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ORDINARY MEETING.*

THE RIGHT HONOURABLE LORD HALSBURY, THE
LORD CHANCELLOR, IN THE CHAIR.

The Minutes of the last Meeting were read and confirmed, and the following election was announced:—

LIFE ASSOCIATE:—P. Caudwell, Esq., Guildford.

The following paper was then read by the Author:—

LAND TENURE IN ANCIENT TIMES, AS PRESERVED BY THE PRESENT VILLAGE-COMMUNITIES IN PALESTINE. By JAMES NEIL, M.A.

THE greater part of the arable land of Southern Palestine is not, strictly speaking, held as freehold or rented by industrial farmers. The bulk of the soil consists of Crown lands, called in Arabic أرض أميريّة *ard âmiriyyeh*, of which the occupiers have only the *muzara'a*, or right of cultivation, though they possess this right in perpetuity. The *fellahheen*, or, as their name signifies, the “cultivators,” of each district dwell together in unwalled villages and hold all the land that lies around them, varying in quantity from 500 to 6,000 English acres, as *mushaa'*, that is, “in common.” As this custom, like all else connected with that remarkably primitive people, the *fellahheen* of Palestine, is undoubtedly most ancient, has a most important bearing on the present condition of the country, throws a flood of light on the curious nature of land tenure in ancient times, and also illustrates in a very striking and unsuspected way an

* Jan. 20, 1890.

obscure Biblical allusion, it will be well to describe its working.

The annual cultivation of arable land begins as soon as the first heavy rain, the Hebrew גשם, *geshem*, Palestine Arabic *wasam*, or "gushing down-pour," has saturated the soil, and has made it possible for the people to plough; for before this the ground becomes baked into a pottery-like hardness during the six consecutive months of rainless, cloudless heat which occur from April to October. These sub-tropical showers usually commence between the middle of November and the latter part of December. Then all the male inhabitants who possess cattle and purpose ploughing meet in a general gathering. There is no such division of permanent classes amongst the people of a Palestine village as we recognise in the terms "farmer" and "labourer." All of them, one as much as another, except such as are slaves, are by birth in a position answering to our "farmer." All of them are born to a right to cultivate a share of the common lands of the village. The only difference amongst them is that some, being wealthier than others, possess more oxen with which to plough, and can therefore cultivate larger tracts of ground.*

* There can be little doubt that cattle, as the means of ploughing the land, were in early times the chief, if not often, the sole, form of wealth. This fact is very strikingly preserved in the etymology of words that stand for property in land and money. Take for instance "fee," with its related terms "feodum," "feud," "fief," and "feudal," which first is the name for an estate in land (anciently the right to the use of a superior's land as a stipend for services to be performed), now seen in such legal expressions as "fee-simple," a "limited fee," or "fee-tail; secondly, is used figuratively for any property or possession, as in Spenser's "laden with rich fee;" and thirdly, signifies "a reward for service," "a charge," or "pay," as a lawyer's or physician's fee, fees of office, marriage fees, &c. There is general agreement that this term "fee" is derived from the Scottish *fe*, *fee*, or *fie*, Old Saxon *fe*, O.H. German *filu*, N.H. German *vieh*, Swedish and Danish *få*, all which mean "cattle." The words "pecuniary," "impecunious," &c., and "peculium," through the Latin *pecunia*, "money," are equally plainly derived from the Latin *pecus*, "cattle," the first chief form of movable property possessed by mankind in early ages. "Chattels," a legal term which occurs in the expression "goods and chattels," and which stands for every kind of property except the freehold or the things which are parcel of it, a word more extensive in its meaning than "goods" or "effects," comes without doubt from "cattle," which name for domestic animals collectively, more especially those of the bovine genus, through the O. English *catel*, O. French *catel*, *catal*, *cheptel*, Spanish *caudal*, L. Latin, *capitale*, *capitale*, is derived from the Latin *capitalis*, "relating to the head," or "chief," because from the earliest ages, down probably to a much more recent period than many suppose, such beasts constituted the principal

Some, on the contrary, are so poor that they have no cattle, and these, whether relatives or "hired servants," labour as farm hands for those who have. The possessors of beasts which can be employed in tillage, oxen, camels, horses, mules, and asses, such as the Sheikh, or Headman, and the members of his family, do not need to work with their own hands, being able to pay for the labour of others by letting out their cattle on a system of co-operation, as well as by living on the milk and wool of their flocks of sheep and goats.

The assembly of the farmers is held in the house called *Saha*, or *Madafa*, kept, according to the hospitable custom of the East, for the entertainment of strangers, and which serves for all the public meetings of the community. The *Khateeb*, or Mohammedan religious teacher, who is also the scribe, recorder, and accountant of the place, presides at this gathering. He first writes down the names of all who desire to plough, and against each man's name enters the number of ploughs that he intends to work. The farmers now form themselves into several equal groups, generally making up ten ploughs in a group, each of which chooses one of their number to represent them. If there are forty men who desire to farm, making up amongst them sixty ploughs, they will divide themselves into six parties of ten ploughs each represented by six chiefs.*

The whole of the land is then parcelled out into six equal parts, one for each group of farmers, by the six elected chiefs. The land being in most instances of various qualities, some very good, some much poorer, and some comparatively bad, has to be chosen from different and often distant parts to form each of the six several parcels. Although there are no hedges, ditches, or walls, the tillage is all divided into portions somewhat answering to our fields, marked off from one another by rough natural boundaries, each bearing a name, such as "the field of the partridge," "the field of the mother of mice," &c. It would seem to have been the same in ancient times, for we read of "the fuller's field,"† and "the potter's field,"‡ the latter called afterwards, on account of its purchase with the thirty pieces of silver given to Judas as

part of the property, or capital, owned by the masses of mankind in every civilised community.

* By a "plough" must be understood, not the rude implement which goes by that name in Palestine, but the possession of a normal plough-team of two oxen in light lands and of four oxen in heavy lands. The Roman *jugum*, or yoke of two oxen, made a complete plough.

† 2 Kings xviii. 17.

‡ Matthew xxvii. 7, 10.

the price of Messiah's betrayal, by the tragic name of "the bloody field," *Aceldama*.* As distinguished from its separate parts, which are not apparent to a stranger's eye, the whole arable and pastoral land attached to each village lies around it in one seemingly unbroken stretch, known to the Hebrew Bible as the שָׂדֵה , *sadeh*, "broad acres," or "open-farm-land," the "field" of our Authorised Version, constantly spoken of in the singular, for it has no artificial boundaries like our farm lands, but presents one uninterrupted expanse which can be traversed freely in every direction. Thus we read that Isaac went out "to meditate [or rather, to grieve] in the open-farm-land" (*sadeh*).† *Sadeh* answers sometimes to the Latin *ager*, our "land," as in the expression "the *sadeh* [or land] of the Amalekites."‡ Perhaps that part of England which on many accounts most resembles the general appearance of Palestine arable, is the centre of the chalky downs of Thanet, some two miles inland from Birchington, Westgate, Margate, Broadstairs, and Ramsgate. Here almost all the hedges, fences, walls, and ditches have been removed. The farmsteads with their surrounding grounds and cottages answer to the small, unwalled Palestine villages, and the apparently unbroken stretch of dry, treeless land around them to the Eastern *sadeh*, or "field."

The six representatives, having parcelled out the land, now cast lots for its distribution. Each of them gives some object to the presiding *Khateeb*, such as a stone or a piece of wood, and he puts them into a bag. The *Khateeb* then asks to whom one of the six parcels of ground which he names is to belong, and a little boy, chosen to draw out the objects from the bag, puts in his hand, and the ground in question is adjudged to the party represented by the chief who gave the stone or other object which the child brings out. A very young child is generally chosen for this purpose, in order that there may be no collusion.

When the six divisions are thus allotted, they are again subdivided, in the case of each party, amongst the ten ploughs in a similar way. For this purpose each field of each parcel is divided into ten equal strips, which are now generally, on the mountains, measured out roughly with an

* Matthew xxvii. 8; Acts i. 19.

† Genesis xxiv. 63.

‡ Genesis xiv. 7. See also Genesis xxxii. 3; xxxvi. 35; 1 Samuel vi 1, &c.

ox-goad, about eight feet long.* On the plains, they use for this purpose a rope about twice the length of the ox-goad, made of goat's hair, about half an inch thick, called *hhabaleh*, evidently the Hebrew *hhevel*, "rope," or "measuring line."† Each of these strips is called a *maress*, from the Arabic *meerass*, "inheritance" or "allotted portion." The fields are taken separately, and the ten *mawaress*, or strips, are apportioned amongst the ten ploughs by lot. The owner of two ploughs, for instance, would get one-fifth of each field in his sixth division of the land, and the owner of one plough one-tenth. A man with two weak oxen who can only plough half a day is set down at half a plough, and gets one-twentieth of each field; and another who can only plough for a quarter of a day receives one-fortieth. Each farmer then pays the proportion of the land tax due on the strips of land allotted to him.

