard to general resemblance according to function among organs, whereby minor variations in form are suppressed by natural selection. It is the relation to function that determines form rather than an external agency that imposes the direction which change of form will take. (Eng. tr., 1937, p. 375). The parallel between Darwin's principle applied to organs of natural, animate beings (as well as to knives) was then drawn by Marx in regard to human society (ib., p. 335f., Eng. ib., p. 406); here it is the history of natural technology, i.e., the formation of plant and animal organs as instruments of production for the life of plants and animals that is brought out. Marx added: "Does not the history of the formation (Bildungsgeschichte) of the productive organs of social man (Gesellschaftsmenschen), of the material basis of each particular (besondren) social organization, deserve equal attention?" (Bracketed German words omitted from Eng. tr. in whole or in part.) The external agency is unrelated to the relation of function to form, or to change of form in its relation to change of function. The relation of internal-external with reference to a natural object itself is other than the relation of a force or guide which is external to nature as a whole, which is the teleology. Darwin, op. cit., 2nd ed. and on, ch. 4, para. 2, asserted that he ruled out the reference to 'natural selection as an active power or Deity', hence operated entirely within the natural domain, and in terms of 'the aggregate action and product of many natural laws, [or]

the sequence of events as ascertained by us.' The rational meaning of teleology which is empirically explicated by Darwin's natural scientific conceptions is set forth in this passage, as well as passim in his *Origin of Species*.

Marx understood Hegel's anthropology as a process of human self-creation. Cf. Marx, *Ökonomisch-Philosophische Manuskripte* (1844) (see note 4); this is an anti-teleological position. See below ref. note 4 and note 156.

[2] There is no reference to supernatural design or teleology by the Darwinians, whether Darwin himself, T. H. Huxley or Lubbock. This notion was developed later by C. Lloyd Morgan and others who associated themselves with Darwinism and with the doctrine of emergent evolution.

[3] J. B. Bury, *The Idea of Progress*, 1932. In this distinction, Bury was followed by K. Löwith, *Meaning in History*, 1949 and M. Ginsberg, *The Idea of Progress*, 1953.

[4] Differenz der demokritischen und epikureischen Naturphilosophie (Doctoral dissertation), 1841. Das philosophische Manifest der historischen Rechtsschule, *Rheinische Zeitung*, no. 221, 1842. Zur Kritik der Hegelschen Rechtsphilosophie, 1843, to which the introduction alone was published in: *Deutsch-Französische Jahrbücher*, 1844. *Ökonomisch-Philosophische Manuskripte*, 1844. *Die Heilige Familie*, 1845 (with Friedrich Engels). Thesen über Feuerbach, 1845. *Die deutsche Ideologie*, 1845-1846 (with Engels). Karl Marx, Friedrich Engels, *Historisch-Kritische Gesamtausgabe* (MEGA). v. I, 1; v I, 3; v. I, 5, 1927-1932. Marx Engels, *Werke*, (MEW) 39 v. plus 2 suppl. 1959-1969. Cited hereafter by volume and page.

[5] *Zur Kritik der politischen Ökonomie*, 1859. (Critique of Political Economy, N. Stone, tr., 1913).

[6] D. [David Borisovich] Ryazanov, Novye Dannye o literaturnom nasledstve K. Marksa i F. Engel'sa. *Vestnik Sotsialisticheskoy Akademii*, no. 6, 1923, pp. 351-376, has raised the question of the light that these ethnological manuscript materials shed on the biography and character of Karl Marx. This question will not be discussed in these pages, save as it bears upon the evaluation of the ethnological materials themselves, for which see below, note 83. On continuity-discontinuity of Marx's thought, cf. Auguste Cornu, *La Jeunesse de Karl Marx*, 1934; id., *The Origins of Marxist Thought*, 1957. Georg Lukács, *Der Junge Hegel*, 1948. Jean Hyppolite, *Études sur Marx et Hegel*, 1955. Karl Korsch, *Karl Marx*, 1938.

The turning point, according to Cornu, was the composition of the *Economic-Philosophical Manuscripts* of 1844; but the erudition of Cornu is here caught in a trap of its own devising, that of the quest for origins, turning points, as a game of the intellectual history of a person. An even more extreme view of the rupture between the young and the mature Marx has been advocated by Louis Althusser

et al, *Lire le Capital*, 2 v., 1966 (see also Althusser, *Pour Marx*, 1966). On the contrary, a more reasonable account of the course of development of Marx's ideas, both as continuity and as discontinuity, has been made by George Lichtheim, *Marxism*, 2nd ed., 1964. The most thorough exploration to date of that development, with particular reference to the *Grundrisse der Kritik der Politischen Ökonomie*, 1857-1858, (see note 7), as the linkage between the writings of the 1840s by Marx and the composition of *Kapital* was made by Roman Rosdolsky, *Zur Entstehungsgeschichte des Marxschen 'Kapital'*, 2nd ed., 1969. See also Otto Morf, *Geschichte und Dialektik in der Politischen Ökonomie*, 1970, pp. 171-236, who has proceeded in the same line as Rosdolsky. Marx pointed to the year 1843 in which he composed his *Critique of the Hegelian Philosophy of Right* as critical in this regard; see Einleitung to the *Kritik* of 1859, op. cit., to which Korsch has called attention. Marx maintained certain constant interests throughout his life while developing new ones, and the methods for their analysis. The study of society was the object of the first record that he made; in 1843-1845 he recognized the limitations of the study of civil society, observing that law and the State could not be understood by themselves nor explained by the general progress of the human mind, that they are founded on the material conditions of life. The program of the study of man in relation to society was set forth in the manuscript of 1843, in the *Economic-Philosophical Manuscripts* of 1844, and in the *Theses on Feuerbach* of 1845. A theory of development of the productive forces of society through discrete stages was made concrete as the development from primitive man to capitalism in the *German Ideology*, at the time when Marx engaged in his studies of political economy. The results, already foreshadowed in the critique of Proudhon, raise a further question that has yet to be fully explored: the relation between the *Introduction to the Critique of the Hegelian Philosophy of Right* (1844) and the *Communist Manifesto*. These conceptions are interrelated in the ethnological manuscripts here published, both in the selection of works and topics for excerption and in the mode of treatment of the topics. Finally, while recognizing the importance of the knowledge per se of the composita of Marx's thought, our task is another: that of the interrelation of the contents of the notebooks to the various sciences of man, viewed in the light of their development at the time, and the positions known to have been taken up by Marx with respect to that development.

[7] *Grundrisse der Kritik der Politischen Ökonomie* (Rohentwurf) 1857-1858; first published 1939; reprinted 1953. Einleitung, 1953, pp. 5-31, first brought out by Karl Kautsky in: *Die Neue Zeit*, 1903 (3 pts.).

[8] Marx, *Kapital*, 4th-7th ed., v. 1, 1914, ch. 12 (Eng. tr., 1937, ch. 14).

[9] *Kapital*, v. 2, 4th ed. 1910, p. 414, with reference to the difference in expenditure of disposible time and necessary time between primitive and capitalist production: E. B. Tylor, *Researches into the Early History*

of Mankind, 1865 (cited by Marx – as Tyler – from German tr.)· Cf. *Kapital*, v. 1, op. cit., p. 53 in which it is proposed that man exchanges first outside the community and then within it. Cf. also ib. p. 55, and v. 3, pt. 1, 3rd ed., 1911, p. 156.

10 *Marx-Engels Archiv*, v. 1 [1926], pp. 316-342; cf. introd., D. Rjazanov, pp. 309-314; and *Karl Marx, Chronik seines Lebens in Einzeldaten*, (*Chronik*), 1934, V. Adoratskij, ed., p. 365.

11 Lewis Henry Morgan, *Ancient Society or Researches in the Lines of Human Progress from Savagery through Barbarism to Civilization*, 1877. Reprinted 1878, without change. Reprinted 1907 with changed pagination, cited hereafter unless otherwise stated. Recent English language editions: 1963 (E. B. Leacock, ed.) and 1964 (L. A. White, ed.) German tr. of Morgan, *Die Urgesellschaft*, by Kautsky and Eichhoff, 1891.

The 1877 edition of *Ancient Society*, and its 1878 reprint, include over 70 quotations in the original from Greek and Latin authors. They were translated into English in the 1964 edition. Most of these, particularly those from the Greek, were silently shorn from the edition of 1907 and consequently from the 1963 edition, which reproduces the 1907 text and pagination unchanged. The 1964 edition incorporates changes in Morgan's hand. Nevertheless, a definitive edition of *Ancient Society* is still to be desired. This is in part for its own sake: Morgan was unclear in his exposition (op. cit., 1907, pp. 90-93) of the relations of the Tuscarora and other Iroquois gentes. See Marx, Morgan ms., notes 5, 57, 82, 104, 113, 206, 228, 229, 233, 259. See below, Introduction, n. 25 regarding Homer. In part a new edition is desired also for the sake of its fate in the hands of others: Morgan referred to the missionary Ashur Wright (op. cit., p. 83 and index; A. Wright, p. 464), who has been identified as Asher Wright. See B. J. Stern, *American Anthropologist*, v. 33, 1935, pp. 138-145, and W. N. Fenton, *Ethnohistory*, v. 4, 1957, pp. 302-321; id., *Ethnology*, v. 4, 1965, pp. 251-265. Marx (Morgan ms., p. 13) refers to Arthur Wright, an unnecessary particularization, for Morgan here (1907, p. 464) mentioned only A. Wright. Marx (ms. p. 36) followed Morgan (p. 83) in giving Ashur Wright. Engels (*Origin of the Family*) gave the name as Arthur; Morgan's form, Ashur, was inserted in the Eng. tr. of Engels, p. 43. (See following note.) The German editions of 1931, p. 25, and of 1962, pp. 53 and 698, of Engels gave the name as Arthur. (See following note.) The Russian language edition of Marx's excerpts from Morgan 'corrected' this to Ashur (*Konspekt Knigi Liuisa G. Morgana, "Drevnee Obshchestvo". Arkhiv Marksa i Engel'sa*, v. 9, 1941. M. B. Mitin, ed. pp. 26 and 70). Cf. E. Lucas, Die Rezeption Lewis H. Morgans durch Marx und Engels, *Saeculum*, v. 15, 1964, p. 158: "Also, the manuscript of Marx played a mean trick on Engels: the missionary Ashur [sic] Wright assumed the given name Arthur," then referring to the *Arkhiv*

edition, op. cit., p. 26 and to Morgan, op. cit., 1877, p. 455.

Morgan has been the subject of biographies by B. J. Stern, *Lewis Henry Morgan, Social Evolutionist*, 1931; and by Carl Resek, *Lewis Henry Morgan, American Scholar*, 1960. Morgan's work, *Ancient Society*, was the subject of a symposium, held in 1964: *VII Congrès International des Sciences Anthropologiques et Ethnologiques*, Moscow, v. IV, 1967, pp. 441-511.

[12] Friedrich Engels, *Der Ursprung der Familie, des Privateigentums und des Staats im Anschluss an Lewis H. Morgans Forschungen.* First ed., 1884, fourth ed., 1892. Repr. 1931, H. Duncker ed.; MEW 21, 1962. Eng. tr. of fourth ed., *The Origin of the Family, Private Property and the State in the Light of the Researches of Lewis H. Morgan*, 1942, cited by page hereafter, unless otherwise stated. My translations. On the selection of the title of the work, see below, note 147, items 7 and 11. The influence of Darwin in this matter is to be conjectured; the quest after origins was not instigated by Darwin; in the preceding century Bernard Mandeville, Condillac, Francis Hutcheson, N. S. Bergier, Lord Monboddo, Jean Jacques Rousseau, John Millar had sought the origins of vice, virtue, human knowledge, inequality, the pagan gods, language, distinction of ranks. Before them, the origins of money, prejudice, disobedience had been sought. In Charles Darwin's work, *The Origin of Species by Means of Natural Selection, or the Preservation of Favoured Races in the Struggle for Life*, 1859, a different meaning of origin from the foregoing was posited. There followed in the field of ethnology and evolution:

John Lubbock, *The Origin of Civilisation*, 1870.
A. Giraud-Teulon, *Les origines de la famille*, 1874.
Id., *Les origines du mariage et de la famille*, 1884.
M. M. Kovalevsky, *Tableau des Origines et de l'évolution de la famille et de la propriété*, 1890.

During this period, E. B. Tylor, W. H. Holmes, H. L. Roth, J. H. King, F. v. Schwarz, Can. Taylor sought the origins of games, art forms, agriculture, the supernatural, African and Aryan cultures. But now the quest for origins had as much a geographic and temporal locus in view as an abstract principle; Engels and those who worked in Darwin's line were concerned with principles and not with geographic loci in seeking for origins.

Those in the twentieth century who have sought for origins include E. Westermarck, *The Origin and Development of the Moral Ideas*, P. Wilhelm Schmidt, *Der Ursprung der Gottesidee*, R. H. Lowie, *The Origin of the State*, and C. Lévi-Strauss, *L'Origine des Manières de Table*; these concern principles of origin, hence have proceeded in the direction of Darwin and Engels. Other references to origin/origins in Bibliography, passim.

[13] M. M. Kovalevsky, Dve Zhizni. *Vestnik Evropy*, 1909, no. 7, p. 11. The provenience of Marx's copy of *Ancient Society* is of more than

bibliophile interest in view of Engels' theory of a conspiracy of its suppression by silence in England. (Engels, Prefaces to 1st and 4th eds. of *Origin of the Family*, op. cit., and letter to Karl Kautsky of Feb. 16, 1884. MEW 36, p. 109.) Kovalevsky's statement that he brought the book with him from America and that Marx had it from him must be taken together with Marx's own bibliographic entry for Morgan's book, London, 1877 (see below, note 15). According to D. N. Anuchin, *Etnograficheskoe Obozrenie*, 1916, no. 1-2, p. 11, Kovalevsky was advised to read Morgan by V. F. Miller, student of the Caucasus, an area which Kovalevsky studied. Cf. B. G. Safronov, *M. M. Kovalevsky kak sotsiolog*, 1960, p. 32; B. A. Kaloev, M. M. Kovalevsky. *Sovetskaya Etnografiya*, 1966, no. 6, pp. 30-42; M. O. Kosven, M. M. Kovalevsky kak etnograf-kavkazoved. Ib. 1951, no. 4, pp. 116-135.

[14] Marx died March 14, 1883. On Engels' search for Morgan's *Ancient Society*, cf. his letter to Kautsky, February 16, 1884 (see above, n. 13); see also Engels, *Ursprung der Familie*, op. cit., preface to 1st and 4th eds.

[15] The notebooks containing the excerpts from Morgan, Maine, Lubbock and Phear are in the Internationaal Instituut voor Sociale Geschiedenis (IISG), Amsterdam. Notebook B 146 is 19.5 cm. x 15.6 cm., bound, boards, paginated by Marx. Inside front cover and facing page contain further bibliographic references (see Bibliography I, below). The contents of the notebook (on front cover, in Engels' hand) are given as follows:

1. Lewis H. Morgan, Ancient Society p. 1.
2. J. W. B. Money, Java, or How to Manage a Colony p. 99.
3. Sir. J. Phear, The Aryan Village in India & Ceylon p. 128.
4. Dr. Rud. Sohm, Fränkisches Recht & Römisches Recht p. 155.
5. Sir H. S. Maine, Lectures on the Early History of Institutions p. 160.
6. E. Hospitalier, Les principales applications de l'Electricité p. 198.

The table of contents of the notebook, inside back cover, in Marx's hand, is:

1. *Lewis Morgan.* "*Ancient Society*". *London* 1877. (p. 1-98)
2. *J. W. B. Money.* "*Jawa*" etc. 2 *vls. London* 1861. (p. 99-127)
3. *Sir J. Phear.* "*The Aryan Village in India and Ceylon*". *1880.* (p. 128-155)
4. *Dr. Rudolph Sohm.* "*Fränkisches Recht u. Römisches Recht etc.*" (p. 155-159)
5. *Sir Henry Sumner Maine*: "*Lectures on the Early History of Institutions*". Lond. 1875. (p. 160).

P. 144 is skipped in pagination. Further details in Bibliography below. Notebook B 146 contains 316 lined pages, of which 260 were paginated by Marx, 59 blank, 56 unnumbered.

Notebook B 150 is 22.5 cm. × 18.6 cm., bound, boards, paginated by Marx. The contents are given on front cover in Engels' hand (incomplete):

Lubbock, *Origin of Civilisation* – p. 1.

Marx's excerpts from Lubbock fill the first eight pages of the notebook, followed by blank pages 9-11. P. 12 bears the heading "Egypt", and contains a bibliographic reference to "Mr. Wilfrid Scawen Blunt, a member of the Diplomatic Service, not very long ago a British Consul in Egypt". (See Bibliography, below).

This is followed by Mulhall's article (see Bibliography), pp. 12-19. Five further pages of the notebook are blank, unnumbered. Many further pages were excised from the notebook. Facing p. 1 is a bibliographic entry by Marx on Watson and Kaye, *The People of India*, v. II (see Bibliography), and on Tomkin and Lemon: "*Commentaries of Gajus*".

On the chronology of the notebooks, see Addendum 1.

I take this occasion to express my profound gratitude to the IISG, its Director and staff. In particular I am endebted for their cooperativeness and knowledgeability to Messrs. H. P. Harstick, G. Langkau, and Ch. B. Timmer.

[16] M. M. Kovalevsky, *Obshchinnoe zemlevladenie. Prichiny, Khod i Posledstviia ego Razlozheniia* (Communal landownership. Causes, course and consequences of its decline). Pt. 1, 1879. Marx's excerpts from this book, IISG B 140, pp. 19-40, 59-83, are dated Sept. 1879 (*Chronik*, op. cit., p. 374). An accurate translation of the Marx ms. pp. 28-40 and 59-83 was published in *Sovetskoe Vostokovedenie*, 1958, no. 3, pp. [3]-13, no. 4, pp. [3]-22, no. 5, pp. [3]-28, and *Problemy Vostokovedeniia*, 1959, no. 1, pp. [3]-17. Cf. L. S. Gamayunov, and R. A. Ulyanovsky, Trud russkogo sotsiologa M. M. Kovalevskogo "Obshchinnoe Zemlevladenie..." i kritika ego K. Marksom. (The work of the Russian sociologist M. M. Kovalevsky, "Communal landownership..." and its critique by K. Marx.) *Trudy XXV Mezhdunarodnogo Kongressa Vostokovedov* (1960) 1963, v. 4, pp. 38-44.

Marx considered that Kovalevsky, like Hegel, turned the world upside down, asking, why does the consciousness play the role of causa efficiens in Kovalevsky? The latter was an adherent of the collectivist doctrine, the opponent of the primacy of the individual in the formation of man and society. At the same time Kovalevsky was an advocate of the theory of conquest in expansion and formation of complex societies. Cf. Marx, Kovalevsky ms. p. 29, and *Sovetskoe Vostokovedenie*, 1958, no. 3, p. 5:

> Im Mass d[er] Entfernung von d[er] Zeit d[er] ursprünglichen Ansiedlung d[e]r Geschlechter innerhalb d[er] Grenzen d[es] von ihnen eroberten Territoriums (dass Geschlechtsgemeinde nothw[en]dig auf *fremdem, erobertem* Territorium sitzt, ist eine

willkührliche Annahme Kowalewski's) schwächt sich nothwendig ab d[as] Bewusstsein der Blutsverwandtsc[ha]ft *unter d[en] besondern Zweigen d[es] Geschlechts.* Mit dem *allmähligen Verfall dieses Bewusstseins* (warum spielt d[as] *Bewusstsein* hier d[ie] Rolle d[er] causa efficiens u[nd] nicht d[ie] faktische Raumtrennung, der mit d[er] Spaltu[n]g d[es] Geschlechts in "Zweige" schon vorausgesetzt ist?) offenbart sich in *jeder d[er] geschlechtlichen Unterabtheilungen d[er]* Wunsch ihre *Vermögensverhältnisse zu regeln* unabhängig von d[er] Sphäre d[er] Theilnahme u[nd] Einmischung der mehr od[er] minder ihr fremden übrigen Unterabtheilungen d[es] Geschlechts (es tritt vielmehr *faktische Nothwendigkeit d[es] Aufbruchs d[er] Gemeinwirtsc[ha]ft* in einzelnere Kreise ein u[nd] zugleich (?) verstärkt sich nothwendig die *Tendenz zur Individualisation d[er] Vermögensverhältnisse* innerhalb der Grenzen des Dorfes (poselko).)

(Round brackets Marx, square brackets ed.)

Marx's position in regard to Hegel's inversion of the world, well known from the preface to the second edition of *Capital*, v. 1, 1873, has its complement in the criticism of Kovalevsky. The position of Marx in regard to Morgan is contrasted with these. Marx, Morgan excerpts, p. 14: "The propensity to pair, now so powerful in the civilized races, also nicht normal to mankind, but a growth through experience, like all the great passions u[nd] powers of the mind." The mind is here treated in an empirical way, subject to development in experience. Morgan related the physical and mental growth of man to each other and to the practice of gens exogamy, wherein 'marriage of unrelated persons created a more vigorous stock'. This is a simplification, because the persons married could not have been unrelated; out-marriage here means only that they were not closely related. Above all, however, Morgan's criteria of physical and mental growth are in this instance hereditary in the biological sense; nothing of the human social and cultural heritage has been introduced into the processes of growth in this connection, which contradicts Marx's positions in empirical and in philosophical anthropology both in general and in particular. Morgan posited likewise a normalcy of biological history which is opposed by the normalcy of man's mental experience, characterized in the civilized condition. Morgan's biologism remains to be examined; the mental growth was related by him to empirical experience, but not to relations in society. Morgan's reference to 'two advancing tribes blending' and thereby widening and lengthening the skull and brain is the expression of his biologism (Marx, l.c.; Morgan, op. cit., p. 468). Since the day of Morgan, anthropology has interwoven the biological and the social factors in human development, rather than separated them. Kovalevsky's position in regard to the mind was uncritical; Morgan's is transitional, making possible subsequent critique.

