

# THE VARSITY

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"FULL FATHOM FIVE."

"Lay my body on the sand  
Far beneath the troubled sea,  
There amid a fairy band  
Of kind mermaids nursing me,  
Shall my body fade away  
In a strange and sweet delay.

"While the waves above me roll  
God-like anthems to all time,  
I shall hear them gently dole  
But a melody of rhyme;—  
All the music of the deep  
Singing but to soothe my sleep.

"When some lordly ship is drowned  
Close beside my dwelling,  
All the mermaids gathering round,  
All the sweet bells knelling,  
Give her welcome to a tomb  
Underneath the crested foam.

"And I welcome to my den,  
From the toiling waves of life,  
From the busy haunts of men  
Where resounds eternal strife,  
One more comrade to the grave  
Of the friendly lispng wave."

V.

SIR HENRY MAINE.

All who take any interest in the science of law will learn, with regret, of the death of this eminent jurist, at the comparatively early age of sixty-six. For twenty years, or more, his name has been familiar to University students as the author of "Ancient Law," but those who know him only by reading this well-known work can form but a very inadequate idea of the place he really fills in the history of legal and political science. He is the only Englishman, since Bentham, who has made any substantial contribution to this department of human thought, and, in point of value, his work far transcends that of any foreign jurist since Savigny. He was not the founder of the historical school of jurists, but his induction took a wider sweep than that of any other thinker, and his conclusions are correspondingly more valuable. He had the additional merit of being able to make a difficult subject apparently easy and undoubtedly interesting—a fact which tends to lessen, rather than enhance, his reputation as a thinker with those who mistake obscurity for profundity.

Sir Henry Maine's success was due partly to the possession of genius akin to that which is a characteristic of all great scientists, whether in the field of physics or in that of sociology, and partly to the peculiar training which he received during his University career, his career as a teacher of jurisprudence at Cambridge, Oxford and the Middle Temple, and his experience in Calcutta as a member of the East Indian Government. After graduating, with distinction, as a classical and mathematical scholar, he was appointed Regius Professor of the Civil Law in Cambridge, at the age of twenty-five. Three years later, he was called to the bar, and in 1854 he resigned his pro-

fessorship to lecture on jurisprudence at the Middle Temple. "Ancient Law," his first great work, was published in 1861, and in 1862 he began his seven-year term of office in India. One of the fruits of his residence in that country was the delivery at Oxford, in 1871, of his lecture on "Village Communities in the East and West." He was then, and until 1878, Corpus Professor of Jurisprudence, and he resigned this position to assume the Mastership of Trinity Hall, Cambridge, an office to which he had been, by the Fellows, unanimously elected. During his professorship at Oxford he delivered, in 1874, a series of lectures on "The Early History of Institutions," taking occasion from the recent publication of the translation of some of the "Ancient Laws of Ireland," and especially the "Brehon Law." The translators and editors of that work, which lies before me as I write, were Dr. O'Donovan, Dr. O'Curry, Dr. O'Mahony and other eminent Celtic scholars, and with the promptitude of one who had a true insight into the value of these long obsolete laws, Sir Henry Maine at once made use of them as a means of widening the basis of his induction and testing the correctness of his conclusions. During his Oxford incumbency he delivered other lectures on various topics connected with the origin and development of legal and political conceptions and institutions, and some of these he collected and published in 1883, under the title of "Early Law and Custom." His last volume appeared in 1886, entitled "Popular Government." It is an application of the historical method to the investigation of the phenomena of modern "Democracy," and though the scientific value of the work is less than that of some of his previous productions, it is inferior to none of them in grasp of thought, wealth of erudition, or felicity of exposition and statement.

In my humble opinion Maine's greatest work is one to which the attention of students in the University has never been called, his "Village Communities." The investigations of Von Maurer had established "the close correspondence between the early history of Teutonic property and the proprietary enjoyment in the Germany of our own day," and Nasse had, by his still more recent labours, brought to light the fact that "collective Teutonic property" had left on the sociological system of England, traces which even the feudal system had failed to eradicate. Great as was the service rendered to political science by these applications of the historical or comparative method, it was left to Sir Henry Maine to discern and establish the virtual identity of the old Teutonic and the modern Slavonic village community with that of Hindostan, and, in this way, to throw a flood of light on the origin of those legal and political institutions which are at once the highest triumphs of human civilization, and the most difficult subjects of scientific investigation. From that time the "Village Community" was not "Teutonic," or "Slavonic," but "Aryan"; and if, as the result of a still wider generalization, we can say that it is Semitic as well as Aryan, we can reach such a conclusion only by travelling in the direction pointed out by Sir Henry Maine, and using his method to light us by the way.

One of the best tests of originality in a thinker is his ability to create a school of thought, and Sir Henry Maine is, as indisputably as Darwin, the founder of such a school. Amongst his disciples may be mentioned such writers as Seebohm, who has investigated the old English township; Gomme, who has performed a similar service for the old