A deep furrow divides these strips (*mawaress*), or a stone is placed at each end as a land-mark. It is held to be a heinous

* Speaking of the origin in England in Saxon times of *hams* and *hamlets* that is, as the words signify manors, and small or subject manors, Mr. Frederic Seebohm says, "The typical importance in so many ways of the *gyrd*, or *rod*, or *virga* in the origin and growth of the Saxon '*tun*' or '*ham*' is worth at least a moment's notice. The typical site for a new settlement was a clearing in a wood or forest, because of the 'fair rods' which there abound. The clearing was measured out by rods. An allusion to this occurs in Notker's paraphrase of Psa. lxxviii. 55—'He cast out the heathen before them, and divided them an inheritance by line.' The Vulgate, which Notker had before him, was '*Et sorte divisit eis terram in funiculo distributionis*;' and he translated the last clause thus, '*teilta er das lant mit marseile*,' to which he added, '*also man nu tuot mit ruoto*,' as they now do it with rods, i.e., at St. Gall in the tenth or eleventh century. (*Schilter's Thesaur. Antiq. Teut.*, i, p. 158; Ulm 1728). So in England the typical holding in the cleared land of the open fields was called a *yard-land*, or in earlier Saxon a *gyrd landes*, or in Latin a *virgata terra*; *yard*, *gyrd*, and *virga* all meaning *rod*, and all meaning also in a secondary sense a yard measure. The holdings in the open fields were of *yarded* or *rooded* land—land measured out with a rod into acres four rods wide, each *rod* in width being therefore a *rood*, as we have seen." (*The English Village Community*, pp. 171, 172; Longmans, 1883.)

† There is an evident allusion to this division of the separate fields of the *sadeh* into equal parallel strips, measured off by ropes, in Ezekiel's vision of the redistribution of the land of Palestine amongst the twelve tribes. Each of these is said to receive a straight strip of equal size, fifty miles in width, running parallel to the other strips, across the whole breadth of the land from east to west. Of these it is said most elliptically, "Joseph ropes (יִסְרֹף, *hhava-leem*)," that is, "Joseph [shall have two] ropes," or "strip-like portions measured out by ropes" (Ezekiel xlvi. 13), one strip for Manasseh and another for Ephraim side by side (xlvi. 4, 5). The same use of the word in English appears to have survived amongst the South Saxons, and hence the "rapes," that is, "ropes," into which the county of Sussex is divided,

sin amongst this simple agricultural people to remove one of these land-marks after the ground has been sown.* Doubtless with reference to this particular case the solemn anathema was pronounced on Mount Ebal against a secret fraud, which could be so easily committed, would be so difficult to detect, and would be attended with such serious injury, "cursed be he that removeth his neighbour's land-mark."† It has been hitherto supposed that these words applied to the original boundaries of fields and farms, but such land-marks are for the most part of a permanent and immovable character, while the stones which are yearly brought and placed to distinguish the strip or strips assigned to each individual, can be tampered with far more readily, and in this case not only the land, but also the crop sown and worked by another be thus stolen. Besides, in farming by *maress*, amongst a people wholly given as Israel were to agricultural pursuits, the temptation to such an act of dishonesty would constantly present itself to all, in every part of the country.

An inflexible rule prevails as to the cultivation of the soil thus annually distributed. A man may not sow any crop which he pleases on his strip or strips, but is compelled to grow the same produce as the rest of his fellow-farmers are growing in the field or district where his allotments lie. And there is a good reason for this. When the crop is cut and the ground is bare, the beasts which are at other times kept in the proper pastures of Palestine, wide unfenced desert hills, are brought to these stubble lands, and are fed on the wild growth which then springs up. In agriculture, throughout the East, they never use any manure that requires leading, but the flocks and herds when thus pastured over it serve not only to clear but also to enrich the soil. But this requires that the whole ground in each part of the village lands should lie fallow at the same time, in order that the common rights of pasturage may be enjoyed without doing harm to any adjacent standing crops. Hence the

* The *fellahkeen* call the boundary marks they place to distinguish the sown strips (*marawress*) into which they divide the fields *takhem* (plural *tukhum*), which is evidently the same word as that which occurs in the Talmud for "bound," or "limit," *tehoom*, in the expression, תְּהוֹם הַשַּׁבָּת, *tehoom hashshabath*, "bound of the sabbath," that is, "limit of the sabbath day's journey." M. Clermont-Ganneau discovered this word in the rock-cut inscription twice repeated, תְּהוֹם גֶּזֶר, *tehoom Gezer*, "limit of Gezer," at *Tell el Jezer* (Mr. Bergheim's village, the *Abu Shusheh* of the maps), now identified with the royal Canaanite city of Gezer, in after times a Levitical city (Joshua xxi. 21).

† Deut. xxvii. 17. See also Deut. xix. 14; Job xxiv. 2.

customary law that harvesting in the lands of a Village-Community must all go on at the same time, and that one man must not begin to reap before his neighbours. Barley or wheat may be sown on different strips in the same field, as the harvest in this case comes about the same time, barley harvest preceding wheat harvest by about a fortnight only. But a man may not sow *simsim*, our sesame, a kind of rape, which, after the olive, is the chief oil-producing plant of Palestine, amongst fields where his neighbours are sowing corn; for the *simsim* would ripen considerably later than the cereals, and this would lead to a breach of the law which requires that the harvesting of the strips in each field must all take place at the same time.

A farmer often finds himself, under this system of allotting the land, with 20 or 30 small strips, all separated from one another, and sometimes miles apart. Yet, notwithstanding its grave inconvenience, the *fellahheen* cling with the utmost tenacity to this ancient usage, and the Turkish Government has vainly endeavoured to induce them to allow the land to be portioned out amongst them individually once for all, in order that each person may be registered as the permanent possessor of a certain portion of the soil. Failing to succeed in this, it has had to content itself with recording the names of all the inhabitants of each village as joint owners of the entire land attached to it.

A part of the land is cultivated each year by the other villagers on behalf of those of their number who, owing to their office, are unable to till the ground for themselves. Such a portion of the soil, cultivated by the community for one of their number, is known as the *Shēkarah*. There is commonly to be seen the *Shēkarat el Khateeb*, or "portion of the religious teacher," and the *Shēkarat en Nejjar*, or "portion of the carpenter," assigned to them each year in return for their respective services.* Our Saviour, doubtless, like Joseph His reputed father, had His *Shēkarat en Nejjar* cultivated for Him in the arable ground belonging to the Village-Community at Nazareth.†

* These are the only two officials so supported, for the carpenter is the only artisan of an ordinary Palestine village, being blacksmith and mason as well, and the *Khateeb* is not only the religious teacher, chairman of meetings, scribe, recorder, and accountant of the place, but also combines with these the offices of medical man and barber.

† For many of the above facts I am indebted to the interesting and accurate observations of Mr. Samuel Bergheim, formerly of Jerusalem, who possessed peculiar advantages for studying the manners and customs

There can be little doubt that this method of allotting the lands each winter, or, at all events, at short and regular intervals, like all the other customs of Palestine, is most ancient, and has probably existed from the very commencement of agriculture. The distribution was probably annual, though it is possible that the re-allotment of land under the Law may have been every seventh year, for the payment of tithes every third year may point to a three years' rotation of crops, twice repeated, followed by a seventh year of fallow.* We know that the country was first divided amongst the families of Israel by lot. The particular directions given to Moses, after the twelve tribes had been numbered, were: "Unto these the land shall be divided for an inheritance according to the number of names. To many thou shalt give his inheritance much, and to few thou shalt give his inheritance little; to every one shall his inheritance be given according to those that were numbered of him. Notwithstanding the land shall be divided by lot; according to the names of the tribes of their fathers they shall inherit. According to the lot shall the possession thereof be divided between the many and few."† These Divine instructions were carefully carried out by Joshua as soon as he had conquered the country.‡

It has been generally supposed that, in this division amongst the tribes, every man of the 601,730 adult males numbered by Moses was put in absolute possession of his own plot of arable land, which he had no power to alienate. But this absolute ownership of broad acres is nowhere stated or implied, though no doubt it prevailed, as in the instances of Naboth and Jeremiah, as to *house property* in the villages and towns, and in their adjacent gardens (always situated outside), vineyards, olive yards, and fig orchards, &c. The general principle laid down in the above instructions to Moses was, "To many thou shalt give his inheritance much, and to few thou shalt give his inheritance little,"§ and this we are expressly told held good in the case of families as well as of tribes.|| No words could more plainly exclude an

of the *fellakheen* whilst farming the lands of *Abu-Shusheh* on the Philistine plain.

* See Deuteronomy xiv. 28; xxvi. 12; and Amos iv. 4. This septennial reallotment has also been inferred from six years being the ordinary term that a Hebrew slave was to serve. Exodus xxi. 2-4; Deuteronomy xv. 12; Jeremiah xxxiv. 14.

† Numbers xxvi. 53-56. See also Numbers xxxiii. 54.

‡ Joshua xiii.-xxi.

§ Numbers xxvi. 54.

|| Numbers xxxiii. 54.

individual holding of land, or point more conclusively to a collective holding, a holding in common by family groups. If each man was to have received his own inalienable possession in a certain tract of ground it would have been said "to every man thou shalt give his own inheritance." Instead of this we have, as it is literally in the Hebrew, "to many thou shalt give his inheritance much, and to few thou shalt give his inheritance little." The "his" here clearly refers to the "family" in Numbers xxxiii. 54, and probably in Numbers xxvi. 54. The full meaning is "to many thou shalt give their family inheritance much, and to few thou shalt give their family inheritance little." This, the only rule laid down for the distribution of the land, overlooks the individual altogether, and has regard to the tribe or clan only, and to its component part the *sept*, or *gens*, the agnatic group of kinsmen made up of various related families under a patriarchal head. Each head of a house doubtless received his own original portion of land, more or less considerable according to the number of his descendants and followers. These, however, were probably very numerous in most cases, and must have become still more so as time went on and the family increased with each new generation. There is every reason to believe, in view of the genius of the East, where the strength of family ties and patriarchal rule forms so strong a bond, that these numerous related groups settled each in their own village, and held a kind of joint possession of all the lands belonging to the family which lay around it, precisely as the villagers of Palestine do now. Indeed, all the allusions in Scripture look this way. The main features of the occupancy of real property amongst Israel are, in all probability, preserved in the present practice of holding in *mushaa'*, or "common," amongst the modern *fellahkeen*. It is extremely interesting, especially at a time when the subject of the tenure of land is so much in the thoughts of men, thus to be able to realise, from the primitive custom existing at the present day, the manner in which Boaz, Jesse, Barzillai, and the other farmers we read of in the Bible, must have held and cultivated the soil in the days of old.