In fact, Morgan's schema is more complex, for he called Part I of *Ancient Society*, Growth of Intelligence through Inventions and Discoveries. In the first chapter he discussed the progress of inventions and discoveries and the unfolding of institutions from 'a few germs of thought' (Morgan, op. cit., p. 4). These ideas of Morgan remained undeveloped; they were, moreover, unrelated by him to the biologism mentioned previously.

Morgan discussed in the same passages inventions and discoveries on the one side, and institutions on the other. The latter include: Subsistence, Government, Language, the Family, Religion, House Life and Architecture, Property. The ethnical periods, into which mankind is divided, are demarcated from each other by inventions and discoveries (Morgan, op. cit., p. 6). From this we infer that Morgan had the idea that man's relation to nature and to his own development are to be examined as a) the productions of his activity, and b) as his relations in society. These were not clearly distinguished; some of the relations to nature, as inventions and discoveries, are among the institutions of subsistence, house life, property, etc. On the other hand, some of the institutions are not directly social relations, but appear as social relations in a reified form. Morgan's idea of culture as the total product of an ethnical period was conceived as a passivity, the result of a body of relations and activities in regard to nature and society. The culture characterizes the mode of life of a particular ethnical period (Morgan, op. cit., pp. 9, 12-13); it is not particularly related to a given social group, nor is it a panhuman feature; it does not actively cultivate the human beings of that period, hence it is not an agent of anything. Again, the culture does not work upon or through particular peoples, groups, societies; hence its relation to actual social interaction and production is not posited. On the other hand, the culture does not itself generate the transition from one ethnical period to the next, but the forces generating the transition are found within it; they are nowhere else extant. The culture is conservative, but at the same time the transition to the next emerges out of the culture of the foregoing ethnical period. The culture of the ethnical period overrides the difference between the hemispheres, thereby generating its identity despite the natural differences (pp. 16-17). The generator of the transition between the ethnical periods lies within the culture, or mode of life, and outside the natural differences.

Marx wrote in *Kapital*, op. cit., v. 1, p. 476, (Eng., op. cit., pp. 561-562), "In den Kulturanfängen sind die erworbenen Produktivkräfte gering...." Here the use of the term is technical, as is that of Morgan. The period that Marx had in mind is generally that preceding civilization, a broad period without reference to a particular society. In the *Communist Manifesto*, the concept of culture is conceived as variable according to the social classes of modern bourgeois society, and is at the same time the product of all society; the culture is an activity

of man, training him to act (in this case merely as a machine), hence it is a human agency in general; opposed to this are the bourgeois notions of property, freedom, law – in which culture is ranged (ch. 2, Eng. ed. of 1888). This usage of the concept of culture is wholly in keeping with the contemporary one; it is variable, active, interactive, as well as the product of activity. Hegel conceived culture as a development of humanity, as the interrelation with nature of the active and the passive, the abstract and the concrete moments of man's history. The element of the absolute essence, and its relation to the historically particular and relative, is the absolute which Marx rejected in the Theses on Feuerbach, and in the *Communist Manifesto*. Nevertheless, the developmental side of Hegel's formulation is central to the thesis of the *Communist Manifesto*, which restates that of Hegel, without the adversion to the metaphysical side; the entire domain of history is the continuation of Hegel's position, which Engels sought twice to make precise.

Morgan, op. cit., p. 499, likewise developed this line: the family is the creature of the social system and reflects its culture. According to this view it is not the active principle, but a passive one. The social system is active, the family is its creature; the family is doubly removed from the prime mover of society, for it reflects the culture of the social system. In the passage taken up by Engels (*Origin*, op. cit., pp. 26-27, quoting Morgan, ib., p. 444) the family is the active principle, the system of consanguinity, the passive. Morgan here posited a onesided because unintegrated movement. The two halves were never brought together; nevertheless it is the beginning of a dialectical moment. On Theseus as the representative of a period, or series of events, hence as the impersonal agency of a culture, cf. Morgan, op. cit., p. 265. On the objective process of transition from one social plane to the next, cf. ib., pp. 561-562.

[17] J. J. Bachofen, *Das Mutterrecht. Eine Untersuchung über die Gynaikokratie der alten Welt nach ihrer religiösen und rechtlichen Natur*, 1861. N. D. Fustel de Coulanges, *La cité antique*, 1864 (The Ancient City, 1873). H. H. Bancroft, *The Native Races of the Pacific States*, 1875. Maurer's work is cited in various places in Marx's *Kapital*, Tylor's in *Kapital*, v. 2 (see note 9 above). Vol. I of Bancroft was excerpted by Engels on Marx's initiative (MEW 35, p. 125). On Bancroft, see Introduction, Addendum 2 and note 182 below. On Fustel de Coulanges, see Morgan, op. cit., pp. 240-241, 247, 558; also this Introd., section 6, Community, Collectivism and Individualism, and works there cited, esp. notes 132 and 133.

The work of Bachofen has a number of mystical and mystifying positions; it is, above all, an inquiry into religion and society, in particular, the position of women in ancient society and law. Bachofen's work has not been exhaustively examined in this regard; the thesis has validity in modern social anthropology, once the ethno-

centric naiveté is discounted. Bachofen's *Versuch über die Gräbersymbolik der Alten*, 1859, develops an idea that has a bearing on the contemporary study of the myth as an external manifestation: The myth is the exegesis of the symbol, unfolding in a series of actions externally connected that which the symbol bears as a unity within itself. The nature of the symbol should be re-examined in this connection as well.

The question of how Morgan gained access to Bachofen's *Mutterrecht*, since he knew no German, remains. See L. Krader in: *American Anthropologist*, v. 72, 1970, pp. 108-109.

[18] *Chronik*, pp. 104-105.

[19] Engels, op. cit., p. 27. Morgan wrote, "The family represents an active principle ... Systems of consanguinity ... are passive; recording the progress made by the family at long intervals apart, and only changing radically when the family has changed radically." (*Ancient Society*, p. 444.) Marx commented on this passage (ms. notes p. 10), "Ebenso verhält es sich mit politischen, religiösen, juristischen, philosophischen Systemen überhaupt." Engels reported both these statements and carried the idea further, introducing the analogy of society to the organic world: "... Just as Cuvier could deduce from the marsupial bone of an animal skeleton ... that it belonged to a marsupial animal ... so with the same certainty we can deduce from the historical survival of a system of consanguinity that an extinct form of family once existed which corresponded to it." (Engels, l.c.) The German of Engels reads: "Mit derselben Sicherheit aber, mit der Cuvier ... schliessen konnte...." (MEW 21, p. 38). Engels considered that Morgan's and his own method of reconstruction proceeded with the same certainty, or assuredness, as that of Cuvier; his formulation in German is definitive in positing the given preciseness of the biologist's and the ethnologist's method.

Marx's formulation relates to social institutions without commitment to an organicist model in its methodology, or even a metaphoric construction upon an organic model. Morgan, to be sure, had a general connection to an organicist conception of human society, bearing certain similarities to that of Herbert Spencer; Durkheim, a generation later, was not able to rid himself entirely of the charge of an organicist social theory of collective representations. Marx did not espouse the organicist view in this context, and rejected it in reference to Hegel's theory of society (cf. *Grundrisse*, op. cit., Einleitung passim). Marx's opinion was that Cuvier, while the best of geologists, expounded certain facts "in a completely distorted way." ("... Wie die Geologen gewisse facts, selbst die besten, wie Cuvier, ganz verkehrt ausgelegt....." Letter of March 25, 1868, MEW 32, p. 52.) On Cuvier's opposition to evolution and Darwinism, cf. A. D. White, *A History of the Warfare of Science and Theology*, (1896) 1960, v. 1, pp. 63-64.

That Marx had more than one opinion regarding Darwin is shown from his letter to Engels, Aug. 7, 1866 (MEGA, Part III, v. 3, p. 355. Here the work of Trémaux is advanced over that of Darwin.

Marx generally ignored Morgan's organicism, both as to phraseology and as to content in his notes and excerpts, or else he opposed it.

[20] On Morgan's general hypothesis: op. cit., p. 390.

On the Ganowanian cultural unity as the basis for the peopling of the Americas: ib., p. 156. Negative evidence on Eskimos, l.c. and p. 181.

On the treatment of the Turanian and Ganowanian families in the same terms: ib., pp. 438, 444.

On the evolution of germs of thought: ib., pp. 59-60.

On natural selection: ib., p. 48.

[21] In the pagination of the New York edition of 1877-1878, the parts are divided as follows:

Part I, pp.	3-45	Intelligence
II,	49-379	Government
III,	383-521	Family
IV,	525-554.	Property

The London ed. which Marx mentioned in his Table of Contents of the notebook (see above, note 15) may have a different pagination; we have not examined this, but as our interest is in this case the proportions of the parts, this is not important. Marx's rearrangement of the sequence of the parts is not necessarily a criticism of Morgan's logic; the rearrangement of the sequence and proportions of the parts conforms more closely to Marx's own interests. Marx's sequence and pagination in the notebook is the following:

Part I ms. p.	1	Total pp.	$3^1/_2$
III	4		$16^1/_4$
IV	20		$8^1/_2$
II	29		$69^3/_4$
			98

approximately

On Engels, see above, Introduction, section 7, Engels' Relation to Marx and Morgan, and notes 147-148. Morgan's Tables at the end of Pt. III, ch. II, Malayan System of Consanguinity; Pt. III, ch. III, Turanian and Ganowanian Systems; Pt. III, ch. V, Roman and Arabic Systems. (The Hebrew type of family is discussed in the last mentioned chapter, while the table of Arabic terms of consanguinity is appended. The anomaly is not clarified by Morgan.) Tables taken from his *Systems of Consanguinity and Affinity of the Human Family. Smithsonian Institution, Contributions to Human Knowledge*, v. 17, 1871. J. F. McLennan, *Studies in Ancient History*, 1876, had argued against Morgan's explanation of the origin of the system of the classificatory system of consanguinity. (Cf. Morgan, *Ancient Society*, note appended to

Part III, and his *Systems of Consanguinity*, op. cit., pp. 479-486.) Morgan answered McLennan in the Note mentioned.
Regarding the brevity of the Lubbock excerpts of Marx, and its place in Marx's biography, cf. n. 83 below.

[22] Engels, op. cit., preface to fourth ed. Marx emphasized the theory of the gens, not the precedence of matriarchy over patriarchy.

[23] Cf. also Engels, ibid., pp. 91-92, 116.

[24] J. J. Bachofen, *Briefe* (*Gesammelte Werke*, v. X), 1967. The relation and mutual support of Bachofen and Morgan is to be remarked. On Engels' estimate of Bachofen cf. *Origin of the Family*, Preface to fourth ed.

[25] Taken chiefly from notes by J. Lipsius, C. Cornelii Taciti. De Situ, Moribus, et Populis Germaniae. Opera qvae exstant, ex Iusti Lipsi editione ultima. Antverpiae, apud C. Plantinum (Christophe Plantin). 1585, 1589. Later editions known. Lipsius had published an edition of Tacitus in 1581 without the relevant annotations. Later editions of Tacitus incorporated annotations of Lipsius, Beatus Rhenanus, i.a.; cf.: J. P. Gronovius ed., Amsterdam, 1672. There are in all some 75 quotations in Latin and Greek, chiefly taken from Morgan's references. Morgan cited the Iliad (Morgan, op. cit., p. 552), i. XII, v. 274. Marx (excerpts, p. 26) could not find the passage, which concerns the exchange of gold by weight in talents. (It is in i. XIX, 247, according to S. A. Zhebelev, in *Arkhiv*, op. cit., v. 9, p. 51. χρυσοῦ δὲ Οδυσεὺς δέκα πάντα τάλαντα. "Odysseus, having weighed ten talents of gold in all..."

Eginhartus/Einhard (Vita Karoli Imperatoris, cited from Lipsius edition of Tacitus), Jordanes (Getica, cited from Lipsius ed.), Julianus (Antiochico, cited from Lipsius), Tacitus (Annals, after Lipsius), Tacitus (Germania), Caesar (Gallic War) are quoted at the end of Marx's excerpts from Morgan; these passages cited are not found in Morgan.

Questions of classical learning have led to some confusion in the literature dealing with Marx's manuscript. Marx (Morgan excerpts, p. 73) referred to Dionysius of Halicarnassus, but did not mention the title of the work in question, Roman Antiquities. The Russian language version of the Morgan excerpts (*Arkhiv*, op. cit., v. 9, p. 142) has added a title to the reference without specifying that it is an insertion in the Russian edition only and is not by Marx; the work is here referred to as "Roman Archaeology". E. Lucas, Die Rezeption Lewis H. Morgans durch Marx und Engels, *Saeculum*, v. 15, 1964, p. 156, has supposed that the error was that of Marx, and without further verification, taxed him with having made it: "Im letzten Fall ist Marx ein Irrtum unterlaufen: der Titel des Werkes des Dionysius heisst nicht 'Römische Archäologie', sondern 'Römische Altertümer'." (Morgan, *Ancient Society*, op. cit., p. 251, had cited Dionysius by name, and Marx had done the same.)

There is a related matter raised on the same page of the article by Lucas: Morgan had written (op. cit., pp. 553-554; = 1877 ed., p. 544), "When field agriculture had demonstrated that the whole surface of the earth could be made the subject of property owned by individuals in severalty, and it was found that the head of the family became the natural center of accumulation, the new property career of mankind was inaugurated. It was fully done before the close of the Later Period of Barbarism. A little reflection must convince anyone of the powerful influence property would now begin to exercise upon the human mind, and of the great awakening of new elements of character it was calculated to produce". Marx's excerpt notes on this passage read: "When field culture bewiesen hatte, dass d[ie] ganze Oberfläche der Erde could be made the subject of property owned by individuals in severalty u[nd] [das] Familienhaupt became the natural center of accumulation, the new property career of mankind inaugurated-, fully done before the close of the Later Period of Barbarism, übte einen grossen Einfluss auf [the] human mind, rief new elements of character wach...." (Marx, excerpts, p. 26).

The Russian edition renders this as, "When the pursuit of agriculture had demonstrated that the whole surface of the earth could be made the object of property of separate individuals and the head of the family became the natural center of accumulation of wealth, mankind entered a new, hallowed path by means of private property (Chelovechestvo vstupilo na novyi, osviashchennyi chastnoi sobstvennost'iu put'). It was already fully done before the later period of barbarism came to an end. Private property (chastnaia sobstvennost') exercised a powerful influence on the human mind, awakening new elements of character...." (*Arkhiv*, op. cit., v. 9, p. 52).

The Russian version has here changed Marx's excerpt in three particulars. It has rendered "property" as "private property" twice and it has introduced the word osviashchennyi, "hallowed", where neither Morgan nor Marx applied it. The linking of the adjective 'private' to the substantive 'property' by the Russian editors was perhaps influenced by their reading of Engels, and the reading of Marx in the light of Engels' book bearing its title in mind. (See also *Arkhiv*, op. cit., p. 10, where a change in Marx's ms., p. 5, of identical nature, is made.) There is therefore some sort of explanation, although this should not be interpreted as a justification of the liberty taken with Marx's material.

This change by the Russian editors, because it was unaccompanied by any note, has had further consequences. Lucas, op. cit., p. 156, wrote in this connection, "On top of this, the matter [of Morgan] is not literally adhered to [by Marx], but paraphrased throughout, is subjectively colored (subjectiv verfärbt). A turn of phrase (Note) or a citation is ironically rendered and ironical interpolated remarks are made." Lucas' Note refers to the passage, "mankind entered a new,

hallowed path by means of private property." This is offered by Lucas as an example of an ironical turn of phrase by Marx, and of a subjective coloration. It is not found in Marx.

The word 'osviashchennyi', which occurs in the Russian, is rendered as 'geheiligt' by Lucas. The text of *The Origin of the Family* by Engels provides a clue to this introduction of material into Marx's text without indication that it is not Marx's own wording. Engels wrote (MEW 21, p. 105), "... eine Einrichtung ... die nicht nur das früher so geringschätzte Privateigentum heiligte und diese Heiligung ... erklärte...." (... An arrangement ... that not only hallowed private property that had formerly been so little prized ... and declared this sanctification....) (Cf. Engels, *Origin*, Eng. tr., op. cit., p. 97).

The Russian version is not a translation, but a rendering which substitutes proper Russian semantic, grammatical and syntactic constructions for Marx's condensed polyglot note-taking style.

[26] Morgan, *Ancient Society*, 1907, p. 17, characterized the Latin tribes of Romulian period as the "... highest exemplification of the Upper Status of Barbarism."

[27] Morgan, ibid., p. 544. Morgan's notion that the banks of the Tigris, Euphrates, and other rivers of (southwestern) Asia were the natural homes of the pastoral tribes is one of the grounds for Gordon Childe's proposal that the substance if not the form of Morgan's schema be changed. (See below, note 148.)

[28] Morgan, ibid., p. 552. Iliad, book v, 90. Here Diomedes attacked the Trojans like a winter torrent that overcomes the fences and dikes along its banks. The context permits some interpretation about the technology of Homeric Greek flood control, possibly about their viticulture, etc., but nothing about forms of landownership, whether collective or private.

Iliad v, 90-91: οὔτ' ἄρα ἔρκεα ἴσχει ἀλάων εριθηλέων
ἐλθόντ' ἐξαπίνης, ὅτ' ἐπίβρισῃ διὸς ὄμβρος.

"...The fenced embankments did not hold back the winter torrents, neither did the walls of the fruitful vineyards stay its sudden coming when the rains of Zeus drives it on," etc. (Loeb ed.) ἕρκος fence, enclosure. ἕρκεα ἴσχει (redupl.) keep back the torrent. ἀλωά garden, vineyard, orchard, prepared ground.

[29] Morgan, op. cit., p. 19. Engels, op. cit., p. 19, quoted Morgan as having written, "... almost absolute control...", reflecting Marx's exclamation at Morgan's unqualified statement. The English translation of Engels restores Morgan's text, with a note referring to Engels' insertion; the German editions of 1931, H. Duncker, ed., and of 1962, MEW, 21 p. 30, retain Engels' text without change.

[30] Morgan, op. cit, p. 471.

[31] Ibid., p. 540.

[32] Engels, op. cit., p. 50. M. M. Kovalevsky, *Tableau des Origines et de l'Evolution de la Famille et de la Propriété*, 1890.

[33] Morgan, op. cit., p. 478.
[34] Ibid., pp. 479-480.
[35] Ibid., p. 480.
[36] Engels, op. cit., p. 162.
[37] Ibid., p. 51.
[38] Morgan, op. cit., p. 42. Marx, l.c., wrote: "each smaller family would be a miniature of the group." This is rendered in the Russian version: "... kazhdaia men'shaia sem'ia dolzhna byla predstavliat' soboi v miniature vsiu gruppu." – Literally, "each smaller family would be in miniature the whole group" (*Arkhiv* op. cit., v. 9, p. 16). This transfers the meaning to the larger group, which was probably not Morgan's intention, nor was it how Marx understood him.
[39] Morgan, ibid., p. 222.
[40] Aristotle, Politics, Book I, 2, 1253a. W. D. Ross tr., 1942. Polis is translated as 'State' by Ross. In other contexts than this it is rendered as city-state.
[41] Marx, *Grundrisse*, p. 6 (Eng. tr., *Critique* of 1859, Introduction, p. 268).
[42] Marx, *Kapital*, op. cit., v. 1, pp. 290-291. See also p. 142. (Eng. tr., pp. 200, 358).
[43] Aristotle, op. cit., Book I, 1-3 passim. The family and the village are prior in time to the polis; ibid., 1252b. Once established the polis is prior to the family and the individual as the whole is prior to the parts; ibid., p. 1253 a. Thus the chronological and the logical conditions of the relation between family, society and the State are distinguished by Aristotle, the polis being the final cause of society: "And therefore, if the earlier forms of society are natural, so is the state, for it is the end of them, and the nature of a thing is its end. For what each thing is when fully developed, we call its nature...." Ibid., 1252b.
[44] Cf. note 4.
[45] *Ökonomisch-Philosophische Manuskripte*, MEGA, v. I, pt. 3, pp. 88-89.
[46] MEW 3, pp. 20-21.
[47] L. Krader, Critique dialectique de la nature de la nature humaine. *L'Homme et la Société*, no. 10, 1968, pp. 21-38. Further references cited therein.
[48] Morgan, ibid., p. 265.
[49] Ibid., p. 276.
[50] Ibid., preface and p. 6.
[51] *Kapital*, v. I, op. cit., p. 354 (Eng., p. 426). Roman Rosdolsky, *Zur Entstehungsgeschichte des Marxschen 'Kapital'*, 2nd ed., 1969, v. 1, p. 147, has called attention to Morgan's thought: domesticated animals were a possession of greater value than all earlier forms of property taken together. (See Marx, Morgan excerpts, p. 26; Morgan op. cit., p. 553.) Marx added to this the factors of landownership and slaves. Maine, *Lectures*, op. cit., p. 168, suggested that it is not land as such in ancient times but land worked by capital (cattle in his etymology) that gave it

value: 'ownership of the instruments of tillage other than the land itself was a power of the first order.' The stock was generally obtained by plunder (ib., p. 169). (See Marx, Maine excerpts, p. 171.) Marx did not object to the accounting for accumulation of stock-capital by plunder by Maine; he objected rather to Kovalevsky's accounting for settlement on land as an act of plunder (see note 16). Kovalevsky assumed that a group of kinsmen, on separating from the main body, conquered a foreign territory for its new settlement. This is rarely the case, according to Maine; Marx concurred in this.

[52] Morgan, ibid., pp. 126, 256, 259, 282.

[53] Ibid., p. 316.

[54] Ibid , p. 293.

[55] Ibid., p. 363. Cf. Morgan, ib., p. 477: "... the family could not enter entire into the gens, because husband and wife were necessarily of different gentes."

[56] Ibid., p. 402.

[57] Marx, *Grundrisse*, op. cit., p. 390 et seq.

