

ARYAN SOCIETY.

lization, and as to those village communities, which develop out of the Family, and which present the same general features, whether we look for them in India, or among Teutonic and Scandinavian nations. One of his objects is to point out—what is familiar to every student of the Politics—that some of the main results of modern enquiry in this field were anticipated by Aristotle. Sir H. Maine, Mr. Freeman, and the other modern writers referred to in this article, have shown that if we are to gain a true knowledge of the development of civilization and the history of institutions we must follow the course pointed out in the first book of Aristotle's Politics, and commencing with the Family as the basis, trace its expansion into the village community, from which developed the State, whether in the Greek and Italian form of the City or in the later Teutonic form of the Nation. The fallacy of commencing to trace civilization from an imaginary basis resting on contract, as in the "Social Compact" of Locke, and the "Original Contract" of Hobbes, has been exposed, and the stage of contract has been shown to be the latest, and not the first stage of human progress—the transition having been one from Status to Contract. As Sir H. Maine puts it (A. L. p. 169): "Starting, as from one terminus of history, from a condition of society in which all the relations of persons are summed up in the relations of the Family, we seem to have steadily moved towards a phase of social order in which all these relations arise from the free agreement of individuals."

The theory of the origin of property enunciated by Blackstone and others, resting upon the principles of occupancy enunciated by the Roman Jurisconsults, presupposing as they do not joint but separate ownership, has been proved to

be false. Joint ownership was the form which property originally universally took, and, in the words of our writer, "recent investigation has made it extremely probable that, so far from the rights of villagers to commonable lands being the result of unchecked encroachments on the manor of the lord, the enclosure of commons and occupation of waste by the feudal lord are often themselves most unjustifiable encroachments on the ancient rights of village communities."

Our ancestors then lived in village communities consisting of an aggregation of families, each family being controlled in its domestic concerns, solely by that Patria Potestas, which is one of the fundamental points in the early organization of society. Hence arose what Sir H. Maine calls the "international" character of ancient law. Ancient law is scanty because it was only intended as a supplement to the autocratic commands of the Paterfamilias. Its principal object is to regulate the intercourse of corporations, each represented by a single head. One consequence of this system of corporate existence was the doctrine of collective responsibility,—in other words the family was held responsible for the acts of its individual members. As the writer of the article points out, we may, perhaps, trace a survival of this in legal penalties, like attainder of issue, and in those "social penalties" which are still inflicted on the families of persons guilty of heinous crimes. The lands of the village community appear—as in its modern Indian counterpart—to have been usually divided into three parts. First there was the arable land—or the Arable Mark as it is called—in which each householder had a separate lot, which he was obliged to cultivate according to minute rules. Then there were the Pasture Meadows,