Nor was this joint tenure of land, with its curious accessories, merely a Jewish custom. We have many hints that it prevailed throughout the East long before Israel existed as a separate nation, or came into possession of Palestine. When Abraham sought to purchase the field of Macpelah, he first approached the community, "the sons of Heth," that is, "the people of Heth," who held Hebron and the land round

about it.* The conveyance he desired appears to have been of land immediately adjacent to a town, and, therefore, as now, in individual holding; but, even in this case, though it was ground in some sense belonging to Ephron, the son of Zohar, yet the patriarch is said to buy it, not alone of this particular Hittite, but of "the sons of Heth."† So again when Jacob bought a parcel of ground where he spread his tent, situated close to a large town, Shechem, it was not from a private owner, but "from the sons of Hamor, the father of Shechem."‡ Moreover, Jacob is said to buy not the *sadeh*, but חֵלְקַת הַשָּׂדֶה, *hhelekath hassadeh*, "the field of the *sadeh*," where his camp had been pitched.§

* Genesis xxiii. 3, 5.

† Genesis xxiii. 20.

‡ Genesis xxxiii. 19. In the Village-Communities of Palestine, there is a way of excluding strangers from obtaining any foothold on the soil, or any possession of house property, or the holding of fruit trees (such as the olive) apart from the land on which they grow. [This possession, so to speak, of real property in "fruitful trees," is a peculiar feature of the land laws of Palestine and the adjacent countries, alluded to in what would appear to be the conveyancing terms of the first deed on record, that by which Abraham purchased land from Ephron and the sons of Heth, where the description of parcels runs "the *sadeh* of Ephron which was in Macpelah, which was before Mamre, the *sadeh* and the cave that was in it, and every tree which was in the *sadeh* that was in all the borders round about were made sure to Abraham for a possession." Genesis xxiii. 17, 18.] Though, as it is shown in this paper, broad acres were always held, as they still are, in common under the Crown, land and house property in towns and villages, and their adjacent "watered gardens," orange orchards, vineyards, olive yards, or some one or more of their separate trees is *mulk*, or freehold property, in individual holding. Such property may be put up to sale, and bid for by any person or persons from outside, but relatives of the vendor, or, failing relatives, neighbours, or if no relative or neighbour comes forward, any member or members of the Community, have always the right of pre-emption at the price offered by the intending purchaser or purchasers. In this way strangers can be, and generally are, excluded from the Village-Communities. Thus we have an explanation of Abraham's very great and natural anxiety—appearing so strongly, in the original Hebrew, in the broken language and agitation of Genesis xxiii. 13, and in the humble entreaties and attitude of verses 8 and 12—as to whether he would be permitted by the people of Mamre to purchase a freehold in which to bury his wife.

§ The word *hhelekath*, masculine *hhailek*, Arabic *hhakeh*, this last preserving no doubt the Chaldo-Syriac form of the colloquial in our Lord's time, appears to have been the technical term in Hebrew answering to our "field," or small division of open land, as we may gather from the name Ἀκελδαμά (ἄκρη ἰσραήλ), "the field of blood." Many MSS. read Ἀκελδαμαχ, this final χ being no doubt a Greek rendering of the soft aspirate sound formerly attached to κ. In the *Shēphailah*, or Philistine plain, almost the precise term *hhelekath* survives to this day in the common expression *hhalkath wateh*, "a field [or portion] of ground."

When Israel were settled in Palestine, it was doubtless partly on account of this joint-tenure of land that under the Law no Hebrew was held to have more than a life interest in broad acres, and neither possessed, nor had power to alienate, any absolute ownership. Provision was made only for the sale and conveyance of his life interest, computed in the Bible at a term of years not exceeding the interval from 20 years, when he came of age, to 70 years, the allotted span of life. All he could alienate in the lands of a village would be the right of *muzara'a*, or "sowing," for a period at most of 50 years, or so much of it as remained unexpired until the next Jubilee, which must often have made the term of years for which this right could be conveyed to another a very limited one.*

It has been well said, "as Moses recognises a sacred principle in the life and unity of the Israelite nation as a whole, so he likewise consecrated two smaller units, the Tribe and the Household, within the bounds of the holy nation itself. There was, however, an intermediate body between these two latter, mentioned and utilized in the Law,† and assuming great prominence in the Book of Joshua,‡ מִשְׁפָּחָה, *meeshpahhah*, German *geschlecht*, Latin *gens*, which, though like *gens*, it has a wider sense, has a definite and technical sense, 'the Father's House.' Now as this 'Father's House,' or 'Family,' held the important place it obviously did in the social organism, it is natural that it should have its economic function too. In a word we might expect as each tribe had its separate allotted portion, so each family would have a district allotted to itself. This explains Joshua xv, 12, 'according to their families.'§ In fact we may infer that each 'Father's House,' or 'Family,' or 'Thousand,'|| existing at the time of the conquest, settled in one or more Communes; so that, as the settlement became complete, the Family and the Commune became co-extensive, and it was a chance whether the local or the hereditary name prevailed. Boaz was 'Bethlehem,'¶ in the same sense that Jephtha's father was 'Gilead,** or Pekah's victim 'Argob,'†† in the same sense in which Evan Cameron was Lochiel, and he was

* Leviticus xxv. 15-17.

† Numbers i, iii, iv., xxvi.

‡ Joshua vii. 17.

§ See also Joshua, xvii. 1-5.

|| That "Father's House" and "Thousand" are identical, see Joshua xxii. 14, 30, and Judges vi. 15, and that "Thousand" and "Family" are identical, see 1 Samuel x. 19, 21.

¶ 1 Chronicles ii. 51 54.

** Judges xi. 1, 2.

†† 2 Kings xv. 25.

son of Salmon in the same sense as the Duke of Argyll is MacCallum More."

This farming in family groups is the key to the communism in land, which, as we have seen, still survives. It had its origin in the idea of possessing things in common which, more or less, characterises all family life. The division made each year afresh of every rod of the soil, for the purposes of cultivation, was amongst persons who were all related by blood, and who lived under a local hereditary chieftain, the father as well as the head of the clan.

Here the reflection forces itself upon us, that the scattering of our modern families in all directions is the measure of the impracticability of our returning now, in these lands of the North-West under our present circumstances, to the holding of broad acres in common. How utterly impossible this would be in connection with a communism of that monstrous modern type, which would hold *all*, even women, in common, and so strike at the very root of family life, which alone gave birth to this primitive tenure, and which alone can maintain its existence and ensure its smooth working!

The cultivation of the soil in Village-Communities consisting almost entirely of blood-relations, drawn and kept closely together by the intermarriage of cousins, which appears to have been universal in early times, just as it is to-day, adds greatly to the weight of the sacrifice made by Abraham, when, in words which the reader will now perceive have a peculiarly pointed and poignant meaning, Jehovah said to His faithful servant, "Get thee out of thy land, and from thy kindred [or birthplace], and from thy Father's House, to the land that I will show thee."* To leave the *Gens*, or *Sept*, the closely inter-related Village-Community—the dearly loved family group, which held, so to speak, in a ring fence, all one's living kith and kin, at least from an agnatic standpoint, without any break or exception, bound together, not only by natural affection, but also, and even more indissolubly, by an all-prevailing and inexorable custom which forbade them to separate, while it made it very dangerous to do so—must have been indeed a terrible trial!

It is important to observe that the few learned writers who have diligently searched into the nature of land tenure in ancient times have come to the conclusion, that holding in common by related Village-Communities, with a periodical redistribution of the land by lot, prevailed in almost all

* Genesis xii. 1.

countries before the feudalisation of Europe, and, in a form necessarily very much modified and blurred, long continued to survive the introduction of manorial rights and individual possession. Sir Henry Sumner Maine's exceedingly interesting and able works afford abundant proof of this position.* He summarises the researches of G. L. von Maurer, who has written on the law of the Mark, or Township, which is still found in the more backward parts of Germany. The Mark, or Township, was an "organised, self-acting group of Teutonic families, exercising a common proprietorship over a definite tract of land, its Mark, cultivating its domain on a common system, and sustaining itself by the produce. It is described by Tacitus in the *Germany* as the *vicus*; it is well known to have been the proprietary and even the political unit of the earliest English Society; it is allowed to have existed among the Scandinavian races, and it survived to so late a date in the Orkney and Shetland Islands as to have attracted the personal notice of Walter Scott."† Nasse of Bonn says that "the Mark is the origin of manorial rights and customs."