[58] Sir John Budd Phear. *The Aryan Village in India and Ceylon.* 1880.
Introduction, pp. ix-lvi.
Modern Village Life in Bengal.[a] pp. 3-169. (Marx, ms. notes, pp. 129-146 middle.)
The Agricultural Community in Ceylon. pp. 173-229. (Marx: The Agricultural Economy in Ceylon, ms. notes pp. 146-153.)
Evolution of the Indo-Aryan Social and Land System. pp. 233-272. (Marx, ms. notes, pp. 153-155.)
Appendix. Note A. pp. 275-284. To Phear, p. 24.[b]
Note B. pp. 285-286. To Phear, p. 53.[c]
Glossary. pp. 289-295.
The importance that Marx attached to the study of the Indian village community can be judged from the number of times it is discussed in *Kapital*: v. 1, pt. 1, ch. 1 and 2; pt. 4, ch. 11 and 12 (in these two passages it is discussed at some length); v. 2 in connection with accounts; v. 3, passim in parts 6 and 7.

[59] Phear, op. cit., p. 238.

[60] Ibid., p. 263.

[61] Ibid., p. 155.

[62] Ibid., p. 62.

[63] Ibid., pp. 143, 146 in ref. Sir Henry Sumner Maine, *Village Communities in the East and West*, 1871.

[64] Phear, ibid., p. 271.

[65] H. S. Maine, *Lectures on the Early History of Institutions*, 1875. 412 pp.

[a] Modern Village Life in Bengal. In: *Calcutta Review*. July, October 1874.

[b] Note A. Classification of Ryots. By Baboo Ram Semdar Basack, of Dacca. Eastern Bengal. (Marx, excerpts, p. 143).

[c] Note B. Jama Bandi. Annual Account Book. (Marx, excerpts, p. 134).

Maine organized his book in 13 Lectures:

I. New Materials for the Early History of Institutions, p. 1 (Marx, excerpts, p. 160)
II. The Ancient Irish Law, p. 24 (Marx, excerpts, p. 160)
III. Kinship as the Basis of Society, p. 64 (Marx, excerpts, p. 161)
IV. The Tribe and the Land, p. 98 (Marx, excerpts, p. 162)
V. The Chief and his Order, p. 119 (Marx, excerpts, p. 164)
VI. The Chief and the Land, p. 147 (Marx, excerpts, p. 167)[a]
VII. Ancient Divisions of the Family, p. 185 (Marx, excerpts, p. 175)
VIII. The Growth and Diffusion of Primitive Ideas, p. 225 (Marx, excerpts, p. 180)
IX. The Primitive Forms of Legal Remedies I, p. 250 (Marx, excerpts, p. 181)[b]
X. The Primitive Forms etc. II, p. 279 (Marx, excerpts, p. 184)
XI. The Early History of the Settled Property of Married Women, p. 306 (Marx, excerpts, p. 186)[c]
XII. Sovereignty, p. 342 (Marx, excerpts, p. 190)
XIII. Sovereignty and Empire, p. 371 (Marx, excerpts, p. 193)[c]

66 Maine founded his conception of the early history of the Irish legal institutions in major part on the Senchus Mor, which he attributed, following Whitley Stokes, to the eleventh century, or shortly before (op. cit., p. 12). This dating has since been revised: J. F. Kenney, *The Sources of the Early History of Ireland*, v. 1, 1929, p. 325 n., attributes the Senchus More 'probably' to the eighth century. Cf. also John Cameron, *Celtic Law, The "Senchus Mor" and "The Book of Aicill"*, 1937, p. 35. Here authorities are further cited to support the attribution to the eighth century of the Senchus Mor. Bibliographic work in this connection was done by Miss B. A. Bailey, to whom my thanks are due.

67 C. T. Lewis and C. Short, *A Latin Dictionary*. 1st ed. 1879. Cp. Advertisement. Samuel Johnson, *A Dictionary of the English Language*. 1st ed. 2 v. 1735. Martin Haverty, *The History of Ireland, from the earliest period to the present time*.... New York 1867. Sir Thomas A. L. Strange, *Elements of Hindu Law*, 2 v., 1825. 2nd ed., *Hindu Law*, 2 v. 1830.

68 Maine, *Lectures*, p. 200.

69 Edmund Spenser, A view of the state of Ireland, 1596. Sir John Davies (see Maine excerpts, note 1), A discoverie of the trve cavses why Ireland was neuer entirely subdued, nor brought under the obedience

a Marx reduced the first five chapters to $7^1/_2$ pages of his manuscript. Long passages from Haverty inserted by Marx, excerpts, pp. 173ff; Maine Lecture VI.

b Includes Marx's own references to Latin legal terminology, perhaps from Lewis and Short, Latin Dictionary, and from Johnson's English Dictionary.

c Lecture XI referred to by title in Marx excerpts.
Lectures VI and VII and the last three lectures were subjected to Marx's particular attention in the form of extensive excerption and critique.

of the Crowne of England, vntill the beginning of His Maiesties happie raigne. 1612.

[70] Maine, ibid., p. 382.

[71] K. A. Wittfogel, *Oriental Despotism*, 1957. E. C. Welskopf, *Die Produktionsverhältnisse im alten Orient und in der Griechisch-Römischen Antike*, 1957. E. R. Leach, Hydraulic Society in Ceylon. *Past and Present*, no. 15, 1959, pp. 2-26. E. J. Hobsbawm, Introduction to Karl Marx, *Pre-Capitalist Economic Formations*, 1964, pp. 9-65. J. Pečirka, J. Chesneaux, *Eirene*, v. 3, 1964, pp. 131-169; P. Skalnik and T. Pokora, ibid., v. 5, 1966, pp. 179-187; J. Pečirka, ib., v. 6, 1967, pp. 141-174. F. Tökei, *Sur le mode de production asiatique*, 1966. Y. Varga, The Asiatic mode of production, in: *Economic Problems of Capitalism*, 1966. *Recherches Internationales*: *Premières sociétés de classe et mode de production asiatique*. no. 57-58, 1967. L. Krader, *Peoples of Central Asia*, 3rd ed., 1971, Foreword. M. Godelier, *La notion de 'mode de production asiatique'*, s.d. D. Thorner, Marx on India and the Asiatic Mode of Production. *Contributions to Indian Sociology*. No. 9, 1966. pp. 33-66.

[72] Maine, op. cit., pp. 358-359.

[73] *Kapital*, op. cit., v. 1, p. 329, (Eng. tr., p. 399) and ref. G. W. F. Hegel, *Grundlinien der Philosophie des Rechts*, 1821, para. 187, Zusatz.

[74] Maine, op. cit., p. 359.

[75] Ibid., p. 245.

[76] Ibid., pp. 196-197.

[77] MEGA v. I, pt. 3, p. 86 (ms. XXIII end).

[78] Ibid., p. 111.

[79] Ibid., p. 206. Marx, *Capital*, takes up the fetishism of labor-time, likewise the subdivision of the human being in the workday and in the process of production; the analysis has the same problematics in view, but these are divided into their effective parts. In the ethnological notebooks the grasp of the problem is related to that found in *The Holy Family*, *The German Ideology*, the *Economic-Philosophical Manuscripts*, and even earlier, in the *Critique of the Hegelian Philosophy of Right*; on the other hand, the condition of civilized man was contrasted to that of primitive man, the process of transition from one to the other was posited, and the perspective of the primitive community was applied to the critique of the State in the later mss. The critique of the contemporary communal life had been briefly taken up in the Introduction to the *Grundrisse* and in *Capital*; also cf. the critique of the primitive condition of man, implicit in the drafts of the letter to Zasulich (see Addendum I). We note the relation of his writings on the topics of primitivity, community, civilization, together with the contexts in which the expressions appeared, the stages in his development in which they were set down, the disposition to them of the author, and the service in which they were applied.

[80] Niccolo Machiavelli, History of Florence, (cf. Marx-Engels, *Selected Correspondence*, 2nd ed., 1965, p. 97: Marx, letter of Sept. 25, 1857) or

id., Discourses on the First Ten Books of Titus Livius (cf. *Chronik*, op. cit., p. 19). Simon Nicolas Henri Linguet, *Théorie des loix civiles*, 2 v. 1767. Linguet is cited in all three volumes of *Kapital* and on several occasions in each; cf. *Kapital*, v. 1, ch. 23 (= ch. 25 of Eng. tr.) sect. 1, Linguet's phrase, "L'esprit des lois, c'est la propriété."

[81] Morgan, op. cit., p. 233 and p. 514.

[82] H. S. Maine, *Dissertations on Early Law and Custom*, New York, 1886, ch. VII, and Note A to ch. VIII. In the latter he accused Morgan of applying the name gens indifferently to descent in the male and female lines, but did not develop his own position in regard to the family-gens question. Maine accepted the terminology of developmental stages (savagery-barbarism-civilization) and the theory of the promiscuous horde (p. 287). He opened up a different discussion by asserting that the male line did not succeed the female line, or vice versa, "... but the two co-existed from all time, and were always distinct from one another." (l.c.) This view is as little susceptible to proof of universality as Morgan's view. Chiefs under the Tanaist rule were elected, according to Maine, but the elections were not free, the tribe "... generally choosing a successor before the chief dies, and almost invariably electing his brother or nearest mature male relative." (op. cit., p. 145.) In the same book Maine defined Tanistry as the rule whereby the eldest male kinsman succeeds (p. 137), which differs from what he wrote in the previously cited passage, moving further away from the idea of pure democracy. The idealized representation of primitive democracy to which L. H. Morgan was devoted related to the Iroquois election, which was assigned in Morgan's schema to a lower status of barbarism than the Irish.

[83] Sir John Lubbock [Lord Avebury], The Origin of Civilisation and the Primitive Condition of Man. Mental and Social Conditions of Savages. London, 1870.

Marx took 2 $^1/_3$ pp. of notes from L.'s chapter on Marriage and Relationship, 4 pp. from the 3 chapters on religion, $1^1/_2$ pp. from the chapter on Laws. He passed over the chapters on arts, morals and

language. Lubbock as a youth came under Darwin's tutelage. See R. J. Pumphrey, *Science*, v. 129, 1959, pp. 1087-1092. Ryazanov, Novye Dannye, op. cit., p. 368, (Neueste Mitteilungen über den literarischen Nachlass von Karl Marx und Friedrich Engels, *Archiv für die Geschichte des Sozialismus und der Arbeiterbewegnug*, v. 11, 1925, p. 399) wrote with especial bearing on these excerpts: "Marx preserved this methodical and systematic way in his work to the end of his life. If in or around 1881-1882 (k 81-82 godu) he lost the ability for intensive independent mental creativity, yet he never lost the ability for research." In order to clear up any ambiguity that may be residual in Ryazanov's text, we will relate the chronology set forth in his comment to the corpus of Marx's manuscript materials on ethnology. The excerpt notebooks of 1880-1881, containing the Morgan, Phear, Maine materials are thus set on one side, the Lubbock notes of late 1882, hence some four months before Marx's death, on the other. The time period 'around' or 'towards 1881-1882' is not a meaningful one. Examination of the content of the notebooks filled in 1880-1881 reveal that Marx was in full mental vigor; the question of impairment of Marx's faculties at this time is not to be raised. All those, as Kautsky, Kovalevsky and Hyndman, who visited Marx during 1880 and 1881 have left behind correspondence and memoirs that testify to this (on Kovalevsky see note 13, on Hyndman, note 165). Ryazanov's comment has a bearing possibly on the Lubbock materials; yet here, Marx's critical capacity and ability to link up the most far-ranging allusions, as in the Cervantes quotation (q.v.), and with reference to Shakespeare's Merchant of Venice (Lubbock excerts, p. 8), were undiminished. The comparison of the Morgan-Phear-Maine corpus with the Lubbock materials indicates, by the brevity of the latter in general and of his own positions in particular, that his physical endurance was lessened in the months before his death.

The works of Morgan, Phear and Maine were all published between 1875 and 1880, after the work of Lubbock. Marx followed the development of the theoretical constructions and apparatus of the empirical science of ethnology then in the process of development: the gens in relation to the family and tribe, and the like developments in regard to property ownership, community organization, justice and the law. Engels perceived these matters within the categories of Marx. The relation of the social class of the individual in society in the period of dissolution of the gentile institutions, the objectivity in relation to subjectivity of social interest, and the critique of the historical and cultural bondage of the romanticist and Victorian conceptions of society as an organicism fell outside his scope. On the other hand, Engels was alive to the successive accumulation of ethnological data, and its impact on the development both of particular interpretation and of general theory in the newly forming

science. Cf. Engels' evaluations in this connection of Alexis Giraud-Teulon, *Origines de la famille*, and Lubbock's *Origin of Civilisation*, in relation to McLennan and Morgan (Engels, *Origin of the Family*, op. cit., pp. 15, 17), as well as the first sentence of that work, in reference to Morgan. He pointed out the new materials, collected since Morgan had published his work, and how this influenced theoretical work, in his Prefaces.

[84] See Addendum 1 and note 15.

[85] Lubbock, op. cit., p. 105.

[86] Marx had read Don Quixote in 1854 while learning Spanish. Cf. *Chronik*, op. cit., p. 146.

[87] Morgan, op. cit., p. 511. Engels, op. cit., pp. 58-59; cf. also ibid., pp. 8, 26 n., 45-46.

[88] Lubbock, op. cit., p. 72.

[89] Marx, in re Darwin, cf. notes 1 and 157 of this Introduction. Marx, Randglossen zu A. Wagners 'Lehrbuch' etc. MEW 19, pp. 362 et seq. Hegel distinguished between organicism and entelechy, in which he followed Aristotle. And in this he anticipated the point justly made by W. Jaeger, *Aristotle*, 1962, p. 384, in which it is shown that a biological interpretation of Aristotle's entelechy is a 'vicious modernization'.

Hegel, moreover, considered that the understanding of a development can only be achieved when it is over: the owl of Minerva flies at dusk (*Philosophie des Rechts*, Vorrede); the philosopher comes after the festival is over: our knowledge is of the past, we cannot know the form of the future. As to form of foreknowledge Marx was at one with Hegel, opposing determinism or fatalism of the future: see the drafts of the letter to Vera Zasulich in this connection.

Determinism as foreknowledge has been called historicism by Karl Popper, and has been imputed to Hegel and Marx conjointly by him; this is the extension of the meaning of the term historicism, which has as its root conception the specificity of a historical phenomenon within its context, the epoch, etc. It is a relative or derivative of the older idea of Zeitgeist, to which Popper added the idea of the historical emergence of one thing out of another; to this process he attributed a necessary development as a unique determination in history; whereupon he imposed the whole amalgam on Hegel and Marx. Failure to make the distinctions indicated above has led to distortion of their views; Popper was preceded in this interpretation by Ernst Troeltsch, *Der Historismus und seine Probleme*, 1922. (See Karl Popper, *The Open Society and its Enemies*, 2 v. 4th ed., 1962; see also his *Poverty of Historicism*, 1961.) Others have shown better than I that Popper achieved such a position by equal attribution of misinterpretations of Hegel and Marx, and by suppression and interested selection of texts. (Walter Kaufmann, *From Shakespeare to Existentialism*, 1960, p. 100.)

[90] Morgan, op. cit., pp. 68, 88, 90, 104, 123, 152, 221, 237, 278 (territory), 287 (polity).
[91] Ibid., pp. 88, 177, 246, 287, 313 and passim.
[92] Ibid., pp. 246, 266.
[93] Ibid., p. 240.
[94] Ibid., p. 249.
[95] Ibid., p. 281.
[96] Ibid., p. 444.
[97] Engels, *Origin*, op. cit., pp. 27f.
[98] Morgan, op. cit., p. 92: assumed.
[99] Otto Gierke, *Das Deutsche Genossenschaftsrecht*. 4 v., 1868-1913.
[100] Joseph Needham, *The Sceptical Biologist*, 1929. See also id., A Biologist's View of Whitehead's Philosophy. *The Philosophy of A. N. Whitehead*. P. Schilpp, ed. 1941, pp. 247-248.
[101] R. H. Lowie, *Primitive Society*, 1947, pp. 257, 338, 390.
[102] Fenton in *Ethnology*, op. cit. Morgan based his conception of politically organized society upon territory and property; the organization of society upon relations purely personal preceded the political organization in time. (*Ancient Society*, p. 6.) Morgan's theoretical framework possibly prevented his exploration of territorial groupings in other than the political and civilized context.
[103] R. M. MacIver, *The Modern State*, 1926; cf. also id., *Community*, 1936. R. H. Lowie, *Origin of the State*, 1927.
[104] F. W. Maitland, translating Otto Gierke, *Political Theories of the Middle Age*, 1900, and Ernest Barker, translating Gierke, *Natural Law and the Theory of Society*, 1950, rendered Genossenschaft as 'association', obscuring the developmental conception of Gierke, in which they followed a usage of Gierke himself. (Gierke, *Genossenschaftsrecht*, I §1.) But Gierke, op. cit., p. 5, made a distinction: "Das Recht der deutschen Genossenschaft, nicht das Recht der deutschen Association überhaupt, soll zur Behandlung kommen. Unter 'Genossenschaft' im engsten und technischen Sinne wird ... jede auf freier Vereinigung beruhende deutschrechtliche Körperschaft, das heisst ein Verein mit selbständiger Rechtspersönlichkeit, verstanden." In the wider sense, the communities and the State fall within the concept of Genossenschaft. They also mean according to Gierke something more: in the early history of Germany, State and community have come partly out of raising the power (Potenzirung) of the Genossenschaft idea, partly out of raising the power of its opposite. They have preserved Genossenschaft elements in different degrees according to the temporal direction and developed these. State and community, in a double relation, in regard to their genesis as well as their structure fall within the representation of the Genossenschaft. This is a dialectic that is reduced to a system of mere temporal juxtapositions, but it is a dialectic nonetheless, wherein a development by negation and articulation of oppositions is, however unclearly, set forth. Both

Morgan and Gierke, according to the respective system of each, attempted by usages that had an inherent etymological connection, to make conscious the relation of political society to its antecedent. Community was conceived by Johann Althaus (Althusius) both in the sense here maintained and as the germ of political society, capable of development into a pyramidal organization with a center external to any given community. The pyramidal integration here is conceived as real but internally contradictory, as a relation of parts at once discrete and centrifugal; as they are in one sense discrete they may form separate groups, but once having been integrated, the kind of economic and social conditions of existence implied thereby makes it impossible to conceive that they could revert to an isolated existence again. On the political side a state of mutual tension between alternate centers of power in the process of State formation is to be seen. Cf. D. Westermann, *Die Kpelle*, 1921; here an unresolved conflict in the traditional Kpelle society between the royal throne and the religious societies is described. K. Oberg (in M. Fortes and E. Evans Pritchard, *African Political Systems*, 1940) has described an unresolved state of conflict between the royal house of Ankole polity, and the border chiefs, as well as within the royal house. Cf. Lowie, *Origin of the State*; L. Krader, *Formation of the State*, 1968.

105 "Morgan's supreme vice was to leap indiscriminately from what was effectively synchronic observation to pseudo-historical deduction. But his scrupulous regard for the facts observed, coupled with his logical naiveté, make it quite easy to separate the one from the other." Meyer Fortes, *Kinship and the Social Order. The Legacy of Lewis Henry Morgan*, 1969, p. 15. Fortes overstates his case. The chronological sequence from *societas* to *civitas* as a generalization is not at issue although some subordinate theses of Morgan have since been set aside as unsupported reconstructions.

106 M. E. Opler in *Current Anthropology*, v. 3, 1962, p. 478.

107 Fortes, op. cit., p. 14.

108 Ibid., pp. 219-220.

109 *Kapital*, op. cit., v. 1, pp. 140-141 (Eng. tr., pp. 198-199).

110 Phear, op. cit., pp. 65ff.

111 Marx twice quoted Tacitus, Germania, ch. 7 (Morgan excerpts, pp. 72 and 98), on the composition of the smaller army units of the ancient Germans: It is not a fortuitous agglomeration that makes up the mounted squadron or the wedge of infantry, but *familiae* and *propinquitates*. Marx commented that the familia is taken up here, but that in Caesar this is determined to be the gens (ms. p. 98). *Propinquitas* in Lewis and Short, *Latin Dictionary*, op. cit., is rendered 'nearness, vicinity, proximity, propinquity' in the classical language, in which Caesar and Cicero are cited; then, 'relationship, affinity, propinquity', and 'intimacy, friendship'. We infer that Marx had recourse either to Lewis and Short or to its forerunners (cf. Maine

excerpts, pp. 180-181). The social relations of the ancient Germans, whether for military, civil, economic, or other purposes were founded on the *familia*, or rather the gens, and on *propinquitas*. The bond of kinship is covered by the reference to gens; *propinquitas* as a social institution is plainly of the communal type, in which people are closely bound to one another either by reason of kinship or neighborhood, wherefore they are joined in the squadrons and troops. *Propinquitas* is here conceived to be a concrete communal institution, like the family/gens, not an abstract principle of social relationship. Aside from what we learn of Marx's inner thought processes in this connection, the historical course of the denotation of *propinquus* has been more recently given as primarily 'proximate, nearby,' secondarily 'kin' (Walde-Hofmann, *Lat. Etym. Wörterbuch*, v. II, 1954, p. 372). The communal institutions of ancient German life, in which the lesser army formations were included, were in Marx's view the gens, the family, possibly the group of neighbors insofar as they were not already comprised in the kin groups, or else nearby kinsmen as opposed to kinsmen who were more distantly located. Marx differentiated the army from the squadron and the wedge, hence, the official, public formation, from the communal life of the ancient Germans, in which he followed Tacitus. The context of Tacitus' comment emphasizes the intimacy of relations of the smaller formations (cries of the wives and children, etc.), hence the phrase, nec fortuiter conglobatio: The reason for the agglomeration which is not left to chance is that good morale, mutual trust, the incitations of people known to each other, bound by strong and intimate communal bonds, will make for braver, more dependable conduct in war. Marx represented these Germans as transitional from the gentile to the civil system, having aspects of each in their society. See below, Morgan excerpts, n. 189, and Morgan, op. cit., p. 371.