Speaking of the system of these Village-Communities as he saw them in India, Sir Henry Sumner Maine says, "their unexpected and (if I may speak of the impression on myself) their most startling coincidence with the writers who have recently applied themselves to the study of early Teutonic agricultural customs, gives them a wholly new value and importance. It would seem that light is pouring from many quarters at once on some of the darkest passages in the history of law and of society. To those who knew how strong a presumption already existed that individual property came into existence after a slow process of change, by which it disengaged itself from collective holdings by families or larger assemblages, the evidence of a primitive village system in the Teutonic and Scandinavian countries had very great interest; this interest largely increased when England, long supposed to have had since the Norman Conquest an exceptional system of property in land, was shown to exhibit

* *Village-Communities in the East and West*. Murray, 1871. His other works which bear on this subject are all of deep interest and value, namely, *Ancient Law*, Murray, 1861; *Lectures on the Early History of Institutions*, Murray, 1875, and *Dissertations on Early Law and Custom*, Murray 1883. The author, Sir Henry Sumner Maine, K.C.S.I., LL.D., F.R.S., was formerly Master of Trinity Hall, Cambridge, Member of the India Council, Reader on Jurisprudence and the Civil Law in the Middle Temple, and Regius Professor of the Civil Law in the University of Cambridge.

† *Village-Communities in the East and West*, p. 10.

almost as many traces of joint-ownership and common cultivation as the countries of the North of the Continent; but our interest culminates, I think, when we find that these primitive European tenures and this primitive European tillage constitute the actual working system of the Indian Village-Communities, and that they determine the whole course of Anglo-Indian administration."* In another place this learned English jurist tells us, "The most distinguished public servants" of the last century "have left much on record which implies an opinion that no ownership of Indian land was discoverable, except that of the Village-Communities, subject to the dominion of the State."†

We are told of these Communities, as they were found existing in India, that the Headman or council of village elders (this latter always bearing "a name which recalls its ancient constitution of Five persons") who ruled them did not command but merely declared what had always been done, for custom with them was omnipotent and inexorable. Thus any one who had been aggrieved did not appeal to the authorities on the ground of an individual wrong, but of the disturbance of the order of the entire community. Disputes of a civil nature came before the village elders, but criminal law was left to trial and execution by the individuals wronged, who with their own hands avenged manslaughter, murder, and adultery in the case of a wife by the punishment of death. Each farmer had his portion allotted to him by the village, which he cultivated himself with the aid of his sons and slaves; but he could not cultivate as he pleased. He must sow the same crop as the rest of the community. There was a periodical redistribution of the several holdings. The system was that of "shifting severalties," not the separate perpetual holding, much less the absolute power to alienate any part of the soil. "The description," says Sir Henry Sumner Maine, "given by Maurer of the Teutonic Mark of the township as his researches have shown it to him might here again pass for an account, so far as it goes, of an Indian village." To which I may add that both the former Indian village and the Teutonic Mark answer in all this to the present Palestine Village-Community, which is evidently nothing else but the ancient Mark surviving to this hour in a still more ancient and perfect form.

Julius Faucher of Berlin, in his paper on *Systems of Land*

* *Village-Communities in the East and West*, pp. 61, 62.

† *Ibid.*, p. 154.

Tenure in Various Countries, says that the ancient form of tenure and tillage in Russia "was that of the joint-husbandry of a whole village. The village not the family was the social unit. Supplanting the family for purposes of colonisation, the village, by necessity partook to a certain extent of the character of a family. It stood under patriarchal rule. Movable property alone was individual, immovable, the land at least, was common. With the alien not belonging to the village, not the individual, the village only has to do. The village always had a Mother-village, and the Mother-village again had a Mother-village, and so on. The name of Mother-village in general, or of Mother-village to another village is still attached to many Russian towns and villages."*

Sir Henry Sumner Maine tells us that "there appears to be no country inhabited by an Aryan race in which traces do not remain of the ancient periodical redistribution."† In England he tells us this prevails more or less in all parts, but more abundantly in some counties than in others. These lands are known by various names. "When the soil is arable, they are most usually called 'common,' 'commonable,' or 'open' fields, or sometimes simply 'intermixed' lands. When the lands are in grass, they are sometimes known as 'lot meadows,' sometimes as 'lammas lands,' though the last expression is occasionally used of arable soil. . . . The several shares in the arable fields, sometimes, but very rarely, shift from one owner to another in each successive year; but this is frequently the rule with the meadows, which, when they are themselves in a state of severalty, are often distributed once a year by casting lots amongst the persons entitled to appropriate and enclose them, or else change from one possessor to another in the order of the names of persons or tenements on a roll. . . . Common fields and common meadows are still plentiful on all sides of us,"‡ though in the last 170 years vast numbers of such commonable fields have been enclosed, especially since the *Common Fields Enclosure Act* passed in 1836.§

* *Systems of Land Tenure in Many Lands*, pp. 362, 363. Macmillan & Co., 1871. Throughout the Hebrew Scriptures certain dependent villages are called "the daughters of" others, which are spoken of as feminine, and therefore as the "mothers," "mother-cities," or "mother-villages" of these smaller dependent places. Thus we read of "Ekron and her daughters (וּבְתוּרֶיהָ)." (Joshua xv. 45. See also Joshua

xv. 47; xvii. 11; Judges i. 27; xi. 26; &c.)

† *Village-Communities in the East and West*, p. 82.

‡ *Ibid.*, pp. 85, 86, 88.

§ Nearly 4,000 enclosure Acts were passed between 1760 and 1844!

Mr. William Marshall, a voluminous writer on agriculture between 1770 and 1820, who "has left an account of the state of cultivation in almost every English county," speaks very plainly to this effect in a number of his works. As summed up by Nasse of Bonn, his statements declare that in his time, only some eighty years back, "in almost all parts of the country, in the Midland and Eastern Counties particularly, but also in the West—in Wiltshire for example—in the South, as in Surrey, in the North, as in Yorkshire, there are extensive open and common fields. Out of 316 parishes in Northamptonshire, 89 are in this condition; more than a 100 in Oxfordshire; about 50,000 acres in Warwickshire; in Berkshire, half the county; more than half of Wiltshire; in Huntingdonshire, out of a total area of 240,000 acres, 130,000 were commonable meadows, commons, and common fields."* Some of these common fields were so extensive that the pasturage on the dividing balks of turf, which were not more than 3 yards wide, was estimated in one case at 80 acres. Indeed our words "commonalty" and "commons," as in "House of Commons," and in the expression "Commons of the Realm," and "yeoman" from the German *gemein*, "common," doubtless owe their derivation to a body of peasant proprietors having real property in common, that is, the dwellers in Village-Communities, who formed originally the mass of men in all lands.

Writing four years later in 1875, Sir Henry Sumner Maine alludes to further corroborative evidence of the universal existence in primitive times of related Village-Communities holding the land in common with a periodical redistribution, and that even amongst races other than Aryan. He says, "We at length know something concerning the beginnings of the great institution of Property in Land. The collective ownership of the soil by groups of men either in fact united by blood-relationship, or believing or assuming that they are so united, is now entitled to take rank as an ascertained primitive phenomenon, once universally characterising those communities of mankind between whose civilisation and our own there is any distinct connection or analogy. The evidence has been found on all sides of us, dimly seen and verifiable with difficulty in countries which have undergone the enormous pressure of the Roman Empire, or which have

* *Ueber die mittelalterliche Feldgemeinschaft und die Eingehungen des sechszehnten Jahrhunderts in England*, by Professor E. Nasse, Bonn, p. 4.

been strongly affected by its indirect influence, but perfectly plain and unmistakeable in the parts of the world, peopled by the Aryan race, where the Empire has made itself felt very slightly or not at all. As regards the Slavonic Communities. . . . We now know much more clearly than we did before that the soil of the older provinces of the Russian Empire has been, from time immemorial, almost exclusively distributed amongst groups of self-styled kinsmen, collected in cultivating Village-Communities, and self organised and self-governing. . . . The re-examination of the written evidence respecting ancient Teutonic life and custom proceeds without intermission, and incidentally much light has been thrown on the early history of property by the remarkable work of Sohm (*Fränkische Reichs- und Gerichtsverfassung*). The results obtained by the special method of G. L. von Maurer have meantime been verified by comparison with phenomena discovered in the most unexpected quarters. . . . Irish scholars, distinguished by remarkable sobriety of thought . . . had pointed out many things in Irish custom which connected it with the archaic practices known to be still followed or to have been followed by the Germanic races. As early as 1837 Mr. W. F. Skene, in a work of much value called *The Highlanders of Scotland*, had corrected many of the mistakes on the subject of Highland usage into which writers exclusively conversant with feudal rules had been betrayed; and the same eminent antiquarian, in an appendix to his edition of the Scottish chronicle, Fordun, published in 1872, confirms evidence which had reached me in considerable quantities from private sources to the effect that Village-Communities with 'shifting severalties' existed in the Highlands within living memory.* Quite recently, also, M. Le Play and others have come upon plain traces of such communities in several parts of France. . . . But much the most instructive contribution to our knowledge of the ancient Celtic Societies has been furnished by the Irish Government, in the translations of the Ancient Laws of Ireland, which have been published at its expense. The first volume of these translations was published in 1865; the second in 1869; the third, enriched with some valuable prefaces, has only just appeared [1875].†

* Mr. W. F. Skene, in a valuable note on *Tribe Communities in Scotland*, appended to the second volume of his edition of Fordun's Chronicle says that "he believes the system of re-division of land to have been once universal, or at least widely extended, amongst the Scottish Celts."

† *Lectures on the Early History of Institutions*, pp. 1, 2, 3, 6, 7, 8.

These Ancient Laws of Ireland, the so-called Brehon Laws, are contained in the two largest of the assemblage of Irish Law-tracts, the *Senchus Mor*, or *Great Book of the Ancient Law*, and *The Book of Aicill*. From these we gather that village groups, or Septs, consisting of related families under a chief, held land in common with a periodical redistribution. In a word the evidence of these Irish law tracts proves "that the elements of what we are accustomed to consider the specially Germanic land-system [the Mark] are present in the territorial arrangements of the Irish tribe." An Irish manuscript, that is believed to date from the year 1100 A.D., the *Lebor na Huidre*, *Book of the Dun Cow*, compiled in the seventh century, declares that "there was not ditch, nor fence, nor stone-wall round land, till came the period of the sons of Aed Slane [A.D. 658-694], but [only] smooth fields. Because of the abundance of the households in their period, therefore it is that they introduced boundaries in Ireland." "Rundale"* holding still prevails in parts of Ireland, which is a collective enjoyment of land by a group of villagers. "As lately as fifty years since," says Sir Henry Sumner Maine, "cases were frequent in which the arable land was divided into farms which shifted among the tenant families periodically, and sometimes annually. Even when no such division was made, a well-known relic of the Mark-system, as it showed itself in Germany and England, was occasionally found: the arable portion of the estates was composed of three different qualities of soil, and each tenant had a lot or lots in the land of each quality, without reference to position." He adds that it is true that "Irish holdings in 'rundale' are not forms of property, but modes of occupation. There is always some person above who is legally owner of all the land held by the group of families, and who, theoretically, could change the method of holding, although, practically, popular feeling would put the greatest difficulties in his way. We must bear in mind, however, that archaic kinds of tenancy are constantly evidence of ancient forms of proprietorship."† But more than this, he goes on to point out that "the naturally organised, self-existing, Village-Community can no longer be claimed as an institution specially characteristic of the Aryan races. M. de Laveleye, following Dutch authorities, has described these communities as they are found in Java."‡ Rénan sees them amongst Semitic tribes in Africa.

* Also known in Ireland and Scotland as "runrig," both *rig* and *dole* being names of acre strips (See p. 20). *Dole* (whence "rundale") was a strip of meadow.

† *Lectures on the Early History of Institutions*,

pp. 101, 102.

‡ *Ibid.*, p. 77.

Mr. Frederic Seebohm, in his recent work, *The English Village Community*, a volume of great research and close reasoning, has afforded us abundant materials for a vivid picture of English Village-Communities as they existed during the ages of serfdom, and also for a view, so far as it can now be obtained, of the Welsh, Irish, and Scottish tribal land systems.* This work is one of much interest and value as an essay in economic history, but it is mainly occupied with examining Village-Communities and the Celtic tribal systems as they appear after the vast pressure of the Roman Empire had modified their once free forms, and, at all events in the case of the former, converted their open fields into the shell of a serfdom, first Roman, then Saxon, and finally Norman. Here Mr. Seebohm has carried his investigations further than those of Sir Henry Sumner Maine, and has shown us exactly the nature of the holding in England of arable land under the open field system of the Roman *villa*, the Saxon *ham*, and the Norman *manor*, all three having much in common with one another, and with the still freer and more primitive tenure of land in pre-Roman times. After the Norman Conquest, the Village-Communities appear to have lost for a time the last vestiges of liberty, the lord of the manor obtaining, for the most part, the absolute ownership of the soil, which in earlier days had been held in common by the people. But even then "the unity of the *villata* [or body of villein tenants] as a self-acting community is illustrated by the fact that in many instances the services of the *villani* [that is, the whole Village-Community in villenage] are *farmed* by them from the monastery [of Boldon] as a *body*, at a single rent for the whole village," as appears from the *Boldon Book*, a survey of the manors belonging to the Bishop of Durham in 1183.

During these feudal times the manor consisted of two parts, the land in demesne and the land in villenage. The land in demesne was that part retained by the lord for his own use, namely, the mansion house and its grounds, the home farm, woods, and other portions of land "irregular in area, let out from it to what are called free tenants (*libere tenentes*), some of them being, nevertheless, villeins holding their portions of the demesne lands in free tenure at certain

* *The English Village Community examined in its relation to the Manorial and Tribal Systems and to the Common or Open Field System of Husbandry. An Essay in Economic History.* Longmans, 1883.

rents in addition to their regular holdings." The other part of the soil, the larger part of it, the land in villenage, answering to our modern farms, lay in one open stretch around the village. Part of this in most places would consist of common pasture ground, and, in some at least, of common woods, moors, heaths, and wastes, for we have mention of all these in *Fleta*, an anonymous work which was the *vade mecum* of landlords as early as the time of Edward I. But the principal part was the arable ground.

It was invariably cut up into acre and half-acre strips, always a furlong (furrow-long, *i.e.*, the length of the drive of the plough before it is turned) in length, the acre strip being 40 perches, or rods, in length and 4 in breadth, and the half-acre strip the same length but half the breadth.* Their Latin name in mediæval terriers and cartularies is generally *selio* (French, *sillon*, "furrow"). These acre and half-acre strips were separated from each other by green balks of unploughed turf. The balks were simply two or three furrows left unploughed, and, when from time to time dug up, unsown, for the term is apparently derived from the Welsh *balc*, "the accidental turning aside of the plough which leaves a sod of grass unturned between the furrows." Sometimes ten of these acre strips running parallel to one another, making a furlong in width, were grouped into a larger division, or field, called a *shot* [probably from the Anglo-Saxon *sceot*, division] or "furlong," and in Latin documents a *quarentena*. The balks which divided the *shots*, or *quarentenæ*, were broader than those between the *seliones*, or acre strips, and were often overgrown with shrubs, doubtless the first origin of our modern hedges. Along the top and the side of the *shot* was a path, or common field way, by which the acre strips could be approached, sometimes within the boundaries of the *shot* and sometimes outside it, called a *headland*, Latin, *forera*, Welsh, *pentir*, Scotch, *head-rig*, and German (from the turning of the plough upon it), *anwende*. Where the *shots* abruptly met others or abutted upon a

* In the earliest English law fixing the size of the acre (33 Ed. I) it is declared that "40 perches in length and 4 in breadth make an acre," that is, four roods running side by side parallel to one another, each rood being 40 perches, or rods, long by one rod wide, a strip of 40 square rods. More than 1,000 years ago the shape of the acre in Bavaria was just the same, but the rod in that case was the Greek and Roman rod of 10 feet, instead of the English rod of $16\frac{1}{2}$ feet, which latter is just about the length of the Palestine *hhabalah*, or measuring-line (Pertz, *Legum*, t. iii, 278. *Lex Baiuvariorum textus legis primus*, 13).

boundary they were called *butts*. A corner of the *shot*, or field, which could not be cut up into an exact acre or half-acre strip was formed sometimes into a strip tapering or pointed at one end, and this was called a *gore*, or "*gored acre*." A few small odds and ends of land remained unused, which from very early times bore the names of "no man's land," or "any one's land," or "Jack's land." On the sides of hills, forming terraces, the strips were called *lynches*, or *linces*, a name properly belonging to the banks, or unploughed, grassy, natural terrace walls that held up and separated the terraces, but which came in time to be given to the terraces themselves. Remains of these are to be seen from the railroad at Luton in Bedfordshire, and between Cambridge and Hitchin, and also on many of the steep sides of the Sussex Downs and the Chiltern Hills.

The three field system of culture was almost universal, that is, the open lands were kept in three divisions, in each of which, as we have seen is the case in Palestine, the same culture was required to be carried on by all at the same time. This rotation of crops was known as 1, Tilt grain, or Winter corn; 2, Etch grain, or Spring, or Lent corn; and 3, Fallow. That is, in each of the three fields wheat or rye was sown one year in autumn, the tilt grain, and the land was then pastured over till the spring of the next year. This second year of etch (*eddish*, *edish*, "stubble") grain, called also *Breach-corn* (from the breach, or breaking of the stubble?), barley, oats, or beans were sown in spring. The third year, fallow, no crop was sown till the autumn.

The land in these open fields in villenage was mainly held by the villein tenants in quantities of acre and half-acre strips known as *hides*, *wistas*, *virgates*, and *bovates*. Normally the *hide*, called also a *carucate* (plough land), and in Sussex "a great *wista*," contained 120 acres;* the *wista*, or *half-hide*, 60 acres; the *virgate*, or *yard-land*, called in Kent a *yoke* and north of the Tees a *husband-land*, 30 acres; and the *bovate*, called also an *ox-gang* or *half-virgate*, 15 acres. This last land measure, the *bovate*, was so called because it was held to be the amount of land which contributed one ox to the full plough-team of eight oxen needed for a *hide*, or *carucate*, which, consisting of 120 acres, contained just 8 *bovates*. The villein tenants mostly held a *virgate*, or *half-virgate*, and

* There was also a *solanda*, or double hide, containing 240 acres, probably the same as the *sullung*, or *solin*, of Kent, signifying "plough-land," from *sull*, "a plough."

answered somewhat to our small farmers, only that they were in abject serfdom, subject to all manner of services, fixed by custom in each manor, fines, penalties, and, above all, compulsory week-work on the lord's demesne sometimes for as much as four days a week. Their normal holding was a *virgate* of 30 acres, or 10 acres in each of the three fields. These villein tenants, or *virgarii*, as they were sometimes called, were in each case hereditary tenants for life, their holdings passing by the lord's re-grant from father to son by the rule of primogeniture, on payment of the customary heriot, or relief. The holding of a *hide* or *carucate*, 120 acres, was ordinarily the mark of a free family. But in the survey of Thorpe, a manor in Essex, we read of a class of *hydari*, who "were probably, as their name implies, groups of *villani*, villein tenants, holding a *hide*," and their services were reckoned in a lump, which they appear to have "clubbed as it were together to perform." (*Domesday of St. Paul*. Camden Society, 1858.)