112 Jean Jacques Rousseau, Du Contrat Social, pt. I, 1: "L'homme est né libre, et partout il est dans les fers." Rousseau is evidently both an individualist, and, as C. E. Vaughan has shown, a collectivist. (See note 123.)

113 MEW 1, pp. 78-79. Great play is made with the bird catcher Papageno in Mozart's opera, The Magic Flute. Cf. also Korsch, op. cit., p. 50 n.

114 Hegel, *Philosophie des Rechts*, op. cit., para. 261-262. Marx, Kritik der Hegelschen Rechtsphilosophie. MEW 1, pp. 203-207. Hegel expressed the antithesis to this relation of the State and civil society, ib., para. 527: "Wo bürgerliche Gesellschaft und damit Staat vorhanden ist, treten die Stände in ihrem Unterschiede ein...." The civil society is here presented as the leading entity, and the State therewith as the subordinate. The Estates in their difference are introduced in relation to the civil society. The conception is not historical; within the civil society, the differentiation into classes is an atemporal development. Marx introduced the differentiation into

social classes as a historical development, the State as the development of the class-divided society, the development from Hegel as an opposition.

115 Marx, op. cit., MEW 1, pp. 303-304.

116 MEW 3, p. 29.

117 Hegel, para. 261.

118 Hegel, para. 261-262, 257.

119 Marx, *Kritik der Hegelschen Staatsrecht*. MEW 1, pp. 244 et seq. (Hegel, *Philosophie des Rechts*, para. 291, 292). Engels and Marx, *Die Heilige Familie*, MEW 2, pp. 127-131 (State and Civil Society). Marx and Engels, *Die Deutsche Ideologie*, MEW 3, pp. 33f. (State and interests), p. 36 (civil society), p. 37 ('society as subject').

120 Engels, op. cit., p. 97 (accumulation of property); p. 161 (greed). Cf. MEW 21, pp. 106, 171.

121 Hegel, op. cit., para. 258.

122 Cf. Adam Smith, *The Wealth of Nations*, 1937, p. 435, in reference to his opinion of statesmen or politicians.

123 Cf. Rousseau, *Discours sur l'Inégalité*, pt. II, incipit (C. E. Vaughan ed., v. 1, pp. 169 et seq.); *Contrat Social*, v. I (first version), v. II (final version). In the fragment by Rousseau, *L'Etat de Guerre* (Vaughan, v. 1, pp. 293 et seq.), the individual is conceived as being logically and historically prior to the society. It is not clear that this view is held consistently by Rousseau. Montesquieu, *Esprit des Lois*, Book I, 2, enumerated four laws of nature, of which the first is peace, the opposite of Hobbes' state of war; the next two are biologically imposed, the quest for nourishment and sexual attraction; the fourth is of concern to us: it is the law of nature which results from the desire to live in society. Montesquieu did not think through his position with consistency, for in Book I, 1 he had already written that man is formed to live in society, but might be forgetful of this formation, for which reason 'legislators, by political and civil laws, have constrained him to his duty.' These sentiments are more sensitive to man's relation to society than those of his immediate predecessors and contemporaries.

124 K. S. Aksakov as well as F. I. Leontovich. Cf. B. D. Grekov, *Krestyane na Rusi*, 1946, pp. 59 et seq.

125 G. L. v. Maurer, *Einleitung zur Geschichte der Mark-*, etc., *Verfassung*, 1854; *Geschichte der Markenverfassung*, 1856; *Geschichte der Fronhöfe*, etc., 1862-1863; *Geschichte der Dorfverfassung*, 1865-1866. H. S. Maine, *Ancient Law*, 1861; *Lectures on the Early History of Institutions*, op. cit., 1874; *Early Law and Custom*, op. cit., 1886. Otto Gierke, *Das Deutsche Genossenschaftsrecht*, op. cit. Morgan, *Ancient Society*, op. cit. Kovalevsky, *Obshchinnoe Zemlevladenie*, op. cit.; id., *Tableau des Origines*, op. cit., id., *Modern Customs and Ancient Laws of Russia*, 1891. E. B. Tylor, *Anthropology*, 2 v., 1881 (cf. v. 2, 1930 ed., p. 145). Emile Laveleye, Les formes primitives de la propriété (*Revue des Deux Mon-*

des, 1872); id., *De la propriété et de ses formes primitives*, 1874. Henry George, *Progress and Poverty*, 1879. Paul Viollet, Le caractère collectif des premières propriétés immobilières (*Bibliothèque de l'Ecole des Chartes*, v. 33, 1872). Karl Bücher, *Die Entstehung der Volkswirtschaft*, 1893.

Max Weber, *Wirtschaft und Gesellschaft. Grundriss der verstehenden Soziologie*, (1922) 1964, v. 1. Part 2, ch. 3 treats of the house-community (Hausgemeinschaft) and its dissolution by internal and external factors, leading to the development of modern trading companies; in this, the theory of the transformation of the community into an association follows that of Gierke.

Others of the collectivists include G. Nasse, L. Felix, L. Hobhouse.

These are all divided as to whether individualism is posited as the final outcome of the development from the collective beginnings, as in the case of Herbert Spencer, T. H. Huxley, Henry Maine; or whether the reign of individualism is temporary, as in the case of Morgan. Yet others are neutral in this matter.

Marx's readings on the subject of the early and historical Slavic community were wide. Some are mentioned in a letter to Engels, of Feb. 29, 1856 (MEGA, pt. III, v. 2, pp. 112-113, 115). Cf. also *Chronik*, op. cit., pp. 409-439. Here the works of I. D. Belyaev, A. Engelhardt, A. v. Haxthausen, M. Kovalevsky, V. Semevsky, V. I. Sergeevich, A. Skrebitsky, P. Sokolovsky, on Russian agrarian history and the peasant commune; F. Demelić (who rendered V. Bogišić into French) and O. M. Utiešenović-Ostrožinski on the peasant communes of the South Slavs; L. Mieroslawski on the history of the Polish peasant communes; C. A. Van Enschut, G. Hanssen and G. L. Maurer on the Germanic peoples.

126 L. Stein, *Die soziale Frage im Lichte der Philosophie*, 1897. F. Toennies, *Gemeinschaft und Gesellschaft*, 1887. Leo Frobenius, Der Ursprung der Afrikanischen Kulturen, *Zeitschrift für Ethnologie*, 1898; id. *Paideuma*, 1921. Henri Bergson, *Les Deux Sources de la Morale et de la Religion*, 1932. A. L. Kroeber, The Superorganic, *American Anthropologist*, v. 19, 1917, pp. 163-213.

127 A. A. Kaufman, *Russkaya Obshchina*, 1908. A. Chuprov, *Die Feldgemeinschaft*, 1902. K. Kachorovsky, *Russkaya Obshchina*, 1900. V. Simkhovich, *Die Feldgemeinschaft in Russland*, 1898. Cf. also, A. v. Miaskowski, *Die schweizerische Allmend*, 1879. J. v. Keussler, *Zur Geschichte und Kritik des bäuerlichen Gemeindebesitzes in Russland*, 1876-1887. The literature on this subject is vast. Further bibliography in: J. S. Lewiński, *The Origin of Property*, 1913; M. O. Kosven, *Semeynaya Obshchina i Patronimiya*, 1963; L. Krader, Recent Studies of the Russian Peasant, *American Anthropologist*, v. 58, 1956, pp. 716-720; id. Anthropology, in: *Basic Russian Publications*, P. L. Horecky, ed., 1962, pp. 49-58.

128 K. Kautsky, *Die Neue Zeit*, v. 3, 1885. Paul Lafargue, *La Propriété*,

Origine et Evolution, 1895. Cf. Heinrich Cunow, *Die Marxsche Geschichts-, Gesellschafts- und Staatstheorie*. 2 v., 1920-1921. Id. Einleitendes Vorwort (1896) to G. L. Maurer, *Einleitung zur Geschichte der Mark- etc. Verfassung* (1858), 1965, p. 345: Maurer exaggerated the extent of the Mark, holding that the medieval and ancient Mark were the same; according to Cunow, the work of L. H. Morgan on the gens showed the difference between the ancient and medieval (including the recent) Mark; Morgan's work was applied to early German history by K. Lamprecht. According to Cunow, the position of Engels (see Introduction, section on Relation of Engels to Marx and Morgan) in his work on the Mark was founded on Maurer, but did not take later work into account, for Engels did not distinguish the ancient from the medieval Mark. (MEW 19, pp. 317ff., esp. p. 319.)

Cunow, op. cit., p. 355, cited Kovalevsky, *Tableau des Origines*, op. cit., regarding the hypothesis that the Germanic villages arose out of earlier communities, wherein population increase was the active factor. Morgan had already written of the increase of the accumulation of property, etc., which both Marx and Engels took to be the factor in the decline of the early community, and not population increase. Marx, in the Einleitung (sect. 3, Methode) to the *Grundrisse* considered the idea of commencing with population to be a chaotic one, but this position of Marx was not known at the time that Cunow wrote.

129 B. H. Baden-Powell, *The Indian Village Community*, 1896, ch. 1 and 10.

130 R. v. Pöhlmann, *Geschichte der sozialen Frage und des Sozialismus in der antiken Welt*, 1912. Friedrich Ratzel, *Politische Geographie*, 1897. R. Hildebrand, *Recht und Sitte auf den verschiedenen ... Kulturstufen*, 1896. Heinrich Schurtz, Die Anfänge des Landbesitztes. *Zeitschrift für Sozialwissenschaft*, 1900. Cf. E. R. A. Seligman, *The Economic Interpretation of History*, 1902, ch. 6. (Here the role of Pöhlmann is not reported with preciseness.) Schurtz was Ratzel's disciple. R. H. Lowie followed Schurtz in his opposition to Morgan, taking the institutions of men's clubs and age-grade societies as proof of association among primitives other than that based on kindship (Lowie, *Origin of the State*, op. cit.).

131 M. O. Kosven, op. cit., published a survey of the problem of the family community (zadruga) and the patronymic group, with a good review of the literature, and a useful setting of the problem; by separating the question of the family community from that of the primitive community in general he made an important distinction. But the late Kosven, a man of great learning, went perhaps too far in tracing the early history of the (European) family, having written: "We consider that the original connection between this term familia and the concept of a house (zhilishche) is in all likelihood completely improbable, more precisely, outdated, going back to Festus' explanation of familia from famulus (slave) as it were because the great

family consisted of and hence had its name in complete independence of the existence of slavery. The reverse is much more likely: the origin of the word famulus from familia, just as Russian chelyadin from chelyad'." (Kosven, p. 47 n.) To this it must be counterposed: 1) Famulus is an institutional relation of (early) civilized society, therefore one cannot think of an original connection, but only of an advanced, even if only moderately so. The distinction between the two types of family, without and with slaves, and of two types of society correspondingly, is necessary in order to comprehend this problem in the first place. It will be muddled, if the distinction between family and society is not maintained throughout. The form of the Roman familia was developed only because in the society the famulus had been developed. 2) Kosven has attempted to argue from a putative etymology to a history of institutions, which is a most unreliable method of argument. 3) Kosven's etymology is itself shaky: Festus is borne out by Ernout and Meillet, *Dict. Etymologique de la Langue Latine*, 1959, and by Walde-Hofmann, *Latein. Etymolog. Wörterbuch*, 3rd ed., v. 1, 1938. Cf. also Morgan, op. cit., pp. 447f. regarding familia; see also below, Marx, Morgan excerpts, note 255. The relation of family and house is more complex; see following note.

132 E. Benveniste, *Le Vocabulaire des Institutions Indo-Européennes*, 1969, v. 1, p. 307. *Dem- ('domicile,' Russian dom 'id.' are cognates) and *woiko- (Latin vicus, Old Slavic vĭsĭ, Gothic weihs) are fractions of the social whole, respectively the family and families grouped in a community (p. 308). Benveniste belongs to the collectivists: The Indo-European family in the ancient period is characterized as the great or extended family, where children after marriage continue to live: at this stage there is no individual property, no inheritance, for the family land remains undivided. This is described by Benveniste as the descent group; he writes separately (p. 309) of Greek génos, Latin gens. Then descent is replaced by habitat, and the new social division is based upon territory (l.c.): the Achaians now live in the pólis, or urban commune, and the kōinē. Benveniste further writes that Aristotle, at the beginning of his Politics codified a situation already established when he characterized the elements of the society taken as a 'community'; the most archaic form of this community in Aristotle is that of husband and wife, at the same time of master and slave. This, according to Benveniste, is also the notion of the Roman family, (which figures in Festus). The broad outline of Benveniste's representation accords well with that which Marx drew from Morgan, with the addition by Marx of the comment on the agricultural, slave-owning family of antiquity. Benveniste's researches relate to a period which long antedated the time of Caesar and Tacitus; the same is true of the commentary of Festus, and all discussion of the prehistoric and protohistoric collectivities of the Germanic and Roman peoples should bear this relative chronology in mind. The failure to do so has

beclouded the writings on both sides. J. Kulischer, *Allgemeine Wirtschaftsgeschichte*, 2 v., 1928 (repr. 1958) defended the theory of communal landownership among European peoples of the protohistoric and early historic periods in the form of the Markgenossenschaft. Alfons Dopsch, *Wirtschaftliche und Soziale Grundlagen der Europäischen Kulturentwicklung*, 2 v. 1923-1924, had been controverted by Kulischer, but the English translation of Dopsch, *The Economic and Social Foundations of European Civilization*, 1937, published under his supervision, contracted the 'theoretical' part of the work and did not answer him. R. Koebner in ch. 1 of the *Cambridge Economic History of Europe*, M. Postan, ed., (1941) 1966, set forth the facts pertaining to Tacitus in his relation to Caesar, and defending the individualistic side against the collectivists. Koebner affirmed that the Germans acquired land by conquest, held it collectively until it was divided individually according to higher or lower degree, held in perpetuity. The land thereafter, according to Koebner, was held by the ancient Germans privately in perpetuity. The mode of Koebner's presentation is therefore a mixture of the collectivist and the individualist approach in regard to the interpretation of the passage of Tacitus in question, but it implies not an individualist past but a collectivist one; this is not antipathetic to the viewpoint of Kulischer, nor, once the polemic is stripped away, that of Dopsch (see following note). Yet it is opposed to the viewpoint of Fustel de Coulanges.

The factor of conquest introduced by Koebner in reference to acquisition of land by the collectivity is not supported by the passage taken from Tacitus. J. E. Thorold Rogers, *Agriculture and Prices in England*... 7 vols., 1866-1902, had made out a case for the plentifulness of land in the Middle Ages in Europe. This was interpreted by Maine, *Lectures*, op. cit., pp. 141-142 and 150, to apply to the Roman period as well. For this reason, not land but capital = cattle was the chief necessity, wherefore conquest of spoil was not in land but in cattle; until the propositions of these two are overcome, land cannot be taken as the sole or even chief object of conquest, contrary to Koebner. Marx concurred in the view which was advanced by Thorold Rogers and Maine (Marx, Maine excerpts, pp. 167-168); he rejected Kovalevsky's unqualified introduction of the factor of conquest as well, for he wrote, "That the community of kin necessarily settles on foreign, conquered territory is an arbitrary assumption of Kovalevsky." (See above, note 16.) It is the generally held opinion of the modern writers that by the time of Tacitus the continental Germanic peoples had moved away from a collectivist past; the implication is that in the earlier antiquity, or protohistoric period, they had been collectivist in their undertakings (property-sharing, movement, settlement, etc.) C. Stephenson had grasped only the individualist end of this line of thought, following Dopsch's line in this connection (The Common Man in Early Medieval Europe, *American Historical Review*,

v. 51, 1946). The equation of common man with Tacitus' German is a topicality of the time of Henry Wallace, which is controverted by Koebner: "The typical German of the Germania belongs to the substantial landowner class." (op. cit., p. 14.) The controversy has been marred by failure to meet issues on both sides: see following note, and Morgan excerpts, note 255.

133 N. D. Fustel de Coulanges, *Questions historiques*, 1893. *Recherches sur quelques problèmes d'histoire*, 1885. E. Durkheim, *Année Sociologique*, v. 11, 1906-1909, pp. 343-347. Cf. E. Durkheim, *Division of Social Labor*, 1933, p. 179. Fustel de Coulanges was answered by Laveleye, *De la Propriété*, op. cit., ed. 1890, preface. Laveleye argued that the ancient Germans had a system of annual repartition, which pointed to a principle of common ownership; Dopsch as well as Fustel set this line on one side. But Dopsch, op. cit., 1923, p. 67, wrote, "Nicht einzelne, wie die römischen Grundherren, eignen sich die 'agri' an, sondern alle haben daran teil." This is consonant with Laveleye's position and Kulischer's. See Marx, Morgan excerpts, p. 98, quoting Tacitus, Germania, c. 26. Tacitus did not report the primitive Germanic condition; he wrote a century and a half after Caesar, when the Germans had been long in contact with the civilizations of the Mediterranean, and if they still preserved traces of communal property ownership, these were acculturated by the contact. It is conceivable therefore that those Germans could have had the practice of annual repartition while at the same time dividing unequally, according to worth or social position. The partition of the land *secundum dignationem* is the great point of Fustel de Coulanges and Dopsch, but nothing is proved, nothing disproved thereby. The period of communal ownership in the system of Marx antedated that of the break-up of the collective institutions and the formation of political society; the division of society into the various worths or dignities, as set forth by Tacitus, is evidence that these Germans had formed a divided society, and either had already formed or were in the process of forming a State. Private property in land was developed within the limits set forth.

Dopsch in fact proved too much: Tacitus scored points against Caesar, and moralized about the rich landowners of Rome. We conclude that the objectivity of Tacitus is called into question.

The scientific issue cannot be divorced from the political, which is Marx's point. Durkheim approached the matter in the same way, by making his conclusion and his premisses inseparably and explicitly part of his position: that man is a communal being and his primitive life a collective one was a presupposition in his general philosophy of society. Fustel de Coulanges, Dopsch and Stephenson may or may not have interpreted the ancient texts accurately; they drew inferences from their findings which they supposed were separated from their social philosophies and political ideologies. (Cf. Marx, Maine excerpts,

p. 191, in opposition to separation of politics from science by Austin and Maine.)

Morgan had included a brief passage on the Markgenossenschaft, *Ancient Society*, p. 371, which Marx did not excerpt. Morgan then commented on Tacitus' familia and propinquitas (see Marx, Morgan excerpts, pp. 72 and 98, and note 189). For Maine on the Mark see his *Village Communies East and West*, 1871, Lectures I and III, and on Maurer, ib., Lecture III. See also Maine's *Lectures on the Early History of Institutions*, op. cit., passim, and note 125 above.

134 Petr Kropotkin, *Mutual Aid*, 1902. Bound with: T. H. Huxley, The Struggle for Existence, 1888. Reissued, Ashley Montagu, ed., n.d.

135 Marx, *Kapital*, op. cit. v. I, pp. 45-46 (Eng. p. 91). In the English of Engels-Moore-Aveling-Untermann, the words "In den altasiatischen, antiken usw. Produktionsweisen...." are rendered "In the ancient Asiatic and other ancient modes of production...." Here the 'antike Produktionsweise' is not a general mode, but a specific one: – that of classical antiquity, including Greece, Rome and other related societies of that time, as opposed to the ancient Asiatic mode of production.

136 Ibid., p. 44. The words 'unmittelbar vergesellschaftet' are rendered in the Eng. tr., op. cit., p. 89, as 'directly associated.' In the French tr. of J. Roy, 1872, it is 'association immédiate.' (*Capital*, Fr. tr., v. 1, pt. 1, 1938, p. 94). Marx controlled this translation. Since Marx was writing about the relation of labor to society, it is socialized labor, that is, purposive, productive labor in a particular society, that is in question. The continuity and at the same time discontinuity of the problem of socialization in industrial society can thereby be posed apart from the ideology of the problem, and as its presupposition. Vergesellschaftung is taken up in *Kapital*, v. 1 (ch. 24, Die sogenannte ursprüngliche Akkumulation, section 7, Geschichtliche Tendenz der kapitalistischen Akkumulation = Eng., ch. 32), in which, as socialization, it is the outcome of the capitalist economy; it is the opposite of direct, as in the earlier reference to labor in the primitive or peasant community. (It is 'socialisation' in the French tr. of *Capital*, v. 1, pt. 3, 1939, pp. 224 and 225). Moreover, the relation of the community to the society has now changed. Marx wrote in this section of the historical act of expropriation of property, – social to begin with, – by capitalist production, and the transformation of capitalist property which rests on the conduct of production (Produktionsbetrieb) which is social to begin with, (not vergesellschaftet, but gesellschaftlich) in fact into social property. (Cf. also ib., p. 476; Eng., ib., p. 561.) There are two dialectical moments in this process: the transition from immediate, communal to mediate socialization and the transformation of capitalist property to the property of the society. The production relations are already social, it is their ownership which is at issue, hence this process is separated from the other moments. The relation of the

economic moments to the social-communal are directly socialized, those of capitalist industrial production mediately.

137 L.c., quoting *Kritik*, 1859, op. cit., p. 10 (Eng. tr., p. 29 n). The allusion to the high antiquity of the commune follows a short space after a citation from Maurer, *Einleitung*. Marx, *Kapital*, op. cit., v. 1, p. 38 (Eng. p. 82).

138 Marx, op. cit., v. 3 (3rd German ed.), pt. 1, p. 156. Cf. op. cit. v. 1, p. 54 (Eng., p. 100).

139 Op. cit., v. 1, pp. 44, 316 (Eng. pp. 89, 386). See note 142.

140 Marx, *Critique*, 1859 (see n. 137). *Kapital*, v. 1, op. cit., pp. 44, 54 (pp. 89, 100 of Eng. tr.).

141 MEW 19, 1969: Die Mark, pp. 317-330. (Published as Appendix to *Entwicklung des Sozialismus von der Utopie zur Wissenschaft*, 1882). Zur Urgeschichte der Deutschen, ib. pp. 425-473. Fränkische Zeit, ib. pp. 474-518. Engels here drew a continuum from the ancient Mark to the nineteenth century institution. (See n. 128).