In most instances in the old rolls we are simply told in the case of each of the villein tenants that A.B., or C.D., is the holder of a *virgate* or a *half-virgate*. A manor is described as consisting of so many *villani* holding so many *virgates* or *half-virgates*, or else we read that the monks of such and such an abbey hold so many *virgates*, or *husband-lands*, in the *villa*, or manor, of a given place. The parcels are not described nor the boundaries mentioned. An exception to this occurs in the Winslow manor rolls in the case of one John Moldeson, whose individual holding of a messuage in the village of Shipton and of 68 half-acre strips of land scattered all over the open fields of the manor of Winslow is given, with the furlong, or *shot*, where each half-acre was situated. Each of these strips is further defined as to its boundaries by being said to be between the land of A.B. and C.D., or the land of A.B. and E.F., &c. But this, be it remembered, is in the middle of the fourteenth century. To put it in Mr. Seebohm's own words, "This villenage of the Winslow tenants was, no doubt, in the fourteenth century mild in its character; the silent working of economic laws was breaking it up; but it was villenage still. It was serfdom, but it was serfdom in the last stage of its relaxation and decay." Exactly so: and there seems every reason to believe that for centuries before this the villein tenants, holding a *virgate* or *half-virgate* in the three open fields, were assigned no individual possession of any particular strips of ground, but had simply the right to till 30 or 15 acres, or thereabouts, as the case might be, in

the whole of the lands in villenage, which were held in common, and were reallocated amongst them as a community in proportion to the number of acre or half-acre strips which each, as belonging either to the class of *virgarii* or *dimidii virgarii*, had an hereditary right to plough. In a word, all that they possessed at first was the ancient right of *muzara'a*, or sowing, in the common lands of the *villata*, or Village-Community now passed into villenage, for which they would have to cast lots each year with the other *virgarii*, or *geburs* as they were commonly called, or possibly with all the *geneats*, or villein tenants in general, including the *cotsetles*, the *bordarii*, or *cottarii*, our cottagers, with small holdings, generally of 5 acres, but varying from 1 to 10 acres, and the simple village officials, who, like those in Palestine to-day, had their land ploughed for them in return for their services, the *faber*, or blacksmith, the carpenter, the *punder*, or keeper of the village pound, the miller, the bailiff, and the *præpositus*, or foreman, this last being the best husbandman temporarily elected by the body of tenants to be responsible for the cultivation of all the arable land. The chief differences between the once free Village-Community and the same Village-Community now in serfdom were that these *virgarii*, or *geburs*, were limited as to the number of acres they were permitted to plough, not as in the former free times, by the number of oxen they might be rich enough to keep, but by the number of acre and half-acre strips to which they were entitled by their feudal holdings, and had to give, amongst other *sordida munera*, or base services, as a rule from one-half to two-thirds of their time to do unpaid compulsory work on the lord's demesne, cultivating their own 15 or 30 acres and those of the village officials when and how they could. And that this really was so Mr. Seebohm not only admits, but in one part of his work attempts to prove. He says. "It will be remembered that there was observed in the Winslow example of a *virgate* a certain regular turn or rotation in the order of the strips in the *virgates*—that John Moldeson's strips almost always came next after the strips of one, and were followed by those of another, particular neighbour. Now this fact strongly suggests that originally the holdings had not always and permanently consisted of the same actual strips, but that once upon a time the strips were perhaps allotted afresh each year in the ploughing according to a certain order of rotation, the turn of the contributor of two oxen coming twice as often as that of the contributor of one ox, and so making the *virgate* contain twice as many strips as

the *bovate*. This, and this alone, would give the requisite elasticity to the system so as to allow, if necessary, of the admission of new comers into the Village-Community, and new *virgates* into the village fields. So long as the limits of the land were not reached a fresh tenant would rob no one by adding his oxen to the village plough-teams, and receiving in regular turn the strips allotted in the ploughing to his oxen. In the working of the system the strips of a new holding would be intermixed with the others by a perfectly natural process. Now that something like this process did actually happen in Saxon times is clear from the way in which the Church was provided for under the Saxon laws.”*

It is not necessary to go into that part of Mr. Seeböhm's work where he labours with much learning and ingenuity to show that G. L. von Maurer is wrong in his theory of the original German *mark* and *free Village-Community*, and that “what looks at first sight so much like a German free Village-Community was a little Roman *vicus*.” Whether Roman or German the *mark* on the Continent, like the *manor* in England, possessed distorted but clearly traceable remains of the Village-Community with its arable land lying in open fields, held and ploughed in common, and constantly re-allotted amongst the native tillers of the soil, all of which are features of that farm life which the changeless East has so minutely preserved, and which, in its exceedingly primitive simplicity, carries us back at one leap two thousand years behind the Roman Empire.

Though as we have seen, in India, these Village-Communities formerly existed everywhere, the unavoidable introduction of our legal ideas of sovereignty, command, duty, right, and sanction, utterly subversive of their system, but inseparable from modern ideas of law and order, have been inevitably modifying and breaking them up. This has occasioned a great part of the difficulty we have met with in ruling that vast Eastern Empire,—for there is no earth-hunger, no attachment to custom, and no antipathy to the interference of strangers in matters social, political, legal, fiscal, and religious greater than that which is to be found in these ancient, highly exclusive, and exceedingly conservative Village-Communities. Powerful oriental monarchs formerly, as they do now—and this must from time to time have been as much the case in the kingdom of Israel as in

* *The English Village Community*, pp. 113, 114.

the empires which surrounded it—"swept away the produce of the labour of the Village-Communities and carried off the young men to serve in their wars, but did not otherwise meddle with the cultivating societies. . . . These monarchs with few and doubtful exceptions neither legislated nor centralised. The Village-Communities were left to modify themselves separately in their own way."

If it is asked how, under such a state of society, the numerous oriental court officials and the nobility were maintained, the answer is, plainly, in the same way as they were provided for by the Mohammedan Emperors of Delhi and the Mahratta princes who divided the Mogul Empire, or the still more modern Sikhs, "not by rents, but by assignments of the royal revenue." To acquire the necessary means for this, when their armies were large and their courts magnificent, Eastern monarchs were driven to sweep into their coffers a large and extortionate share of the produce of the soil tilled by their subjects in the Village-Communities, leaving the latter only a bare subsistence. There is every reason to believe that this state of things existed in the days of the kings of Judah and Israel, and it adds a graphic touch to the picture of the greed, insolence, and consequent punishment of the young courtiers and nobles brought up with Solomon's son, whom it will be seen had a direct interest in advising Rehoboam to declare that the fiscal burdens of the people, which had been already unbearably oppressive in the last days of his father's reign, should be increased rather than diminished.*

It follows, from what has been said, that there was no such thing as rent, in our sense of the term, in former times when the cultivating tribal groups prevailed. Sir H. S. Maine tells us the terrible problem of pauperism "began to press on English statesmen as soon as the old English cultivating groups began distinctly to fall to pieces." In India, he points out, it will be worse, because there is so little mineral fuel for manufactures on a large scale, and "emigration for the most part is regarded as a mortal sin." In fact, so long as the requirements of life were extremely simple, so long as even the poorest people knew their pedigrees and paid homage to a local patriarchal ruler, so long as lands were but sparsely peopled and not as yet completely brought under cultivation, so long as a powerful despotism safeguarded the country from foreign aggression without making

* 1 Kings xii. 1—14.

too great demands for men and money, and held back its tax-farmers (*publicani*) from extortion and the soldiers, who accompanied them to convoy the taxes, from violence and robbery, so long life must have gone very happily with the masses under the primitive land system of the Village-Communities—so long, but no longer. It is, therefore, very important to study this system whilst it is still to be seen, for modern civilisation will soon inevitably sweep away its last vestige, and, whilst the present order of society continues, prevent any possibility of its return.

Besides the great historical and legal interest possessed by this subject, it also serves to light up with vivid meaning an obscure allusion to be met with in the Hebrew Scriptures.

David, rejoicing in the favour of God, cries,

“Thou [art] taking hold of my lot,

The measuring-lines (מִדְּקָלִים) are fallen unto me in pleasant [places].”*

Written as this was amongst a people wholly given to agriculture, it will be seen, in the light of the foregoing facts, to contain a far more graphic and familiar figure than has been hitherto supposed. The word “taking hold of,” תִּקְחֶנּוּ *toameek*, the present participle, *kal* of תִּבְנֶה, *tamak*, translated in our version “maintained,” may possibly be rendered “holding up,” but its first and commonest sense is “taking hold of,” and that would naturally seem to be the meaning here. David is not speaking in these verses of Jehovah’s protecting or maintaining him in the enjoyment of his prosperity, but of his *bestowing* it upon him. This highly figurative passage bears the following interpretation, “Thou art taking hold of, that is, drawing out for me my lot from the bag, and so assigning to me the right of ploughing in the richest parcel of land, and the lines, that is, the strips marked out by the measuring-line, have fallen to me in the fattest fields of this goodly ground.” Under this exceedingly familiar and suggestive figure—for did not all Israel live by

* Psalm xvi, 5, 6. The word here translated “lot,” גֹּזֶל, *goaral*, appears to be the Arabic *jaral*, “a stone,” or “anything carried about,” the very *goaral*, or “lot,” now in use. It means in the first instance the stone, or other similar object employed in the casting of lots; and in its secondary sense, by metonymy, the parcel of land so assigned. The word “line” here, and in the following passages, is מִדְּקָלִים, *hhevel* (Arabic *hhabaleh*), “measuring-line,” that rope or line by which each field of each parcel of ground was divided into strips, or *maavaress*; and this rope, as we have already seen, by the similar figure of metonymy, gave its name to these *maavaress*, or strips of soil, which it served to measure out.

cultivating the land and witness year by year with absorbing interest its redistribution by "the lot" and "the line?"—David records his own rich and highly prosperous lot in life, and acknowledges it as the assignment of Him Who took him from the lowly calling of a shepherd to make him a king.

The Psalmist has evidently a similar allusion in the verse descriptive of the driving out of the seven Canaanitish nations from Palestine, and its bestowal on the tribes of Israel. It is literally—

"And he drove out nations from before them,

And he caused to fall [for] them (מִלְּפָנָיו) an inheritance by a measuring-line (מִמְדָּתוֹ)."

But this verb נָפַל, "fell," in the *hiphil* structure, is the technical term used for "casting lots," and the Revisers are undoubtedly right in rendering וַיִּפְּלוּם "and allotted them."† It should therefore read—

"And he drove out nations from before them,

And he allotted them an inheritance by a measuring-line."

How pointed and full of meaning the figure now becomes in those words of enticement put by the wise man into the lips of sinners,

"Cast [or thou shalt cast (לְפָנֵינוּ)] thy lot amongst us,"‡

that is, "take part in the joint-husbandry of our village," in other words, "join our community."!

The passage in the Authorised and Revised Versions,

"For the Lord's portion is his people,
Jacob is the lot of his inheritance,"§

is,

"For Jehovah's field (לְפָנָיו) is his people,

Jacob is the measuring-line (מִמְדָּתוֹ) of his inheritance,"

that is, "His allotted maress, or strip," for here, by metony-

* Psalm lxxviii. 55.

† נָפַל alone, in the *hiphil* structure, is rendered "divided by lot," "allotted," or "cast lots" in Joshua xiii. 6; xxiii. 4; 1 Samuel xiv. 42; Ezekiel xlv. 1; xlvi. 22; and xlvi. 29, in the Authorised Version, and it is virtually the same in the Revision, though "allotted" is put for "divided by lot."

‡ Proverbs i. 14.

§ Deuteronomy xxxii. 9.

my, the measuring-line stands for that which it measures out. In this bold representation the inhabitants of earth are compared to a *sadeh*, or open stretch of common arable ground, consisting of a number of *hhalakeem*, or "fields" each divided out into *mawareess*, or "strips," of which Israel, His chosen, peculiar, elect nation is the allotted *mareess* "that falls to Jehovah!"

A precisely similar figure is used in describing Israel's assigned portion in the land of Canaan—

"Unto thee will I give the land of Canaan,
The measuring-line (מִדְּבַר) of your inheritance,"*

that is,

"Unto thee will I give the land of Canaan,
The allotted-*mareess* [or strip] of your inheritance."

We may also conclude that in the terrible picture of judgment denounced against Amaziah, the priest of Bethel, on account of his falsely accusing the prophet Amos, the words,

"Thy ground shall be divided by the measuring-line (בְּמִדְּבַר),"†

are a figurative expression for "others shall farm thy ground," that is, "take thy property from thee."

So too in the "doleful lamentation" in the prophet Micah against the cruel and extortionate oppressors in the land of Israel, we have clearly a similar reference. These, of whom it is said,

"They covet fields and take them by violence,"

are represented as being forced to cry,

"We are utterly spoiled ;

He has changed the field (שָׂדֵה, *hhaitek*) of my people :

How he has departed from me !

Surely, turning away, he has divided our *sadehs* (שָׂדֵינֵינוּ, *sadainu*) [to others].

Therefore thou shalt not have one casting a measuring-line (מִדְּבַר) in a lot

In the congregation of Jehovah."‡

That is, "thou shalt have none left to thee alive who have not been carried into captivity or sold into slavery, and thus

* 1 Chronicles xvi. 18 ; Psalm cv. 11.

† Amos vii. 17.

‡ Micah ii. 4, 5.

removed from their peaceful homesteads in their Village-Communities, from all their kith and kin, and from the cherished, almost sacred right of tilling in *mushaa'* their ancestral lands."

Very grand and terrible is the same allusion as employed by the prophet Isaiah in foretelling the devastation of Idumea, or Edom, which would come in

"The year of great recompense [literally, "recompences"] for the controversy of Zion."

He describes its palaces as ruins overgrown with thorn-bushes, and its fortresses as covered with nettles and thistles and crumbling to dust. Jackals and other beasts of prey are to have it as their place of rest, and to share it with the screech-owl and the vulture. Of these denizens of the desert he cries,

"He has cast a lot for them,
And his hand has divided [it] to them by a line [יָדָה],"*

that is to say, the once fertile *sadehs* of Idumea shall have, as it were, for their only landlords and occupiers the wild beasts and birds of the wilderness! All who have traversed this district for many years past have borne witness to the utter desolation so truly drawn in the words of this powerful figure.

The Right Hon. LORD HALSBURY—the LORD CHANCELLOR—(Vice-President), in the Chair: I suppose there is no one present who would not cordially agree that our best thanks should be accorded to Mr. Neil, who has been so kindly engaged in instructing us upon these somewhat dry subjects, as they would have been in any other hands than his. I imagine if one were at first sight to select a very uninteresting and dry subject (to the popular mind, at all events), it would be that of the tenure of land in our own time—much more in ancient times; but I think the author of this paper has managed to give it an interest which carries us back to a period certainly before history began, and anterior to the time of Abraham, in which he has given us that which I think we can all learn a great deal

* Isaiah xxxiv. 13—17.

from, and has informed us of many things, and we have subject for reflection upon many points which, but for his ingenuity, research, and learning, probably we should not have thought worth while to consider. Those chance allusions and expressions, which we pass without any observation at all in matters we have been most of us familiar with from our youth, receive a new light from what he has told us; and I confess, for myself, the explanation has occurred to me, when I have been listening to his learned words, of many subjects which have been, perhaps, a little puzzling to one on reading that Book with which most of us are familiar. He has said so many wise things that I fear being over-fascinated and saying I agree too much in what he has said. As a lawyer, I should pause and consider, and hear somebody on the other side; but, at present, I can only say that I am delighted with what I have heard. It is one of those things for which we are not sufficiently thankful, that men who are accomplished and learned do think it worth their while to go into subjects which are not attractive to the popular mind unless they are rendered so by learning such as we have listened to to-night. I have now only to invite discussion.

MR. W. ST. C. BOSCAWEN: When I read the first six or eight pages of the proof copy of this paper, I thought the author was writing not on Jewish land tenure, but on a very much older system, viz., that of Babylonia; for I find that out of 16 words he quotes, more or less connected with land tenure, there are 14 of those words to be found on the old Babylonian legal tablets. There is hardly a precedent or a custom which he quoted which would not have been in use in Babylonia at the time when Abram left his home. You are probably aware that there are now in the British Museum a series of legal documents, dating from about 2300 years B.C. down to within a century of the Christian Era. There are over 40,000 of those documents, which contain subjects to most people almost as dry as the material they are made of, but still there is no subject, perhaps, more interesting than that of the life of the common people. In studying these inscriptions, you get tired of the long platitudes poured out on the kings, and it is quite a treat to enter into the houses, as it were, and see the common life of the people. What Mr. Neil has said with regard to the light which Arab tenure throws on early Hebrew life, I may carry a little further back perhaps by giving one or two illustrations. He spoke

of land being divided by a sort of council which was held periodically. In Babylonia, when land was leased, it was leased by a court held, not in the guest chamber, for they do not seem to have had one, but in the gate of the city. These elders sat, as in the case of Boaz, and decided the question. Land was leased in this way. The most prominent person was the scribe, who was the same as the *khateeb* here; he wrote down a list of the lands. Then as to village communities, we have a distinct trace of it in Babylonia—certainly at the time of the captivity and even much earlier, in the time of Esar-Haddon and Sennacherib, we find that the wealthy individuals paid their tithe—and even the King—to the Temple; he usually paid it in gold. Only a few days ago, I copied a list in which a number of villages paid their tithe in a body, and were taxed as if they paid individually. Then, again, I noticed a subject of interest with regard to the plough: it comes in with something later in the paper. The two signs used to represent the plough are derived, according to M. Brünnow from a word that means to make a burrow or a scratch with a graving tool. The word *sadeh*, in the Hebrew, has, apparently, a different meaning to the word used in the Hebrew inscriptions. The word for “open country.” is *zuza*, that which is spread out. It has almost exactly the same meaning as the distinction you hear constantly drawn between town and country land; because I find a man saying in a mortgage which we have, on which he borrowed a sum of money, “all that I possess in town and the open country, I give as security.” Then there is another point with regard to the rope or measuring line; the suggestion of the author is ingenious, but I must say that I am not quite convinced by it yet. Certainly, we do know that land was allotted out in Babylonia by the *asslu*, which means a rope or cord; but I do not find much trace of it.