142 *Kapital*, v. 1, op. cit., p. 316. (Eng. tr., v. 1, 1937, p. 386.) The third edition, in which the footnote by Engels appears, is dated November 7, 1883. Hence it is an indication of the stage of thinking which Engels had reached in formulating his own ideas about primitive society and economy, brought out in the following year.

Marx's argument in this part of his work is that the division of labor in primitive society arose from a twofold basis: One, a physiological foundation in relation to production wherein the natural division of labor expands its material by the extension of the size of the community, increase of population, and by inter-tribal conflict. Two, the social division of labor is likewise based on exchange between communities, in the primitive condition of mankind. (Marx, l.c.) Marx here asserted that the division of labor within the family is further developed in that of the tribe; he took no position that the family is further developed into the tribe. Marx's statement regarding the relation between the division of labor in the family and in the tribe is indirectly related to that of the relation of family and tribe. Marx's conclusions in 1881 had gone beyond the view attributed to him by Engels in the footnote of 1883. We infer therefore that Engels studied Marx's ms. notes on Morgan only after this date.

The issue next concerns the principle of the gens in its relation to that of the tribe on the one side and the family on the other. This view of the primitive social organization was the chief difference between Marx's view developed in the *Grundrisse* (cf. pp. 375-378) and in *Capital*. An early position on this matter is found in the part of *The German Ideology* devoted to Feuerbach (this reference is given in Engels, *Origin*, op. cit., p. 58). In the passages cited in the *Grundrisse* Marx was concerned with the community in its relation to landownership on the one side and to the bond of kinship on the other. In Engels' note, the aspect of the blood relationship was taken up; in

Marx's drafts of the Zasulich correspondence the land and land-ownership side was taken up (see Introduction, Addendum I). The consanguineal relation is not all that there is to kinship; Marx dealt with the marriage ties in the *Grundrisse*, p. 375.

143 See notes 14, 144-147.

144 Engels, letter to Kautsky, March 24, 1884. MEW 36, 1967, p. 129. See n. 147.

145 Engels to Bernstein and Kautsky, May 22 and to Kautsky, May 23, 1884. Ibid., pp. 147-148.

146 Engels, *Origin*, p. 162 n. Here Engels wrote, "I originally intended to place the brilliant criticism of civilization of Charles Fourier beside that of Morgan and my own. Unfortunately I have not the time. I will only observe that already in Fourier monogamy and private property in land are the chief characteristics of civilization, and that he calls civilization a war of the rich against the poor. The deep insight is likewise found already in Fourier that in all societies that are defective and split into oppositions, single families (les familles incohérentes) are the economic units." The source of Engels' phrasing and possibly the line of argument to be advanced is indicated in Marx's notes, given above. It is a complex line: First, the relation of the family to society and its State must be separated from the relation of the family to society without the State. The form of the family is likewise a variable. Second, the antagonisms of society and the State are only later broadly developed on the large scale, and the two kinds of antagonisms are therefore separated both in time and in quantity. Third, the family that contains a relation to services for agriculture is an economic unit both of production and of consumption. The single family of civilization includes the family in industrial society, which is a unit of consumption, but scarcely a unit of production. Engels' reference to the single families as economic units should be understood within this framework. The starting point in this discussion of the history of the family in the strict sense is the derivation of the term by Varro, De Significatione Verborum, s. v. familia, from the Oscian, "where the slave is called famel, whence the term for family." This ethnographic notation has withstood the attempt of the grammarians to distinguish between servus and famulus. (A. Ernout, A. Meillet, op. cit., p. 215.) Marx brought out the difference, in reference to India, between urban and rural families and rich and poor. (Maine excerpts, p. 177.) The opposition, which was developed in the period of dissolution of the Greek and Roman gentes, appeared in the oppositions of the modern Orient. The limitation on the perspective of Fourier was posited by Marx. (See above, with reference to Marx's notes on Phear.) (See also Morgan excerpts, below, note 255.)

147 ("... Da er selbst das Buch bei den Deutschen einführen wollte, wie ich aus seinen sehr ausführlichen Auszügen sehe".) Engels, letter to

Karl Kautsky, Feb. 16, 1884, MEW 36, pp. 109-110. Engels, *Origin*, p. 5. The connection of the remaining ms. notes and excerpts, particularly those from Maine, to the Morgan excerpts, raises the further question of the ultimate format. The question of the network of ideas suggested by the sequence of the notebooks' contents, leading to questions of law and constitution (Sohm), to colonial questions (Money) and to practical agriculture has been raised. Engels recommended J. W. B. Money's work on Java to Kautsky (l.c.). (See above, note 15.)

Engels read to Eduard Bernstein from Marx's notebook and from Engels' own synopsis. "When I arrived in London [Engels] read to me, night after night ... passages from Marx's manuscripts, and the synopsis of a book with which he connected Marx's extracts from the American author Lewis Morgan's *Ancient Society*." Eduard Bernstein, *My Years of Exile*, 1921. B. Miall, tr., p. 168. The date of Bernstein's visit is important, for it shows that Engels had not only worked through Marx's notes by the end of February and the beginning of March, 1884, but had prepared a synopsis of a book of his, Engels', own. Thus we establish Engels' preparation of the synopsis of the book that was later published as the *Ursprung der Familie*, etc., from the end of February. Engels' work is divided into two parts: first, working from Marx's excerpts while seeking for the book of Morgan (Jan. - March 1884), at which time he prepared his own synopsis; then, working from the end of March to end of May, with the book by Morgan at hand. The chronology of the composition of Engels, *Ursprung der Familie*, based on references from his correspondence with various persons in 1884 follows:

(1) Letter to Kautsky, Feb. 16 (MEW 36, l.c.): "Über die Urzustände der Gesellschaft existiert ein *entscheidendes* Buch, so entscheidend wie Darwin für die Biologie, es ist wieder von Marx entdeckt worden: Morgan: "Ancient Society", 1877. M. sprach davon, aber ich hatte damals andre Sachen im Kopf, und er kam nicht wieder darauf zurück, was ihm gewiss angenehm war, da er *selbst* das Buch bei den Deutschen einführen wollte, wie ich aus seinen sehr ausführlichen Auszügen sehe. Morgan hat die Marxsche materialistische Geschichtsanschauung in den durch seinen Gegenstand gebotenen Grenzen selbstandig neu entdeckt und schliesst für die heutige Gesellschaft mit direkt kommunistischen Postulaten ab. Die römische und griechische Gens wird zum ersten Mal aus der der Wilden, namentlich amerikanischen Indianer, vollständig aufgeklärt und damit eine feste Basis für die Urgeschichte gefunden. Hätte ich die Zeit, ich würde den Stoff, mit Marx' Noten für's Feuilleton des "S[ozialdemokrat]" oder die "Neue Zeit" bearbeiten, aber daran ist nicht zu denken. All der Schwindel von Tylor, Lubbock und Co. ist definitiv kaputtgemacht, Endogamie, Exogamie und wie all der Blödsinn heisst.

Diese Herren unterdrücken das Buch, soviel sie können, es ist in Amerika gedruckt, ich hab's seit 5 Wochen bestellt, aber nicht bekommen! trotzdem einer Londoner Firma als Mitverleger auf dem Titel steht."

(2) E. Bernstein's visit to London was announced in a letter of Engels to Laura Lafargue, same date (ib., p. 111) and his departure in a letter of Engels to Kautsky, March 3, 1884 (ib., p. 117).

(3). Letter to F. A. Sorge, March 7 (ib., p. 124). Recommends Morgan's book. Morgan "[h]at Marx' Geschichtstheorie naturwüchsig neu entdeckt und schliesst mit kommunistische[n] Folgerungen für heute."

(4) Letter to Kautsky, March 24 (ib. p. 129). Has found a second-hand copy of the book. Proposes, if he has the time, an article for *Die Neue Zeit*, which would then be published separately as a pamphlet.

(5) Letter to Kautsky, April 26 (ib., pp. 142-143). Has changed his plan from a mere review of Morgan, which would have gotten round Bismarck's Sozialistengesetz. "Ich hatte mir vorgenommen und allgemein hier erzählt, ich würde dem Bismarck einen Streich spielen und etwas schreiben (Morgan) was er platterdings nicht verbieten könne. Aber beim besten Willen – es geht nicht. Das Kapitel über die Monogamie und das Schlusskapitel über das Privateigentum als Quelle der Klassengegensätze sowie als Hebel der Sprengung der alten Gemeinwesen, *kann* ich nicht so abfassen, dass sie unter das Sozialistengesetz sich fügen." Engels will treat the matter critically instead, with the socialist perspectives. Fourier's critique of civilization anticipated Morgan's: a chief point.

(6) Letter to Paul Lafargue, May 10 (ib., p. 145). Hopes to complete the ms. at the end of the week following, "eine sehr wichtige Arbeit."

(7) Letter to Bernstein, May 17 (ib., p. 146). Proposes that Kautsky publish the chapter on the Family, minus monogamy (ch. II, sect. 4). The work is 130 octavo pp., and is called "Die Entstehung der Familie, des Privateigentums und des Staats." (See below, item 11).

(8) Letter to Bernstein and Kautsky, May 22 (ib., p. 147). The entire ms. sent off this date, save for last chapter, still in need of revision.

(9) Letter to Kautsky, May 23 (ib., p. 148). Kautsky should have ch. 1-8 (see below). Takes up again the matter of ch. 2, Family, sect. 1-3 for *Die Neue Zeit* (see Table of Contents of the *Ursprung* below).

(10) Letter to Laura Lafargue, May 26 (ib., p. 153). Refers to the ms. as having been finished, explaining his delay in correspondence.

(11) Letter to August Bebel, June 6 (ib., p. 161). Refers to the forth-

coming publication, "Ursprung der Familie, des Eigentums und des Staats", (not the definitive title)

Table of Contents of *Ursprung* follows:

Ch. I. Vorgeschichtliche Kulturstufen
1. Wildheit
2. Barbarei
II. Die Familie
1. Die Blutverwandtschaftsfamilie
2. Die Punaluafamilie
3. Die Paarungsfamilie
4. Die monogame Familie
III. Die irokesische Gens
IV. Die griechische Gens
V. Entstehung des athenischen Staats
VI. Gens und Staat in Rom
VII. Die Gens bei Kelten und Deutschen
VIII. Die Staatsbildung der Deutschen
IX. Barbarei und Zivilisation

The sequence of the chapters here reflects Marx's rearrangement of Morgan's order, ch. II, Family, preceding the chapters on the Gens and the State. Property in Engels has no special chapter or part devoted to it, nor has intelligence (see above, n. 21). The most important topic, in length, is that of the family; the chapter in which it is treated occupies more than one-third of the entire work; compare the proportionate space that Morgan and Marx gave to the topic (cf. n. 21). Because of the difference in the manner of treatment of the various topics and their internal breakdown, further comparison is idle.

148 Ibid., p. 19. Cf. V. Gordon Childe, *Social Evolution*, 1951, pp. 6 ff.: Childe considered that Morgan's and Engels' account of the several stages of 'economic, political and kinship organization is untenable in detail', 'but remains the best of its kind.' Childe was conscious of the expansion of the materials from Morgan's day, but was attracted by the underlying idea of social evolution at uneven rates, that is, of periods of rapid change (revolutions in Childe's terms), followed by periods of stability. He retained Morgan's three-stage framework, therefore, but proposed new criteria for the stages. The chapter in Morgan, Ratio of Human Progress, is most open to Childe's criticism. That chapter, however, includes a statement by Morgan, in which both a unilinear and multilinear approach to the problem of human evolution is adumbrated, bearing out the subtitle of his work, for he wrote of reascending the several lines of human progress (*Ancient Society*, pp. 4, 29). Sahlins has taken up this problem again in relation to the work of Darwin, Tylor, Morgan, and Spencer (M. Sahlins and E. Service, *Evolution and Culture*, 1959), but not particularly in Mor-

gan's direction. Tylor's perspective on the relation of general and specific evolution is given instead (op. cit., p. 12).

The concept of the three stages of human evolution which had been developed by Morgan is to be found in Adam Ferguson, *Essay on the History of Civil Society*, 1767; 'civil' has another meaning here from that in Morgan. On Hegel, see above Addendum 2B. Giambattista Vico, *Principj di Scienza Nuova* .... (1725) 1744, had formulated the idea of successive stages of savagery, a heroic or barbaric age, and an age of civilization. His theory of the progression of man and civilization differs from that of Ferguson, being closer to Herder's, particularly in regard to language, as his commentators have pointed out; Vico's theory, moreover, is cyclical. Fourier proposed a classification of societies from savagery to civilization more complex than Ferguson's or Morgan's; but it is not progressist by unconscious movement. The present state of civilization, to Fourier, is preharmonic. François Marie Charles Fourier, *Théorie des quatre mouvements et des destinées générales*, 1808; id., *Traité de l'association domestique-agricole*, 2 v., 1822. His *Oeuvres complètes* include the 2nd eds. of these two texts, published 1841-1843, plus others as follows: Fourier, *Oeuvres complètes*, v. 1, *Théorie des quatre mouvements* etc. Vol. 2-5, *Théorie de l'unité universelle*, 4 v., of which his *Traité de l'association domestique-agricole* forms v. 2-3. Vol. 6, *Le Nouveau Monde industriel et sociétaire ou invention des procédés d'industrie attrayante et naturelle distribuée en séries passionnées.* 2nd ed., 1845. Engels here had the references to Fourier by Marx, perhaps, in mind. (See Marx, *Die Heilige Familie*, MEW 2, pp. 207-208. See also Engels, ib., pp. 604 et seq.)

149 Engels, op. cit., pp. 37-38.

150 Ib., pp. 28, 35-46 (Bachofen) and 70 (Maine); also preface to fourth ed.

151 Morgan, op. cit., p. 562.

152 Engels, op. cit., p. 150.

153 Morgan, op. cit., pp. 561-562. Engels, op. cit., pp. 162-163.

154 Eduard Bernstein, Bemerkungen über Engels' Ursprung der Familie. Vorrede zur italienischen Ausgabe. *Socialistische Monatshefte*, v. 4, 1900. Cf. p. 448, "[Morgan] überschreitet nirgends principiell die Grenze, die den Durchschnitt der objektivistischen Culturhistoriker vom Vertreter des historischen Materialismus trennt.... Morgan steht als Geschichtshistoriker zum historischen Materialismus in keinem anderen Verhältnis, wie die socialistischen Theoretiker der Epoche von 1825 bis 1840 zum Marx-Engelschen Socialismus." Ib., p. 449: "So viel vom historischen Materialismus wie bei Morgan, findet man auch bei den Theoretikern des Owenismus, Saint-Simonismus und Fourierismus, von denen namentlich der letztere sehr geistreiche Vertreter hatte und Morgan wohl bekannt war." Bernstein showed his lack of understanding of Morgan by classifying him with the Geschichtshistoriker. The relation of Morgan's work to the natural sciences is confused thereby. Moreover, Bernstein invented an

entirely new relation of Morgan to the Fourierists in the United States, having taken Engels' intention in a way that has no support; it appears from Engels only that Fourier had anticipated Morgan in many things. "Fouriers Kritik der Zivilisation tritt erst durch M[organ] in ihrer ganzen Genialität hervor." (Engels, letter to Kautsky, April 26, 1884. See no. 147).

Engels had written to Kautsky moreover (l.c.), "Morgan hat die Marxsche materialistische Geschichtsanschauung in den durch seinen Gegenstand gebotenen Grenzen selbständig neu entdeckt und schliesst für die heutige Gesellschaft mit direkt kommunistischen Postulaten ab." Bernstein sought to correct this extreme judgment of Engels, but was caught in a contradiction by an attempt to prove too much. The socialist writings at the end of the nineteenth and beginning of the twentieth centuries, in which Heinrich Cunow took part, later modified Engels' judgment regarding Morgan. Bernstein did not show full understanding of the issues or the method for their analysis. See above, n. 128.

155 Morgan, op. cit., pp. 537, 561-562.

156 Marx, Ökonomisch-Philosophische Manuskripte, MEGA, v. 1, pt. 3, p. 156.

157 Cf. Marx, letter to Engels, June 18, 1862. MEW 30, p. 249; "Mit dem Darwin, den ich wieder angesehn, amüsiert mich, dass er sagt, er wende die 'Malthussche' Theorie *auch* auf Pflanzen und Tiere an, als ob bei Herrn Malthus der Witz nicht darin bestände, dass sie *nicht* auf Pflanzen und Tiere, sondern nur auf Menschen – mit der geometrischen Progression – angewandt wird im Gegensatz zu Pflanzen und Tiere. Es ist merkwürdig, wie Darwin unter Bestien und Pflanzen seine englische Gesellschaft mit ihrer Teilung der Arbeit, Konkurrenz, Aufschluss neuer Märkte, 'Erfindungen' und Malthusschem 'Kampf ums Dasein' wiedererkennt. Es ist Hobbes' bellum omnium contra omnes, und es erinnert an Hegel in der 'Phänomenologie', wo die bürgerliche Gesellschaft als 'geistiges Tierreich', während bei Darwin das geistige Tierreich als bürgerliche Gesellschaft figuriert." Marx and Engels had dealt with the bürgerliche Gesellschaft in the *Heilige Familie* as a transition from Hegel's civil society to the bourgeois society which was criticized in their *Communist Manifesto*. George Lichtheim has briefly characterized Hegel's organismic philosophy of nature as anti-mechanicist, linked 'to the concept of society as a living entity.' (Cf. Hegel, *Phenomenology of Mind*, J. B. Baillie, tr., 1967, George Lichtheim's Introd., p. xxvi.) While we can agree with the first part of Lichtheim's conception, the second must be further discussed. The matter is further complicated by Baillie's translation of Hegel's phrase, das geistige Tierreich, as 'Self-contained individuals associated as a community of animals' (ib., p. 417), which obscures Hegel's meaning, moreover missing the point brought out by Marx's comment (cf. Hegel, *Phänomenologie*, op cit., p. 285).

Lichtheim's notion that Hegel conceived society as a living entity must look for its root elsewhere. Hegel used both Organismus and Organisation in regard to social institutions in the *Philosophie des Rechts*, and adopted the notion of society in the sense of a highly organized system throughout his works, but not in the biological sense; here the doctrine of Hegel is to be regarded as organicist in general, but not as applied in particular to human society in the way, say, of Lilienfeld or Schäffle; moreover, Hegel's usage, Organismus des Staats, *Phil. d. Rechts*, §§267, 269, has no trace of biologism. On Hegel's doctrine of Organismus, cf. T. L. Haering, *Hegel...*, v. 2 (1938) 1963, pp. 416 et seq., 496 et seq. Baillie by his literalness missed the main point, and the ironic overtone of Hegel, but he brought out one important lateral matter: the individualities separated from society, independent of and logically prior to the latter, are the presuppositions of Hobbes' doctrine, and the butt of Hegel's paradoxal formulation. The social doctrine of unbridled individualism in Hobbes is actually descriptive of the relations of civil society, as Hegel recognized it to be. Darwin then spiritualized the animal kingdom, or the kingdom of nature generally, in order that it be made to figure as civil society.

158 John Morley, *Life of Gladstone*, v. 3, 1903, p. 52. Morley was in contact with Marx in the 1870s.

159 *Chronik*, op. cit., p. 391.

160 *Marx Engels Archiv*, v. 1, op. cit., pp. 316-317; cf. introd. by Rjazanov, pp. 309-314. Letter against the journal *Otechestvennye Zapiski* and N. K. Mikhailovsky. *Vestnik Narodnoy Voli*, May 1884. See: MEW 19, pp. 107-112 and 558-559, where its publication is dated 1886. For the date 1884 see: P. W. Blackstock and B. F. Hoselitz, *The Russian Menace to Europe. A Collection of Articles, Speeches and News Dispatches* [by Karl Marx and Friedrich Engels], 1952, p. 274.

161 Ibid., pp. 341-342.

162 Ibid., p. 320.

163 Morgan, *Ancient Society*, p. 562.

164 *Marx Engels Archiv*, v. 1, op. cit., p. 320 n. Marx, in the draft mentioned, alludes to the medieval village commune surviving in his native Trier down to his own day. This is made more precise in a letter to Engels, March 25, 1868 (MEW 32, pp. 51f.) "Right in my own neighborhood, on the Hunsrück, the old Germanic system survived up till the last few years. I now remember my father talking about it...." See also Marx and Engels, Foreword to 2nd Russian tr. (G. Plekhanov) of *Communist Manifesto* (MEW 19, esp. p. 296).

Marx had set down an opposed theory of the modern village communes in the Introduction to the *Grundrisse* (op. cit., p. 26); The higher form of society is the key to the lower, the anatomy of man is the key to the anatomy of the ape. [This direction of the reconstruction is the opposite of the movement in Engels, Morgan and Cuvier.] Tribute

and tithes can be understood if ground rent is grasped. But these must not be identified. "Further, since bourgeois society is itself but an oppositive form of development, therefore relations of earlier forms will be encountered in it often but wholly stunted, or indeed travestied. For example, communal property." The Russian mir and the Indian community of that time are at issue here. (Cf. Korsch, op. cit., p. 52. On the Indian community see notes 58, 137.)

165 H. M. Hyndman, *The Record of an Adventurous Life*, New York, 1911, p. 256. Marx broke off contact with Hyndman (*Chronik*, p. 385, letter to F. Sorge, Dec. 15, 1881) because of a plagiarism by Hyndman.

166 Ibid., pp. 253-254.

167 *Chronik*, op. cit., p. 381: "[1880-1881.] ca. Dezember – ca. März 1881. Marx treibt im Anschluss an die gründliche Durcharbeitung von Morgan "Ancient Society" (98 Seiten Excerpte) umfangreiche urgeschichtliche Studien und liest und exzerpiert u. a. Maine "Lectures on the early history of institutions," Phear "The Aryan Village in India and Ceylon," Sohm "Fränkisches Recht und römisches Recht," Dawkins, "Early man in Britain..." Exzerpte 1880." The listing does not correspond to the order in the notebooks (see above, n. 15). The dating should be modified (see Addendum I above). The Dawkins entry is an unresolved problem and should be set apart. M. Rubel *Bibliographie des Oeuvres de Karl Marx*, 1956, p. 196, has proposed the same dates as those in the *Chronik*, l.c. Ryazanov had written (Novye Dannye, l.c. – see notes 6 and 83), "He received Morgan [Ancient Society] in 1878. In 98 pp. of small writing (you should know that one page of his rapid hand always yields a minimum of 2.2 and more pages of print) a detailed excerption of Morgan was made." Further, l.c.: "In view of the special significance of these materials I had photographs made, as an exception, of the Morgan excerpts and of two others – Lubbock and Maine. It is clear from these notebooks that Marx, in the second half of the 1870s was much occupied with the history of feudalism and landownership." The attribution of Marx's acquisition of the work by Morgan to the year 1878 has no bearing on the chronology of the notebooks; the scope of the works in question and Marx's interest in them goes far beyond the history of feudalism and of landownership: these were no less than the entire prehistory and history of mankind, the problem of collectivism, the peasant community in Oriental and Western society, the division of society in social classes, and the formation of the State. They include the points raised by Ryazanov who was the first to call attention to the extent and the importance of the materials, and to whom we are deeply indebted.

168 *Arkhiv Marksa*, op. cit., p. iv. This has been read as 1881-1882 by Lucas, op. cit., p. 154, but as this reading is erroneous, the (weak) support for the date there adduced (from "Karl Kautsky", in *Die Volkswirtschaftslehre*, etc.) is irrelevant.

169 The chronology of Marx's work on the Morgan text, according to the editors of the Moscow edition of the Works of Marx and Engels is given as May 1881 to mid February 1882. (*Sochineniia*, 2nd ed., v. 19, p. 617.) At this time he was engaged in the 'intensive study of Morgan's "Ancient Society".' The editors of the *Sochineniia* add that he read, excerpted, and commented on Maine, Sohm, Tylor and others. The editors of MEW 19, p. 619, concur in this.
The *Sochineniia*, ib., p. 619, have noted that c. August-September 1881, Marx studied the history, development and current condition of the colonial peoples, in particular the work of Mani [i.e. Money-see n. 15] on Java and Phear's *Aryan Village*. (MEW, ib., p. 620.)
The chronology of Marx's study of Lubbock's *Origin of Civilisation* is given in the *Sochineniia*, ib., p. 623-624, as October-November 1882. (MEW, ib., p. 624.)
The contact between Marx and Hyndman is dated October 1880 to c. May 1881 (*Sochineniia*, ib., p. 614; MEW, ib., p. 616). The correspondence of Marx with Zasulich is dated from the end of February to the beginning of March 1881. (*Sochineniia*, ib., p. 616; MEW ib., p. 618.) The date of Marx's work on Morgan is given as 1880-1881 in the *Sochineniia*, v. 21, p. 565, and in MEW v. 21, p. 552. It is given as 1881-1882 in the *Sochineniia*, ib., p. 653 and MEW ib., p. 636.
The editors of MEW have based themselves on the 2nd edition of the *Sochineniia*. The basis for neither of the proposed chronologies is given in these sources, nor is the seeming contradiction accounted for.

In general, the dates given here are possible, but they contain, nevertheless, certain inherent difficulties. Thus, the second chronology proposed by the editors of the *Sochineniia* and MEW, 1881/1882, does not parse out fully the conjectural from the known. The references to Morgan in Marx's drafts of letters to Zasulich and the references to Marx-Morgan in the Hyndman memoirs both antedate the period here proposed, which commences only in May 1881.

The internal evidence of the notebooks likewise makes this chronology less probable, although it is not ruled out: In the notebook B 146, the Maine excerpts follow those from Phear's work. But the Maine manuscript was being completed in the month of June (probably 1881, less probably 1880, improbably 1882). The Phear manuscript must therefore have been completed before that time; according to the chronology advanced by the editors of the *Sochineniia* and MEW, the Phear manuscript would then have to have been completed in August or September of 1880, or 1879, thus forcing us to date the Morgan ms. of Marx, which predates the Phear ms., even earlier. This possibility has even greater intrinsic difficulties, as we have seen. What is to be made of the reference to Tylor in this context is another question, which falls outside that of the notebooks taken up in the present work, for, like the Dawkins, it does not appear in either of them.

The editors of the *Sochineniia* and of the MEW (see above) have dated Engels' discovery of Marx's manuscript on Morgan from the first half of February 1884. While this is possible, it nevertheless leaves open the question of the basis on which Engels began his search for the book by Morgan at the beginning of January of that year. The implication of Engels' reference to his search is that he had already come on Marx's manuscript at the earlier time, and that therefore the time of the 'discovery' must be moved back. This is not a sure conclusion, but the alternative advanced by the editors of the *Sochineniia* and the MEW must account for this possibility, and not ignore it. (See above, note 147.) The editors of the *Sochineniia* and the MEW have implicitly separated the work by Marx on Morgan into two parts: the first contact with the Morgan work, and the later intensive study. This is indeed possible, and has been advanced by me on other grounds. They have further mentioned the concern by Marx with problems of Urgemeinschaft and Urgesellschaft, which is a welcome broadening of the issues (see above, section 6, Community, Collectivism and Individualism).

The reference to Marx's work on Lubbock in the *Sochineniia* and in the MEW does not raise a substantial issue of chronology.

170 On dating these excerpts, see preceding note and n. 15 above.

171 Cf. *Chronik*, op. cit. Meiners and de Brosses, p. 11; Meiners, p. 125. C. Meiners, *Grundriss der Geschichte der Menschheit*, 1785, has exercised some influence on the subsequent history of anthropology. Cf. R. H. Lowie, *History of Ethnological Theory*, 1937; W. E. Mühlmann, *Geschichte der Anthropologie*, 1948; A. L. Kroeber and Clyde Kluckhohn, *Culture* etc., 1963.

172 E. B. Tylor, *Primitive Culture* (1871) 1958, v. 1, p. 36, and v. 2, p. 230.

173 *Grundrisse*, op. cit., p. 579.

174 *Capital*, op. cit., v. 1, ch. 1, sect. 4; v. 3, ch. 24 and ch. 48, sect. 3.

175 De Brosses offered his work, Du culte des dieux fétiches, c'est-à-dire des objets terrestres et matériels, anim. ou inanimés, contenant le parallèle de l'ancienne religion de l'Egypte avec la religion actuelle de Nigritie, et l'examen philosophique et critique des causes auxquelles on a coutume d'attribuer le fétichisme, to the Académie des Inscriptions in 1757, which rejected it. It was published anonymously in 1760, *Du culte des dieux fétiches, ou parallèle* etc. He took up the subject in the *Encyclopédie méthodique*, Philosophie, v. 2, pp. 411-457. On the relation of de Brosses and Turgot see Frank Manuel, *The prophets of Paris*, 1965, pp. 32, 34; on the relation of de Brosses and Comte, see ib., pp. 277, 281, 282; Tylor, op cit., v. 2, p. 230; E. E. Evans-Pritchard, *Theories of Primitive Religion*, 1965, ch. 2.

Stocking, *Race, Culture and Evolution*, p. 98, has taken Tylor to be de Brosses' intellectual heir, but although Stocking's erudition is impressive, his point in this regard is not convincing. Aside from the fact that there is no explicit acknowledgement of his debt, Tylor's

spirit of inquiry differs from that of the man of the eighteenth century; Tylor had no trace of degenerationism, with which he taxed de Brosses (l.c.). De Brosses most probably fostered the use of the terms fetish and fetishism in the nineteenth century; Marx probably took these, if not the meanings, directly from him.

176 E. B. Tylor, *Anthropology*. 2 v. 1881. On the same three stages see also: J. G. Frazer, *Folklore in the Old Testament*. v. 1, 1919, Preface.

177 See note 1. Adolph Bastian (P. W. A. Bastian), *Der Mensch in der Geschichte. Zur Begründung einer psychologischen Weltanschauung*. 1860. See R. H. Lowie, *The History of Ethnological Theory*, 1937, ch. 4, on Bastian's anti-Darwinism and his literary style, pp. 31-32.

178 *Chronik*, op cit., p. 378. Cf. Franz Mehring, *Karl Marx*, 1935, p. 554. Lankester attended Marx's funeral. Lankester contributed to the theory of evolution by degeneration as well as by progress; to the theory of the division between the germ-plasm and the somatoplasm. On Lankester's contributions cf. *Darwin and Modern Science*. A. C. Seward, ed. 1909. pp. 378, 427, 441, 468, etc.
Emile Vandervelde developed the same theoretical view as Lankester as to degenerationism. Cf. T. K. Penniman, *A Hundred Years of Anthropology*. 1952, p. 143.

179 *Chronik*, op. cit., p. 381.

180 MEW 19, p. 425. See note 167 above.

181 See note 17 above.

182 Engels, *Origin*, op cit., quoted Bancroft on the Kaviats of Bering Strait, Kadiaks of Alaska, and Tinnehs (Déné), p. 31; on Indians of Lower California, p. 44; on Alaska, and Tahus of North Mexico, p. 46; on Haidahs and Nootkas, p. 145 (MEW 21, pp. 42, 54, 56, 155 respectively). German: Kaviat; English translation: Kadiak (l.c.). Bancroft, New York ed., op. cit., v. 1, pp. 73, 138: Kaviaks (or Kaveaks); Malemutes and Kaveaks are distinct from Eskimos (ib. p. 138). Bancroft mentions neither Kaviats nor (in this connection) Kadiaks of Bering Strait.

NOTES TO PART I

1 Title and title page:

Ancient Society
or
Researches in the Lines of Human Progress from
Savagery through Barbarism to
Civilization
by
Lewis H. Morgan, LL.D. etc.
New York. Henry Holt
1877

[2] Table of Contents:

Part I
Growth of Intelligence through Inventions and Discoveries
Chapter I.
Ethnical Periods.

Marx began his note-taking, op. cit., p. 9:

I. Lower Status of Savagery. Infancy of human race, etc.

[3] Ms.: coasts.
[4] Ms.: village.
[5] Ms.: Goquet. Morgan, op. cit., p. 13: Goquet. Morgan cited Sir Edward Burnett Tylor, *Researches into the Early History of Mankind and the Development of Civilization*, 1865, p. 273. Antoine Yves Goguet, *De l'Origine des Loix, des Arts, et des Sciences, et de leurs Progrès chez les anciens peuples*. 3 v., 1758. Cited by Tylor, l.c.
[6] Ms.: with.
[7] u. hydraulic cements] crossed out.
[8] Ms.: and.
[9] Lucretius, De Rerum Natura, book V, 951 (Morgan, op. cit., p. 20).
[10] Ms.: court.
[11] Ms.: im.
[12] Ms.: 435.
[13] Ms.: von. Morgan, op. cit., p. 26: drawn to regions.
[14] qualities] crossed out.
[15] Ms.: others.
[16] Morgan, op. cit., p. 399: because woman has gained immensely in social position.
[17] Ms.: Justinines[?]
[18] Morgan, op. cit., p. 406: title VI.
[19] Morgan, l.c.: cognationem.
[20] meist] crossed out.
[21] Ms.: wifes.
[22] Ms.: chocked.
[23] In d. Punaluan] crossed out.
[24] "Wives are shared by groups of ten to twelve men, and mostly between brothers, and fathers and sons." Caesar, De Bello Gallico, book V, ch. 2.
[25] "Each man marries only one woman, but they share all women in common." Herodotus, History, book I, ch. 216.
[26] "They have wives in common, and in this way are brothers to each other, and as members of the same household they have neither envy nor hate for each other."
[27] Ms.: Terselbe.
[28] Ms.: Polyagny.
[29] all] crossed out.
[30] Ms.: family.
[31] Ms.: Hoc-no'-sch.

[32] Ms.: sons.

[33] Morgan, op. cit., p. 448: "[The maternal uncle's] children are my cousins, the children of my male cousins are my sons and daughters, of my female cousins are my nephews and nieces; but with myself a female these last relationships are reversed, the children of all alike are my grandchildren." From the table, op. cit., p. 458, the relations of Seneca in question are the following:

male	speaking: mother's brother's son's son	= son
female	„	= nephew
male	daughter	= daughter
female	„ „	= niece
male	daughter's son	= nephew
female	„	= son
male	daughter	= niece
female	„ : „ „ „ „	= daughter.

The children of the children of these cousins are grandson and granddaughter to the Seneca speaking, regardless of whether male or female. Marx skipped one generation in the series. Morgan's text, p. 448 is elliptical, the referent of 'all alike' being unclear.

[34] family] crossed out.

[35] Reformation] crossed out.

[36] Ms.: Arthur. Morgan, op. cit., p. 464: Rev. A. Wright. Cf. B. J. Stern, *American Anthropologist*, v. 35, 1933, p. 138; W. N. Fenton, *Ethnology*, v. 4, 1965, p. 251 (see Introduction, this volume, note 11).

[37] other] repeated.

[38] they] crossed out.

[39] Morgan: Fourthly (op. cit., p. 467). Third point omitted by Morgan, sequence correct in Marx.

[40] Ms.: have been.

[41] Ms.: form. Morgan, op. cit., p. 476: family.

[42] (modern)] crossed out.

[43] "Famuli originally comes from the Oscian, according to which the slave is called Famul, whence the term for family." S. Pompeius Festus, De Significatione Verborum.

[44] "He gave his family, that is, his patrimony, as property to his friend."

[45] Romans] crossed out.

[46] fängt] crossed out.

[47] Ms.: quod.

[48] "Likewise in our powers are our children whom we procreate in civil marriage, which is a right proper to Roman citizens. Hardly any other men have power over their sons such as we have." Jus vitae necisque – legal right of life and death. (Morgan, op. cit., p. 479 n.)

[49] "They are content with a single wife."

[50] "Fenced in with chastity."

[51] Ms.: Sud.

[52] Ms.: in ursprüglich.

[53] Ms.: tentlive.
[54] die Venus etc] crossed out, including square bracket ending interpolation.
[55] *Coemptio*, a marriage consisting in a mutual mock sale of the parties, by which the wife was freed from the tutelage of her family. *Confarreatio*, an ancient solemn Roman marriage. *Usus*, custom. (Lewis and Short, *Latin Dict.*).
[56] Ms.: haeterism.
[57] Ms.: pûné. Morgan, op. cit., p. 489, pûnè.
[58] Ms.: junger.
[59] "Likewise, the fratres patrueles, sorores patrueles, i.e., those who are the children of two brothers; likewise, consobrini consobrinae, i.e., those born of two sisters (quasi cousins); likewise, amitini amitinae, i.e., those who are the children of [separate marriages of] brother and siter; but ordinary usage calls all of them by the common appellation of consobrinus."
[60] system] crossed out.
[61] Ms.: its point.
[62] constitution] crossed out.
[63] Ms.: pulanuan.
[64] Ms.: fond.
[65] Ms.: wifes.
[66] Ms.: Colombian.
[67] influence] crossed out.
[68] Ms.: chord.
[69] Ms.: decendent.
[70] Ms.: civilastiv.
[71] Ms.: denfence.
[72] Ms.: to.
[73] Ms.: bear.
[74] Ms.: custom.
[75] Morgan, op. cit., p. 544, adds goat.
[76] Ms.: hands.
[77] Ms.: Magnaten.
[78] Ms.: Latine.
[79] Plutarch, *Solon*, ch. XV. B. Perrin, ed. Loeb Lib., 1914: The "disburdenment" was a removal of all debt. In his poems Solon boasts that from the mortgaged lands

> "He took away the record stones that everywhere were planted.
> Before the earth was in bondage, now she is free."

[80] Morgan, op. cit., p. 552: V, 90.
[81] Iliad VII, 472-475:

> From that time the long-haired Achaians bought wine;
> Some for bronze, some for bright iron,
> Some for ox-hides, some for whole oxen
> Some for slaves.

[82] Should read: Iliad XIX, 247 (S. A. Zhebelev, *Arkhiv*, op. cit., v. 9, p. 51); Morgan, op. cit., p. 552.
[83] Ms.: Numbers, XXXVI, IV. Morgan, op. cit., p. 556.
[84] Ms.: Mauses.
[85] Ms.: II.
[86] Ms.: to.
[87] Verbietet Ehe in bestimmten degrees of consanguinity u. affinity] crossed out.
[88] "He was rightly esteemed also for his law concerning wills. Before his time, no will could be made, but the entire estate of the deceased must remain in his family. Whereas he, by permitting a man who had no children to give his property to whom he wished, ranked friendship above kinship, and favour above necessity, and made a man's possessions his own property."
[89] Ms.: hereditate lege. "The inheritance of intestates by the law of the XII Tables belongs first to those held in the potestas of the deceased at the time of his death." Gaius, Institutes.
[90] "If there are no sui heredes then by the same law of the XII Tables the inheritance passes to the agnates."
[91] "If there are no agnates then by that law of the XII Tables the gentiles succeed to the inheritance."
[92] Morgan, op. cit., p. 47: wives.
[93] Ms.: maritime.
[94] Diese organisation is *accompanied*] crossed out.
[95] class] crossed out.
[96] jeder d.] crossed out.
[97] Ms.: females.
[98] Ms.: kind.
[99] Ms.: earthern.
[100] Ms.: threated.
[101] of] repeated.
[102] Ms.: right.
[103] Ms.: rights.
[104] Ms.: Ashur. Morgan, op. cit., p. 83: Ashur. See n. 36 above and Introduction, n. 11.
[105] division] repeated.
[106] founded] crossed out.
[107] Ms.: phratror.
[108] "Is there a phratry that will take him to its ritual of purification?"
[109] Ms.: organsition.
[110] "These words may be translated into Greek: phyle and trittys as tribe, phratry and lokhos as curia." Dionysius of Halicarnassus, Roman Antiquities, book II, ch. 7.
[111] Ms.: Eeel.
[112] Ms.: ind.
[113] Wolf] crossed out. Morgan, op. cit., p. 93: Wolf gens. However,

Morgan was unclear, for there is in his account no Wolf gens in the first phratry of the Tuscaroras. Thus, first phratry:

Gentes: of *Senecas*	of *Cayugas*	of *Tuscaroras*
1. Bear.	1. Bear.	1. Bear.
2. Wolf.	2. Wolf.	2. Beaver.
3. Beaver.	3. Turtle.	3. Great Turtle.
4. Turtle.	4. Snipe.	4. Eel.
(Morgan, p. 90)	5. Eel.	(Morgan, p. 93)
	(Morgan, p. 91)	

Morgan stated (p. 91) that three of the gentes of the first Tuscarora phratry 'are the same with three in the first phratry of the Senecas and Cayugas,' but they are not the same three. Moreover, he stated that the Wolf gens is double (p. 93), but it is not in the first phratry of the Tuscaroras that it is double; Marx concluded that Morgan must have meant Turtle in this case. The Turtle gens is double (Great and Little) between the two phratries; the Wolf gens is double (Grey and Yellow) within the second only.

114 Ms.: 400.
115 Ms.: forwards.
116 ?[ar-]. Morgan, op. cit., p. 94: are hazarded.
117 Ms.: Eririctg] Morgan, op. cit., p. 96: institution.
118 Ms.: Medecine.
119 "Divide your men by tribes and phratries, Agamemnon, phratry will help phratry, tribe will help tribe."
120 Ms.: 8.
121 Ms.: Bevölkgunszahl.
122 faktische League] crossed out.
123 Confederacy] crossed out.
124 Ms.: Mississippe.
125 V-? One word blotted.
126 Ms.: lace.
127 Ms.: Onondaiga.
128 End of word blotted out.
129 Morgan, op. cit., p. 128: New Mexico.
130 Morgan, l.c., Cusik.
131 Ms.: organsied.
132 Morgan, op. cit., p. 136: own brother.
133 Such] crossed out. [he was able] crossed out. [as] retained in ms. Morgan, op. cit., p. 142: "One of the delegates then submitted their proposition in form, and sustained it by such arguments as he was able to make."
134 Ms.: across.
135 Ms.: skain.
136 "I come to proclaim what has been decided and decreed by the councillors of the people of the city of Cadmeus." See n. 191.
137 Ms.: games.

[138] Ms.: nonhorticular.
[139] Ms.: extinctirt.
[140] Fourth column numbered, but names omitted. Cf. Morgan, op. cit., p. 159.
[141] Ms.: Dear.
[142] Ms.: family] Morgan, op. cit., p. 162, citing J. Carver, *Travels in North America*, 1796, p. 166: nation.
[143] Ms.: Upsorakas.
[144] Ms.: Blackfood]? Doubtful reading.
[145] Ms.: Youchees.
[146] Ms.: jedes.
[147] Ms.: live.
[148] Ms.: 750.
[149] Ms.: südlich von. Morgan, op. cit., p. 169: below (i.e. downstream).
[150] deren Namen] crossed out.
[151] Ms.: to
[152] Ms.: Siskatchevun.
[153] Ms.: Wiskonsin, Kaskascias.
[154] Ms.: 1867. Cf. Morgan, op. cit., p. 173.
[155] Ms.: special. Cf. Morgan, l.c.
[156] Ms.: name when to be given.
[157] Ms.: tribe. Cf. Morgan, ib., p. 177.
[158] Doubtful reading. [-ie]?
[159] Interlinear word crossed out: Reference is to inequality of gentes.
[160] Marx had reference in a number of places to the concept of caste. Cf. Letter to P. V. Annenkov of December 28, 1846, MEW 27, p. 454. (Cf. also Marx, *Poverty of Philosophy*, 1963, Appendix, p. 183.) The issue of caste is raised here in connection with his critique of Proudhon's notion of economic evolutions. In *Kapital*, v. 1, 4th ed., 1912, ch. 12, section 2, p. 304 (= ch. 14, sect. 2 of Eng. tr.), Marx wrote in reference to "... dem Trieb früherer Gesellschaften, die Gewerbe erblich zu machen, sie in Kasten zu versteinern oder in Zünfte zu verknöchern, falls bestimmte historische Bedingungen dem Kastenwesen widersprechende Variabilität des Individuums erzeugen. Kasten und Zünfte entspringen aus demselben Naturgesetz, welches die Sonderung von Pflanzen und Thieren in Arten und Unterarten regelt, nur dass auf einem gewissen Entwicklungsgrad die Erblichkeit der Kasten oder die Ausschliesslichkeit der Zünfte als gesellschaftliches Gesetz dekretirt wird." See also in the same chapter, sect. 5, ib., p. 332, where the division of labor in Plato's Republic is considered as the idealization of the Egyptian caste organization.

In *Kapital*, as in the comment on the Morgan excerpt, Marx regarded caste as an archaic institution, petrified in either case. In the letter to Annenkov and in *Kapital*, caste is related directly to the division of labor in society, whereas in the Morgan comment it is given another context, having reference to its coming into being:

here the difference in rank between consanguines comes into conflict with the gentile principle, and can be petrified as its opposite, caste.

There is an even greater significance to Marx's note on caste in the Morgan excerpts: In *Kapital* Marx subsumed castes and guilds under the order of nature in the early level of development; they arise 'out of the same natural law that regulates the separation of plants and animals into species and subspecies.' He held that only when a certain grade of development has been attained is the hereditary membership in a caste or the exclusiveness of a guild decreed as a social law. The separation of the early caste organization from the later, comprising the former within the order of nature, and the latter within the domain of action of social legislation, stands opposed to Marx's conception of caste in the Morgan commentary. In the latter he comprised the entire phenomenon of caste within the social order, leaving open the question of whether its establishment is unconsciously unfolded or consciously legislated. The likening of the early stages of development of caste to phenomena of the order of nature is but an analogy; it is less compatible with his general conceptions in the *Economic-Philosophical Manuscripts*, the *Holy Family*, the *German Ideology*, and others of his writings in which the relations of man and nature were taken up, than is the formulation in the Morgan notebook. (See above, Introduction, section 1, on Morgan.)

161 Morgan, op. cit., p. 180: Kolushes affiliate linguistically with the Athapascans, though not closely.
162 Ms.: Bonnacks.
163 Ms.: punaluan.
164 Morgan: legend of their origin which he obtained at one of their villages. op. cit., p. 183.
165 Morgan, p. 184: Great Mother.
166 Ms.: die
167 Ms.: deers.
168 Ms.: it remains it.
169 Ms.: Tepanicans.
170 Ms.: pedegral.
171 Ms.: bezetzt.
172 Ms.: forages.
173 Ms.: 3. Cf. Morgan, op. cit., p. 200.
174 Ms.: 4 four.
175 Ms.: Accosta.
176 Montezuma had civil as well as military functions] crossed out.
177 folgte] crossed out.
178 Ms.: 1tst.
179 Ms.: Pamphili.
180 Ms.: Siccoyn, Sicyon.
181 Morgan, op. cit., p. 227, citing G. Grote, *History of Greece*: factitious.
182 "And yet who would have permitted persons having no connection

with the ancestors to be interred in the burial place of the gens?" Demosthenes, Eubulides, 1307.

183 Ms.: hinderance.

184 gens erst nach Stiftung] crossed out.

185 Ms.: Groote.

186 Ms.: persecuting.

187 Ms.: accredites.

188 Morgan, op. cit., p. 239, quoting Grote, op. cit.: process.

189 Tacitus, Germania, 7: "Not a fortuitous agglomeration but family and kin make up the mounted squadron or the wedge of infantry." See Introduction, note 114.

190 Dionysius, *Roman Antiquities*, bk. II, ch. 12. "This was also a Greek institution. At any rate the Greek Kings (sc. basileus), both those who inherited the lands of their ancestors and those who were elected by the people themselves to be their rulers, had a council composed of the best men, as both Homer and the most ancient poets testify."

191 "I proclaim what has been decided and decreed by the council of the people of the city of Cadmeus: Eteocles, for his devotion to the land, shall be honored with a pious funeral." (Aeschylus, Seven against Thebes, v. 1005-1008. See this section, note 136.

192 "Chorus: What has the people by show of hands decided?"
"Danaos: Argos has decided by a unanimous vote....
The whole people with hands raised has shaken the ether in affirming these words," etc. Aeschylus, Suppliant Maidens, 604-608.

193 G. F. Schoemann, *Griechische Altertümer*, v. I, 1855.

194 Schoemann: nirgends.

195 "By no means will all the Achaians rule here. The rule of many is not desired. Let us have one koinanos, one basileus, to whom the god has given the sceptre, and the divine sanctions in order that he may command us." Cf. Morgan, op. cit., p. 255.

196 Ms.: Eustasius.

197 "But as the power of Hellas grew, and the acquisition of wealth became more an object, the revenues of the states increasing, tyrannies were by their means established almost everywhere, – the old form of government being hereditary monarchy with definite prerogatives, – and Hellas began to fit out fleets and apply herself more closely to the sea." Thucydides, *Peloponnesian War*, R. Crawley tr., 1874.

198 "These, then, are the four kinds of royalty. First the monarchy of the heroic ages; this was exercised over voluntary subjects, but limited to certain functions; the king was a general and a judge, and had the control of religion. The second is that of the barbarians, which is an hereditary despotic government in accordance with law. A third is the power of the so-called Aesymnete or Dictator; this is an elective tyranny. The fourth is the Lacedaemonian, which is in fact a generalship, hereditary and perpetual." Aristotle, *Politics*. III, XIV. 1285 b. W. D. Ross tr., 1942.

199 bilden] crossed out.
200 principle] crossed out.
201 the sons of the deceased chief(s)] repeated.
202 5oohert Scheffler] Prussian Scheffel = 55 liters or $1^1/_2$ bushels (c.). George Grote, *History of Greece*, v. III, 1847, p. 155: The medimnus was equivalent to one drachma in money. The metrete was equivalent to 40 liters or 9 gallons. The medimnus was also equal to (c.) 12 gal. (capacity). (*Century Dictionary*, *Oxford English Dictionary*.) H. Frisk, *Griechisches Etymologisches Wörterbuch*, 1970, s. v. médimnos, about $52^1/_2$ liters. Engels, *Ursprung* op. cit., MEW 21, p. 113, Medimnus = ca. 41 L. Eng. tr., op. cit., p. 105 = 1.16 bushels.
203 Ms.: komnten.
204 Ms.: discasts.
205 waren] repeated.
206 Schoemann, ib., p. 353: "Sodann schaffte [Kleisthenes] die bisherige Eintheilung des Volkes in vier Phylen zwar nicht eigentlich ab, nahm ihr aber ihre frühere Bedeutung, indem er eine neue auf ganz andern Grundlagen basirte Eintheilung in zehn Volksabtheilungen einführte, die ebenfalls Phylen hiessen, und deren jede wieder in eine Anzahl kleinerer Verwaltungsbezirke zerfiel, die mit einem allerdings schon ältern, aber in diesem Sinne neuen Namen Demen genannt wurden. Während aber diese Demen lediglich locale Verbände waren, in denen ohne Rücksicht auf Abstammung und sociale Stellung alle zusammenwohnenden zusammengefasst wurden, wurde in den neuen Phylen ein örtlicher Zusammenhang nur insoweit gewahrt, als das Land in dreissig Trittyes zulegt ward, zehn um die Stadt, zehn im Küstengebiet, zehn im Binnenland, und diese unter die zehn Phylen in der Weise verloost wurden, dass jede Phyle in jedem Landestheil eine Trittys erhielt." The opposition of Schoemann to Morgan is not complete. Ib., pp. 387-388: "... theilte er das gesammte Land in eine nicht genau bekannte Anzahl von weit über hundert Verwaltungsbezirken, [Schoemann's note: Die frühere Annahme, dass Kleisthenes nur hundert Demen geschaffen, ist nicht mehr haltbar....] von denen wieder eine Anzahl zu einem grösseren Ganzen verbunden wurde. Diese letzteren nannte er Phylen, mit einem freilich für eine Oertlichkeit, nicht auf Abstammung basirte Eintheilung nicht eigentlich passenden, aber doch auch anderswo ähnlich gebrauchten Namen; die kleineren Bezirke hiessen δῆμος, und die einzelnen Demen wurden theils nach den kleinen Städten und Flecken, theils nach ausgezeichneten Geschlechtern benannt, deren Güter in ihnen belegen waren." For higher estimate of the number of Demes established by the reforms of Kleisthenes, see Schoemann, l.c. Cf. Morgan, op. cit., p. 279.
207 Ms.: Chlistenes.
208 Schoemann, ib., p. 327.
209 Ms.: Chalcotondiden.

210 "The Eupatrids settling in the city itself."
211 Ms.: Khlistenes.
212 "The people from the beginning were removed from all affairs."
213 Khleistenes.
214 [Aristides] introduced a decree that the administration of the city be the privilege of all the classes, and that the archons be chosen from among all Athenians."
215 doubtful reading.] This passage is seen from the viewpoint of the Greeks.
216 gens] crossed out. Ms.: family. Cf. Morgan, op. cit., p. 289.
217 "As to who these gentiles are, we have set this forth in the first (book of this) commentary. And as we said there, the entire jus gentilicium has fallen into disuse, still it might be useful at this point to treat this matter afresh."
218 Cicero, Topica, VI, 29. "Gentiles are those who have the same name. That is not enough. Who have come from free ancestors. That is still not enough. Whose ancestors have not been slaves. To this something is to be added. Who have not lost their civic rights.[a] That is perhaps enough. Scaevola the pontiff had nothing to add to this definition."
a capital diminution (Morgan, op. cit., p. 290).
219 Festus, De Significatione Verborum, s.v. gentilis. "Gentile is applied to those of the same origin, having the same name."
220 "As among men there are those who are agnates as well as gentiles so it is among words. For as from Aemilius originated the Aemiliani, and the gentiles, so from the name Aemilius the gens of nouns is declined. For from that name which was set forth in the nominative case as Aemilius came Aemilii, Aemilium, Aemilios, Aemiliorum, and all the remaining words which are related."
221 "What difference is there in the matter if a patrician marries a plebeian or a plebeian a patrician? The children still follow the father."
222 Suetonius, Life of Tiberius, I: "The patrician gens Claudia ... received a portion of the state lands across the Anio as a burial place for its clients, and below the Capitol as a burial place of its own."
223 Velleius Paterculus, History of Rome, II, 119: "The half-burned (Ms.: semiustrum) corpse of Varus was mutilated by the savage enemy; his head was chopped off and carried to Maroboduus, and from him was sent to Caesar, yet it was honored with a burial in the sepulchre of the gens."
224 Cicero, "So sacred are the graves that it is sinful to inter in them those not of the gens and its rites; so it was according to our ancestors. Aulus Torquatus so decided in regard to the Popilian gens."
225 Trebatius in Aulus Gellius, Attic Nights, VII, 12: "A sacellum is a small place with an altar, dedicated to a god."
Festus. "Sacella is a roofless place, dedicated to a god." (s.v.)
226 Ms.: performans.

227 "(It is said) that the two acres which Romulus first distributed to each one that they be handed on to the heirs are called the hereditary allotments."

228 Th. Mommsen, *Römische Geschichte*, 6th ed., 1874. v. 1, p. 35: "Die römische Mark zerfiel in ältester Zeit in eine Anzahl Geschlechterbezirke, welche späterhin benutzt wurden um daraus die ältesten 'Landquartiere' (*tribus rusticae*) zu bilden. Von dem claudischen Quartier ist es überliefert, dass es aus der Ansiedlung der claudischen Geschlechtsgenossen am Anio erwuchs.... Diese sind nicht, wie die der später hinzugefügten Districte, von Oertlichkeiten entlehnt, sondern ohne Ausnahme von Geschlechternamen gebildet; und es sind die Geschlechter, die den Quartieren der ursrpünglichen römischen Mark die Namen gaben, so weit sie nicht gänzlich verschollen sind...." (List of names, Camilii, etc. to Voturii follows. Morgan, op. cit., p. 299: Veturii, Marx, ms.: Venturii.)

229 Mommsen, ib., p. 36: "Wie zu dem Haus ein Acker, so gehört zu dem Geschlechtshaus oder Dorf eine Geschlechtsmark, die aber, wie später zu zeigen sein wird, bis in verhältnismässig späte Zeit noch gleichsam als Hausmark, das heisst nach dem System der Feldgemeinschaft bestellt wird. Ob die Geschlechtshäuser in Latium selbst sich zu Geschlechtsdörfern entwickelt haben oder ob die Latiner schon als Geschlechtsgenossenschaften in Latium eingewandert sind, ist eine Frage.... Von Haus aus aber galten diese Geschlechtsgenossenschaften nicht als selbständige Einheiten, sondern als die integrirenden Theile einer politischen Gemeinde (*civitas*, *populus*), welche zunächst auftritt als ein zu gegenseitiger Rechtsfolge und Rechtshülfe und zu Gemeinschaftlichkeit in Abwehr und Angriff verpflichteter Inbegriff einer Anzahl stamm-, sprach- und sittengleicher Geschlechtsdörfer."

Mommsen's term is Geschlechtshaus, read by Morgan from Mommsen's Eng. tr. as 'clan-household'; Mommsen's Geschlechtsmark is rendered as 'clan-lands'; Geschlechtsgenossenschaften is rendered as 'clanships'. Morgan, l.c., civitas populi. Mommsen: civitas, populus. Mommsen, 'gleichsam als Hausmark' is translated as 'analogy of houselands', which is not acceptable. Mommsen's phrase, 'von Haus aus', which is applied with respect to the integrating parts of a political community is an obscurantism: these integrating parts did not take part to begin with in a political community, nor did the political community zunächst (to begin with) come forth as the Inbegriff of the Geschlechtsdörfer. Mommsen made free with pseudo-temporal conceptions, as von Haus aus, zunächst. His thought was unclear; his developmental conception, however, is borne out in part in the form, *integrirend* – in the course or process of integration. The politische Gemeinde is an anachronism or an oxymoron. Mommsen wrote, *ib.*, p. 38, "Alle diese Gaue waren in ältester Zeit politisch souverain und wurden von seinem Fürsten unter Mitwerkung des

Rathes der Alten und der Versammlung der Wehrmänner regiert." The political sovereignty and the office of prince cannot have been features of government in ältester Zeit; a more clearly marked out sequence of relative chronology was needed, but Mommsen did not think the matter through, persuading himself that his phrases met the evidence adequately, and that the evidence was adequate for the conclusion reached, thus solving the problem of the early political development of Rome. Ms.: aggression and defence.

230 Ms.: parallelism.

231 "When Appius Claudius was taken to prison, Gaius Claudius, the enemy (of Applius Claudius) and all the Claudian gens put on mourning clothes."

232 "And to share with their patrons ... the costs incurred in their posts and dignities in the same way as though they were of the same gens."

233 The source for this account is Herodotus, History, V, 68. Cf. Morgan, op. cit., p. 303, where it is traced back to Grote's *History*.

234 Ms.: Peregrinae conditionis homine relati usurpare Romana nomina, dundax et gentilicia. "He forbade foreigners to assume Roman names, at least names of gentes." – Suetonius, Life of Claudius.

235 "Three hundred and six perished, it is commonly said; one just under the age of puberty survived, who was the stem of the Fabian gens and became the greatest future support in all internal affairs and wars of the Romans." – Loeb Library, B. O. Foster, ed. Ms.: unum probe pubescem etc., gente Fabiae etc.

236 Ms.: Roman.

237 "And thus he divided the people into thirty curiae, giving their names (of the Sabine women) to each."

238 "Phratra and lokhos (military unit) curia." "These curiae were divided into decades, each under its own head, who was called decurion in their language."

239 "And each tribe had ten phratries, which were named eponymously after those (Sabine) women." Plutarch, Life of Romulus, ch. 20.

240 If Romulus is not an individual but a generalization of a kind of leadership in the late proto-history of Rome, and the name given to that phenomenon as a personalization, then the legislation in question should be understood differently, since the legislator's particular existence is denied.

241 Ms.: ἴσους.

242 "From the neighboring places a crowd of people of all kinds came for refuge, without distinguishing freemen from slaves, in quest for novelty, these were the first who came because of the (city's) greatness."

243 "He created 100 senators either because that number was sufficient or because there were 100 who could be made fathers; the title of Pater was applied to them and that of patrician to their progeny."

244 "Leaders who out of love are called patres." Cicero, De Republica, II, 8.

245 "He took care to assure his reign while expanding the republic by raising up 100 more patres who were known as those of the minor gentes, a faction inseparable from the king (Tarquinius Priscus), whose benefaction had brought them into the curia."

246 "Having had his royal power legitimated, (Tarquinius) firstly doubled the number of patres, calling the earlier patres those of the major gentes, whose judgment was asked first... then that of the patres of the minor gentes."

247 fast so numerous] repeated.

248 Ms.: schreibt.

249 "When the Senate of Romulus, which was composed of the best men, favored thus by the king, who wished that they be called patres and their children patricians etc."

250 "They are called patres out of respect, and their children patricians."

251 "These hundred men were chosen and called patres, having the form of a public council. This is the origin of the name Patrician."

252 Ms.: Fabrician.

253 "The plebes jointly referred the matter to the consuls."

254 Ms.: Solon. Morgan, ib., p. 341: "Imitating Solon, with whose plan of government he was doubtless familiar, Servius divided the people into five classes...."

255 *As*, a Roman monetary unit at the time of Servius Tullius equal to a pound of copper. "As a copper coin, the as was, acc. to the ancient custom of weighing money, originally a *pound* (asses librales or aes grave) ... and was uncoined (aes rude) until Servius Tullius stamped it with the figures of animals (hence pecunia from pecus)...." Lewis and Short, op. cit., s.v. But the as was originally an aes grave or rude, that is, a bronze plaque, rectangular in form, uncoined until Servius Tullius as above. (Ernout et Meillet, op. cit., s.v.). *Pecunia* was the exclusive property (in cattle) of the master of the household at the time of the Law of the 12 Tables, as opposed to *familia*, the common property of the free house-community, and to *peculium*, the exclusive property of the slaves (Walde-Hofmann, op. cit., s.v.). The system of Walde and Hofmann is not specified as to time and is generally too restricted, for *peculium* is the exclusive right to property of anyone under the *potestas* or *dominium* of the master, whether a son, a slave, etc. The right of ownership of a peculium was in certain cases recognized in accord with the master or *paterfamilias*, and in some cases without reference to him.

These meanings are relevant both to the excerpts of Marx from Morgan and from Maine. The Introduction to this volume, section 6, Community, Collectivism and Individualism sets forth the system in general. On Maine, see his *Lectures*, op. cit., pp. 147-149, 171-172: pecunia, cattle, etc. See below, Marx, Maine excerpts, pp. 167-168.

256 On other differences between Dionysius and Livy (Livy I, 43) see Morgan, ib., p. 341.

257 "He indeed instituted the Census, a matter of such good fortune for the future imperium; out of this the costs of war and peace were set not by individual men ... [as formerly] but according to their wealth." *Pecunia*] See note 255.

258 "Phyle according to descent, phyle according to residence."

259 Mommsen, *Römische Geschichte*, 6th ed., 1874, v. 1, p. 91: "Jeder dieser vier Aushebungsdistricte hatte den vierten Theil wie der ganzen Mannschaft, so jeder einzelnen militärischen Abtheilung zu stellen, so dass jede Legion und jede Centurie gleich viel Conscribirte aus jedem Bezirk zählte...." Morgan, p. 347: "equal proportion of conscripts from each region." The imprecise English translation found in Morgan is here corrected by Marx.

260 Doubtful reading. Ms.: bei d]? it they]?

261 Ms.: excluse.

262 Herodotus, History, I, 173: "They have, however, one singular custom in which they differ from every other nation in the world. They take the mother's and not the father's name. Ask a Lycian etc." Second sentence omitted by Morgan, ib., p. 357.

263 Ms.: descend.

264 Ms.: Schwesterssohn.

265 Ms.: officed.

266 "My father married his [half] sister, of the same father but not the same mother."

267 Ms.: enderd.

268 "They celebrate in their ancient songs, which are the sole memorial and annals they have, the god Tuisto, who came from the Earth, and his son Mannus from whom they trace their descent. They ascribe 3 sons to Mannus, after whom are called the Ingaevones, who live beside the Ocean, the Herminones who live inland and the Istaevones who live elsewhere. Some freely ascribe to Tuisto other sons who gave to the Marsians, Gambrivians, Suevians and Vandals their true and ancient names. The term Germany is recently added, by which term are called the first who crossed the Rhine; those occupying part of Gaul who are now called Tungri were then called Germanic. The name of that nation is not that of a gens, and was first set aside for that people, then gradually adopted by all who ascribe the same repute [of warriors] to themselves." Lipsius: eos qui transgressi primitus Rhenum sint, esse eum ipsum populum qui nunc Tungri appellentur, at tunc Germani (primi Germanorum Rhenum transgressi) quod tamen unius nationis peculiare nomen, paulatim transfusum ad omnes. J. Lipsius, Tacitus ed., Germania, ad c. 2.

269 "[The Suevians], occupying the greater part of Germany, are divided into separate nations with distinct names." Ms.: c. 28.

270 Ms.: keinen.

271 "Those who were the first to cross the Rhine." See above, note 267.

272 "The barbaric and most ancient songs of ancient deeds of kings and wars he wrote down and transmitted as annals." Quoted from Lipsius, l.c.

273 Jordanes, Getica, ed. Mommsen, 28: "And the story is commonly recalled in their ancient songs virtually as a historical account."

274 Tacitus, Annals, II, 88. "And even today the barbarians sing of him." [H. Furnas ed., 1896 (citing Grimm): Irmin?]

275 "The village songs similar to piercing bird calls." Julian, Antiokhikos = Misopogon ("Beard-hater").

276 "There are also among them songs, the singing of which is called barditus (baritus) whereby they raise their spirits."

277 "The land ... is covered either with dark forests or with fearful marshes ... the soil is fruitful for grain, but unsuitable for fruit trees, rich in livestock which are small, the cattle hornless. The people rejoice in the number of their cattle, their sole wealth, which they value most highly.... Possession and use of [of gold and silver] are not valued as they are [among Romans]. Silver bowls are to be seen among them, given as presents to their ambassadors and chieftains, regarded no differently from those made of clay. Yet [German tribes] living near the Roman frontier put a price on gold and silver in commercial use. They know our coinage and ask for it. [German tribes] of the interior they have the simple and ancient exchange of goods. Where money is in use it is the old coinage of serrati (serrated coins) and bigati (coins with the stamp of the two-horse chariot). They prefer silver to gold not out of affection but because silver coils are easier to use and identify for cheap goods."

278 Tacitus, *Germania*, ch. 7. "The chiefs are from among the nobility, the war leaders from among the valorous men. The power of the chief is neither boundless nor free, and the war chiefs lead by example rather than by command ... they are admired for bravery."

279 *Op. cit.* ch. 11. "The chiefs decide on minor matters; on major matters ⟨the whole people decides.⟩"

280 *Op. cit.* ch. 12. "The council hears accusations and judges capital crimes.... Chiefs are elected in these councils who render judgment in the districts and villages; one hundred councillors from among the people assist these judges in the exercise of their authority."

281 *Op. cit.* ch. 20. "The sister's son is prized by the mother's brother as much as by the father. Some of them consider that the most sacred bond of kinship is that of the sister's son to the mother's brother, and in taking hostages prefer to take the sister's son over the son, as representing the closest connection and the widest interest of the family. Heirs and successors are always the sons, testaments do not exist. If there are no sons, the next in line are the brothers, then the father's brothers, and the mother's brothers."

282 Caesar. De Bello Gallic. VI, c. 22.

22 Agriculturae non student, maiorque pars eorum victus in lacte, caseo, carne consistit. Neque quisquam agri modum certum aut fines habet proprios; sed magistratus ac principes in annos singulos gentibus cognationibusque hominum, qui una coierunt, quantum et quo loco visum est agri attribuunt atque anno post alio transire cogunt. Eius rei multas adferunt causas: ne adsidua consuetudine capti studium belli gerendi agricultura commutent; ne latos fines parare studeant, potentioresque humiliores possessionibus expellant; ne accuratius ad frigora atque aestus vitandos aedificent; ne qua oriatur pecuniae cupiditas, qua ex re factiones dissensionesque nascuntur; ut animi aequitate plebem contineant, cum suas quisque opes cum potentissimis aequari videat.

For agriculture they have no zeal, and the greater part of their food consists of milk, cheese, and flesh. No man has a definite quantity of land or estate of his own: the magistrates and chiefs every year assign to tribes and clans that have assembled together as much land and in such place as seems good to them, and compel the tenants after a year to pass on elsewhere. They adduce many reasons for that practice – the fear that they may be tempted by continuous association[1] to substitute agriculture for their warrior zeal; that they may become zealous for the acquisition of broad territories, and so the more powerful may drive the lower sort from their holdings; that they may build with greater care to avoid the extremes of cold and heat; that some passion for money may arise to be the parent of parties and of quarrels. It is their aim to keep common people in contentment, when each man sees that his own wealth is equal to that of the most powerful.

283 Ib., c. 23.

23 Civitatibus maxima laus est quam latissime circum se vastatis finibus solitudines habere. Hoc proprium virtutis existimant, expulsos agris finitimos cedere, neque quemquam prope audere consistere; simul hoc se fore tutiores arbitrantur repentinae incursionis timore sublato. Cum bellum civitas aut illatum defendit aut infert, magistratus, qui ei bello praesint, ut vitae necisque habeant potestatem, deliguntur. In pace nullus est communis magistratus, sed principes regionum atque pagorum inter suos ius dicunt controversiasque minuunt.

Their nations account it the highest praise by devasting their borders to have areas of wilderness as wide as possible around them. They think it the true sign of valour when the neighbours are driven to abandon their fields, hence no one settles near them, likewise they hold that they have more security by removing fear of incursions. When a nation defends itself or attacks, a chief officer leads it to whom is delegated power over their lives. In peace there is no com-

[1] *i.e.* with one spot which would become endeared to them.

mon magistrate, but the chiefs of the regions and districts give the law and settle disputes.

[284] Tacitus, Germania, c. 26. "They do not know of moneylending and of interest, which is preferable to the prohibition of the practice. The lands for cultivation (*arva*) are occupied by all the people (*ab universis*) in succession (*in vices* or *per vices*) *pro numero*, according to the number of cultivators (confiées à tous les bras), thereupon they divide (*partiuntur*) it among themselves (*inter se*) according to worth (*secundum dignationem*) [according to Caesar all Germans were still equal], the division being easy (*partiendi facilitatem*) because there are spacious fields unimproved (qui ne sont pas implantés). They change (*mutant*) the arable land (*arva*) annually (*per annos*) and *ager* (unoccupied, common land: see below) remains over (superest). There is so much good land to till that they do not plant orchards, divide up meadows and water gardens. They ask of the earth only fields of corn." In a letter to Engels of March 25, 1868, Marx wrote: "Arva per annos mutant et superest ager, was heisst: sie wechseln (durch Los, daher auch *sortes* in allen Leges Barbarorum später) die Felder (arva), und es bleibt Gemeindeland (ager im Gegensatz von arva als ager publicus) übrig...." (MEW 32, 1965, p. 52).

According to Marx, the Germans alternated, changed, but did not exchange the fields; whereby they occupied the fields successively, which he read as *per vices*, and which other editions have rendered as *in vices*, with the same meaning (Lewis and Short, op. cit., s.v.). Marx conceived this process as following several stages: all the cultivators took part in the annual redistribution of the fields; the repartition was made according to worth or social position (*secundum dignationem*). Caesar was not aware of any social distinctions among the Germans, his observations having been made at a period 150 years before those of Tacitus, and perhaps did not bear upon the same Germanic peoples.

The fields were referred to by Tacitus as *arva* when they had been divided, and were occupied by those who cultivated them; *ager*, *agri* were the lands to be divided. Marx had interpreted this distinction as indicating *ager* to be common land or *Gemeindeland* in 1868.

NOTES TO PART II

[1] Ms.: with
[2] Ms.: selbst
[3] Ms.: mood
[4] Ms.: Mörtel
[5] Ms.: bundel
[6] as] repeated.
[7] Ms.: muster

[8] Ms.: many together
[9] Ms.: side
[10] Ms.: offen
[11] Ms.: representation. Phear: arbitration.
[12] Ms.: deels
[13] Ms.: joung
[14] Ms.: one of the water
[15] Ms.: or
[16] Ms.: assembli
[17] Ms.: gewissert
[18] Ms.: 1 magistrate, 1 collector
[19] Ms.: ustensles
[20] Ms.: bamboos
[21] Ms.: Economy. See Introduction, note 58.
[22] Ms.: of
[23] Phear, op. cit., p. 184: tenure, or subjugation
[24] Phear, op. cit., p. 201: possibly
[25] Phear, l.c.: survival
[26] See Bibliography.
[27] Ms.: Phaer
[28] auch] repeated
[29] Ms.: 366, 367

General remark: Phear's text is variable in regard to transcription of Bengali, Ceylonese, or what has been called Anglo-Indian, terms. Marx's excerpts and notes have been standardized in 28 instances with reference to these terms. (Not all terms of this nature have been treated in a standard way, because of a lack of appropriate system in the text of Phear.)

NOTES TO PART III

[1] Subsequent research has moved the date of the compilation of the Senchus Mor to the eighth century. See Introduction above, note 66.
[2] Maine consistently referred to Sir John Davies, Attorney-General for Ireland under King James, at the time of the English Conquest, as Davis. See above, Maine excerpts, pp. 172 and 174.
[3] Ms.: *D B G.* Julius Caesar, De Bello Gallico, Gallic War. Book VI, ch. 13 describes the division of Gallic society into common and privileged classes, the latter again divided into priestly and military classes; ch. 13 and 14 describe the activity of the Druids in religious affairs and judicial, whence the relevance to Maine's text. In order to help in his reconstruction of the early law of the Celts of the British Isles, in particular the Irish, but also the Scots and the Welsh, Maine sought out references to the institutions of the Gallic Celts, writing (p. 5): "The ancient organisation of the Celts of Gaul, described by

Caesar with the greatest clearness and decisiveness, appeared to have entirely disappeared from France, partly because French society was exclusively examined for many centuries by lawyers trained either in Roman or in highly feudalised law, but partly also because the institutions of the Gallic Celts had really passed under the crushing machinery of Roman legislation." Here is a theory or determination of history to be added to the geographic, biological, economic, etc.: it is the legislative and legal determination of history, wherein lawyers caused the Celtic institutions to disappear and lawmakers crushed them.

[4] Christliche Ehe nicht] crossed out.
[5] Ms.: wive
[6] Sir] crossed out.
[7] sehn] doubtful reading.
[8] Ms.: findet
[9] Ms.: du
[10] it] crossed out.
[11] Ms.: fuidshir
[12] Ms.: in the
[13] Maine, op. cit., p. 102: occupation
[14] Ib., p. 113: lawyer
[15] Ms.: desshalb
[16] Cf. Maine excerpts, p. 191; Marx's position is that sovereignty does not lie in the chief, for it is not a personal phenomenon, but a social institution; here it is taken as a phenomenon of the collectivity. Thus, in neither case is it a personal relation of the chief. This is an implicit criticism of Morgan who held that the form of government in societies before the civilized state was personal, founded on relations that were purely personal. See Morgan, *Ancient Society*, op. cit., p. 6 and passim. See Introduction to present work, p. 9.
[17] Ms.: Willohr
[18] Ms.: fzs
[19] Ms.: 33th. Ms.: soccage.
[20] Ms.: Englishe
[21] Ms.: times
[22] Maine, op. cit., p. 132: can.
[23] On Marx's relations to Maurer, see Introduction. Hüllmann, perhaps: Carl Dietrich Hüllmann, *Geschichte des Ursprungs der Deutschen Fürstenwürde*, 1842.
[24] Ms.: Componanion
[25] Ms.: suspected
[26] See note 255 to Morgan excerpts above.
[27] Ms.: sam-haisk
[28] heifers] repeated.
[29] Maine, op. cit., p. 161: Davis.
[30] Cf. H. S. Maine, *Dissertations on Early Law and Custom*, 1886, pp. 181

et seq., on the eyres or circuits of the Anglo-Saxon kings; ib., p. 180, a mild critique of Spenser's view. Judge's eyre = Herumreisen. On Anderson, see above Marx, Maine excerpts, p. 174: Dr. James Anderson, *Royal Genealogies, or the Genealogical Tables of Emperors, Kings, and Princes, from Adam to these Times*, etc. 2 parts, 1732. MacPherson, perhaps: James MacPherson, *An Introduction to the History of Great Britain and Ireland*, etc. 1771. On Marx's relations to Maurer, see Introduction to this volume. On judicial circuits, see below, n. 96.

[31] Ms.: as

[32] Ms.: its

[33] Ms.: More

[34] Maine developed the analogy between an Irish tribe in the process of transition to political society and an oriental village community. The analogy is not entirely inept, for both social institutions are kinds of collectivities bound by customary law. The analogy fails, however, insofar as the Indian village community had long maintained a relation to a superordinate political body, whereas this relation was in statu nascendi in Ireland at the time in question. In methodology, Maine here leaves the historical field in order to advance the synchronic or better, nontemporal, comparison. Both cases are 'archaic' (Maine's term), but the way they are archaic in reference to their historical antecedence and given temporal context differs. Maine's historism breaks down, and the developments of the Irish land question from the time of the legal tracts which he had been discussing down to the nineteenth century were regarded by him as a moment. (See the following Maine excerpt and comment of Marx.) Maine's analogy is defective not because of the defect inherent in any analogical argument but because Maine had abandoned his historical method and the sense of this passage is in contradiction to the general sense of his school of historical jurisprudence and of this work in particular. The substantive point concerns the break up of the Irish tribal collectivity by the development of the system of rents, imposition of new rules on broken men and allocation of waste land or commons to the benefit of the chiefs. The authority or tribal power and wealth now became concentrated in the hands of a few and the interests of the many and of the few were now opposed; the political society was formed by an internal process. Maine had combined an institution of society which was in existence prior to the establishment of political society with one that exists under the regime of the State.

Engels, like Maine, combined the gens, an institution of society in existence prior to the establishment of political society and the State, and which is dissolved in the formation of political society, with a collective institution of the latter. See Engels, *Ursprung*, MEW 21, p. 165: Der erste Geschichtsschreiber, der wenigstens eine annähernde Vorstellung vom Wesen der Gens hatte, war Niebuhr, und das – aber auch seine ohne weiteres mit übertragnen Irrtümer – verdankt er

seiner Bekanntschaft mit den dithmarsischen Geschlechtern." (Eng., op. cit., p. 155: "The first historian who had at any rate an approximate conception of the nature of the gens was Niebuhr, and for this he had to thank his acquaintance with the Dithmarschen families" [for Geschlechter!] "though he was overhasty in transferring their characteristics to the gens.") Engels' error is akin to Maine's, but it is not as grievous as the English rendering makes it out to be. To group together the proto- and early historic Germanic gens and the mark or other collective institution of political society is to combine that which is to be separated historically; but it would be the most extreme nonsense within the system of Morgan, Marx and Engels to combine the family in the same sequence of thoughts. This error is repeatedly made in the English text to which the citation above is a footnote. The English, moreover has made Engels level a specific charge against Niebuhr, that of transferring ('overhastily') the characteristics of those families to the gens. Engels made only a general point, 'ohne weiteres mit übertragnen Irrtümer'; he did not say what Niebuhr's errors might be.

The editors of the 1962 edition of Engels' *Ursprung* propose that it is the *Gemeindeverfassung* (constitution of the communes), which lasted down to the second half of the 19th century, that is in question. This is a reasonable amendment of Engels' argument, for Geschlechter (descent lines, gentes, clans, etc.) do not come into question, still less families. (Cf. MEW 21, p. 562.)

35 Ms.: 1713
36 of] repeated.
37 Ms.: beyonds
38 worse the] repeated
39 Ms.: separate and establishment
40 Reading doubtful.
41 Howel Dda (the Good) (died 950).
42 Ms.: declared to be
43 Ms.: Spencer
44 vertrieben] crossed out.
45 Ms.: prescription
46 Ms.: was
47 Ms.: his
48 Maine, op. cit., p. 196 also mentions Shakespeare's Lear.
49 Ms.: poorest, poorst
50 then, next to him] repeated.
51 Ms.: next
52 Maine, op. cit., p. 203: in the latter part of the reign
52a Ms.: might to
52b Possible reading. Ms.: Fiktionen
53 Ms.: Tanistry
54 Ms.: 4 × 4 × 5

[55] A common derivation of Latin herus/erus and Greek χείρ is not probable. It is not supported in Ernout-Meillet, *Dict. Etym. Langue Lat.*, op. cit., nor in Walde-Hofmann, *Lat. Etym. Wbuch*, op. cit., s.v. Also without support from the Greek side: H. Frisk, *Griechisches Etymologisches Wörterbuch*, v. II, 1970, s.v. See Walde-Hofmann, v. I, p. 649, and J. Pokorny, *Indogermanisches Etymologisches Wörterbuch*, v. I, 1959, p. 447.

[56] Ms.: is

[57] Ms.: functiones

[58] Cf. C. T. Lewis and C. Short, *A Latin Dictionary* (1879) 1958: actio, lex. Exact citations therein.

[59] Ms.: or. Cf. Maine, op. cit., p. 252.

[60] Varro, *De Lingua Latina*, V, 180. "... that money which comes into court in lawsuits, is called sacramentum 'sacred deposit,' from sacrum. The plaintiff and the defendant each deposited with the pontifex 500 copper asses for certain cases; for others the trial was conducted also with a deposit of some other amount fixed by law. He who won the decision got back his deposit from the temple, the loser's deposit passed into the Treasury." Loeb Lib., R. Kent ed., 1958. On asses see Morgan excerpts, note 255, above.

[61] Cf. Lewis and Short, op. cit. Exact citations therein. Condico I, 3: condicere pecuniam alicui, Digest, i.e. Pandects, 12, 1, 11. Ms.: Paul. Dig.

[62] Lewis and Short, op. cit., sponsio. Exact citations therein.

[63] Ib.: s.v. Exact citation therein.

[64] Maine, op. cit., p. 257: stake called Sacramentum.

[65] Ms.: almost. Cf. Maine, l.c.

[66] Ms.: praktisirt

[67] Ms.: zeigen

[68] Ms.: the

[69] Ms.: 285

[70] Ms.: everydays[2]

[71] Ms.: days

[72] Ms.: 278

[73] Ms.: women

[74] Ms.: dem] [urs] crossed out.

[75] Ms.: finden] [word or beginning of word crossed out]

[76] Ms.: Bramahnen

[77] Ms.: Wittwe

[78] Ms.: Lectures

[79] von ihm] crossed out.

[80] in] crossed out. [aus combined collegiate or corporate form] crossed out.

[81] In respect to Bentham, cf. Marx, *Kapital*, v. 1, ch. 22, sect. 5 (= Eng. tr., op. cit., ch. 24, sect. 5).

[82] diese] crossed out.

[83] Die] crossed out.
[84] von] crossed out.
[85] u. durch Herausarbeitung der Individualität aus d.] crossed out.
[86] u.] crossed out. Interpolated word illegible. Perhaps: [es] may have been intended to be crossed out. It is not part of the resultant sequence.
[87] zeigt] [was letztere] crossed out.
[88] charakterisindere
[89] Ansicht] crossed out.
[90] dies of the coercive authority] crossed out.
[91] Ms.: u
[92] Ms.: coercion in bill in Irld. Dies geschrieben Juni 1888)] See Introduction, Addendum I.
[93] Maine, op. cit., p. 362: as stripped
[94] Ms.: an
[95] Regierung] crossed out.
[96] Ref. Notebook B 146, pp. 155-159. D⟨r⟩. *Rudolph Sohm* (*Prof. in Strassburg*). "*Fränkisches Recht ⟨u⟩nd Römisches Recht. Prolegomena zur Deutschen Rechtsgeschichte. Weimar 1880.* Ms., p. 156:

> Mit d⟨en⟩ *Normannen* zog nach *England* auch d⟨as⟩ *norm⟨ä⟩nnische*, d.h. d⟨as⟩ *nordfranzösische Recht.* [Sieh: *Brunner*: *Entstehung der Schwurgerichte.* 1872] D⟨ie⟩ Normannenkönige *Gesetzgeberische Erlasse* bewegen sich zunächst g⟨an⟩z in die Bahnen d⟨es⟩ *angelsächsischen Rechts*; letzteres aber vernichtet nicht durch d⟨ie⟩ "*Gesetzgebung*", sondern durch d⟨ie⟩ "*Rechtsprechung*" *des normännischen Königsgerichts*, wo d⟨ie⟩ normännischen Traditionen übermächtig u(nd), von dem Königsgericht ausgehend, waren *d(ie) reisenden Richter*, die *Sendboten des Königs*, welche durch ihre Rechtsprechung die nämlichen Traditionen über d(as) ganze Land verbreiteten. [68] Square brackets, Marx, Round brackets, ed.

See above, n. 30.
[97] weil sie] crossed out.
[98] they have become] crossed out.
[99] Ms.: the
[100] Ms.: ethnical
[101] Ms.: Sovereigns
[102] Ms.: Fistjames
[103] Maine, l.c.: power.
[104] Ms.: words

NOTES TO PART IV

[1] Ms.: statuire
[1a] Lubbock, op. cit., p. 105: Nubiens

2 Ms.: known
3 Ms.: Marsden
4 Reading doubtful
5 Reading doubtful
6 Lubbock, op. cit., p. 160: "In one word, the Californians lived, *salvia venia*, as though they had been freethinkers and materialists."
7 Ms.: Commune
8 Cervantes, Don Quixote: Even as Montesinos was speaking, one of the ladies attending the luckless Dulcinea [approached] and, her eyes filled with tears, said to me in a low and troubled voice: "My señora Dulcinea del Toboso kisses your honor's hand and begs your honor to favor her by letting her know how you are and, being in great need, she likewise begs your honor if you are able to lend her on this faldellin which I am wearing here of new white cotton, half a dozen reales, or as much as your honor can spare, which she on her word will return with great speed." Surprised and astonished to hear this I turned to señor Montesinos and asked him: "Is it possible, señor Montesinos, for nobility under a spell to be in need?" At which he replied to me: "Believe me, your honor Don Quixote de la Mancha, that which is called need is everywhere to be found, to each and all and does not spare even those under a spell; and since the señora Dulcinea del Toboso has need of these six reales, and the security is good, you must give them to her, it seems to me, for she must be in great want." "I will not take security," I responded, "yet I cannot give what she asks, because I have only four reales, which I give her and say, my friend, to the señora that her troubles weigh on my soul, and that if I were a Fucar (Fugger) to remedy them etc."
9 Ms.: gold
10 Reference is to Williams, Fiji and the Fijians, v. 1, p. 231. Cf. Lubbock, op. cit., p. 238.
11 Ms.: is resumed
12 Ms.: Toas, moas
13 Ms.: Lange
14 Ms.: Cassalis: Bassutos
15 feeding] crossed out.
16 Ms.: Gray
17 Ms.: avenge
18 if, for instance] repeated.

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} Geben alle 3 viel über pottery

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General.

A) Marx's bibliographic notices and comments are to the left of the vertical line on each page. The bibliographic information to the right is added by the editor.

B) Marx's notices are divided into three parts, separated by two horizontal lines drawn by him, reproduced here, and extended by the ed. to include the further bibliographic data.

C) The first group relates to Morgan, *Ancient Society*; the second to Phear, *The Aryan Village*; the third to Maine, *Early History of Institutions*.

D) The references in each group were taken, in major part, by Marx from the respective source.

E) They were evidently intended for future research, as opposed to research in conjunction with the works they were related to or derived from.

[1] Cf. Morgan, *Ancient Society*, 1907, p. 157 n. Reference is to name of author.
[2] Titles conjectural.
[3] Gustav Hugo was referred to in Marx, Das philosophische Manifest der historischen Rechtsschule (*Rheinische Zeitung*, no. 221 August 9, 1842) MEW 1, pp. 78-85.
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