Now, there is another point with regard to two persons having land cultivated for them, namely, the scribe and the carpenter. In Babylonia there was another individual, who was not quite so popular as either of those persons, who had land cultivated for him, and that was the tax collector. He was, moreover, bound to be provided by the village with a donkey on which to go his round to collect the taxes. There are numerous other points to which I might refer—one is blood affinity. I think the author would gain a good deal of information if he were to read Professor

Robertson Smith's last book on the religion of the Semites, in which he deals with what he calls "fundamental principles," first, as to tribes, in relation to the Tribal God, who is usually regarded as the owner of the land, and it was from him that the land was received, and the tribe was thought, or said, to consist of the God and his people, and the God had his share in the village community, who was represented by the tithe as much as any of the population. With regard to the purchase of the cave of Macpelah, it is one of the most remarkable passages in the Old Testament. Indeed, there are two such passages in the early portion of the book of Genesis, which stand out as interesting fragments. One is the purchase of the cave of Macpelah, which reads as if it were taken from Babylonian documents. The whole phraseology of it, even the epithet of "stranger" or *ger*, applied to Abraham, is a word found in Babylonian inscriptions. It means a man who asks to "make a friendship"; the word is equivalent, almost, to the word "client." The other fragment which stands out so clear is that remarkable historical one in the 14th chapter, which is, undoubtedly, a fragment of the olden history of the Hebrew people. May I add a word with regard to that part of the paper referring to village communities. Another trace of these communities in Babylonia is certainly found in the punishment which was inflicted on a man who broke the laws of the family. The law of the family in India implies the recognition of the father as the head, but in Babylonia, amongst the Semites, at any rate, at an early period, the law of maternity was in use, and the mother was represented as the goddess of the house, and an offence against her was punished far more severely than an offence against the father. An offence against the father could be atoned by a money payment, but against the mother it was punished by cutting off of the hair and nails—which you know was a punishment inflicted on captives by the Hebrews—and by banishment from all social rights. These are facts which are gathered from Babylonian inscriptions, and which show that we may carry the system, which Mr. Neil has traced from so early to so late a period, even further back still. There is one more part of the paper to which I will refer before I sit down, and that is the one with regard to the expression "the daughters of the mother cities." The old Babylonian capital, the city of Ekron, was called by the name of "the mother," and this is a phrase frequently repeated in Babylonian inscriptions when

the King besieged the town and captured that city, *alu sa u alani ša bariti šu*, "that city and the cities allied with it," and the cities which clung to it, the word being exactly equivalent, or almost so, to the Levite; the one who clung to the city. The Levite of the Hebrew is represented in Babylonian inscriptions by *sangu*, and was one who was under a bond or vow to the Temple. I hope Mr. Neil may be induced to go on investigating this extremely interesting subject. I might suggest that he would find a great deal of information upon it in a book published by the two Messrs. Revillout on the "Law of Property in Ancient Egypt," and the large Appendix to it on the "Laws of Babylonia." It is a book of very great interest and learning. It was published, unfortunately, somewhat prematurely; before the discovery of a number of documents which have now come to light, but still it is a book of very great interest.

AN ASSOCIATE, in some remarks, denied the prevalence of the village-community system* in early times, and urged that it did not exist in France.

MR. FREDERIC SEEBOHM.—I should like to say that my study of the subject leads me to suppose that the view taken by the last speaker is not the correct one. I would simply, by way of showing how exceedingly strong the evidence is for the existence in early times of village-communities with the open field system, allude to one point. I think the last speaker mentioned that there was no evidence in the laws of France that France ever had these village-communities, or the land system of which we have heard so much.

AN ASSOCIATE.—The present French Code.

MR. SEEBOHM.—The late extremely interesting and clever writer,

* Prescott, who says "the nearest approach to the Peruvian constitution was probably in Judæa," describes it in the second chapter of his work on *The Conquest of Peru*, and remarks that it seemed "suited to a state of society but little advanced." He adds that under it, "the great hardship in the case of the Peruvian was that he could not better his condition . . . nor advance himself a hair's-breadth in the social scale" . . . "the great law of human progress was not for him."—At the third page of the paper reference is made to the expression "a plough of oxen" as signifying two oxen; it may be noted that in some parts of England, Somersetshire, for instance, the expression "a plough of horses" signifies two horses.—ED.

M. Fustel de Coulanges, a great authority on French legal history, did indeed confess to me that he had not been able to discover in early documents of France, which he knew so well, any clear allusion to the open field system. But in a visit last autumn to Brittany, I found the open field system fully in force, and using the same terms as those of the ancient laws of Wales. It exists still to a large extent in the great corn-growing district of France, of which Chartres is the centre. From the tower of the cathedral it may still be seen stretching on the plain as far as the eye can reach, though 100 years have passed since the French Revolution abolished the manorial system under which it was carried on for centuries. In tracing it back, two things have to be considered: first, the holdings composed of strips scattered over the whole area of a township, and secondly, the common right of pasture over the strips when the crop has been gathered. It has been argued that the scattering of the strips is sufficiently explained as the natural way of giving every holder land of all kinds, and so producing fairness and equality. But this does not account for the second point, the common right of pasture over the strips when the crop has been removed. At the present time the holder at Chartres dare not put his own cattle to graze on his own strips till the day comes when the whole area is common to all. This system has been inherited by the village communities from the still older tribal communities. It goes back to the time when cattle and not corn formed the main wealth of the pastoral tribes. These wandering over the country pursued what agriculture they needed by annually withdrawing a portion of their land from the common pasture, to be held in severalty during the crop, and then to fall back under the common pasture when the crop was gathered. This is a mark of the open field system wherever found. We have been told to-night that it exists in Syria. It existed all over Europe, and was not confined even to Aryan ground. It is very widely extended, and seems to me to go back for its origin to the tribal system, which preceded the village communities.

Mr. DAVID HOWARD.—I do not think any one could have known Wilts and Dorset 30 years ago without being aware that village communities existed in England. I have myself seen exactly the same system which Mr. Seebohm describes in operation. It is a survival of an ancient custom even now carried on in some places in England, though utterly unsuited to the present times. When I was a boy there were many examples. The fact of so inconve-

nient a system surviving so long, is proof in itself of antiquity, and I can only say if a shifting severalty has recently sprung up in Palestine, it is much more wonderful than that it should have survived.

Mr. SAMUEL BERGHEIM.—As a native of Palestine and one having had extensive property there, I might mention the fact that village-communities at a short distance off the high roads have different laws from the village-communities close to the high roads. It seems that the different nations who held Palestine at various periods, such as the Greeks, the Saracens, the Crusaders, and the Turks, passed laws which were adopted by the people living in villages near to the high roads, but that these laws were not adopted in the villages at a distance from the high road, say of 5 to 10 miles. In such villages older laws and customs have been kept up; in fact, many of the words used by the inhabitants are different to those used in the ordinary language. Some of their words are not Arabic, but probably a form of Hebrew. For instance, in the expression *hhalkath watta*: if you were to ask an Arab what *hhalkath* meant, he would probably say that there was no such word; but if you were to go to a village such as *Abu Shushah* (the ancient *Gezer*), there they would tell you at once that it meant “a portion of land.” So with the apportioning of land, the land near the towns is not *mushaa'*; each piece of land is freehold. It was made so by a law brought in by the Turks, who have often tried to enforce this law in the whole country, and thus to do away with those rights of cultivation, *mushaa'*, but have failed to do so. When my brother and I bought the lands of a village some years since from its inhabitants, the Turkish authorities recognised us as the *freeholders*, and gave us title deeds, in accordance with a law on freehold passed by the late Sultan about twenty years ago. Not so, however, the inhabitants of the village, for when we came to portion out the land in plots for cultivation, the villagers protested and refused to accept the new arrangement. They would only have the land in *mushaa'*, as explained in the paper just read. These laws, or customs, of cultivating the land still exist, and the people refuse to change them.

Mr. SEEBOHM.—May I add one word which I forgot to say on the alleged absence of documentary evidence for the existence of the open field system in France in ancient times. It seems to me that there is documentary evidence of an indirect but conclusive kind. As in Saxon charters, so in the early charters of France,

properties are granted composed of so many holdings, or the *mansus* of so and so, in a certain place without any description of the holdings by boundaries. Why is this? Simply because both in England and France the land belonging to each holding was scattered in strips about the whole area of the township. This evidence carries back the system in France to the commencement of the sixth century, *i.e.*, as far as the documentary evidence goes.

Mr. BERGHEIM.—I accept what Mr. Boseawen said about the tax collector. The custom is kept up in the village-communities; they are bound to provide him with a donkey.

Mr. BOSCAWEN.—The practice on which that is founded is laid in 1130 B.C., when the right of freedom was granted to places for certain benefits; in future the tax collector was not to go his rounds, and they were not to provide him with a donkey.

Dr. CHAPLIN.—I feel, my Lord, it is great presumption in me to occupy the time of the meeting, as my knowledge of the subject is so inferior to that of many of those gentlemen who have already spoken. As to the argument derived from antiquity, I am unable to add anything. What I do know of the subject, coincides entirely with the points brought forward so ably by Mr. Neil, and I must say that I have derived a great deal of pleasure and instruction from listening to his paper; and may I say that I could not help thinking, as he proceeded, that it would be very interesting to discuss, at least in a brief way and in few words, the influence on the people of this peculiar way of holding land in Palestine. Perhaps it may not be known to some present, that one of the most interesting problems possible is now being worked out in that country, *viz.*, whether this very ancient system of holding lands for agricultural purposes in common, as described to us this evening, is better for the general welfare of the people, than that newer system to which we are accustomed in this country, and which is being introduced into Palestine, where capitalists are purchasing the lands of the villages, and the *fellahkeen* are losing their ancient rights in the land, and, in consequence, the circumstances of the country population are changing. I had hoped that my friend Mr. Bergheim, who knows so much about it, would have told us more than he did. He just lifted one corner of the veil when he said he had inquired into it, but he has not said so much as could be wished. Subjects of great importance and of widespread influence are now being considered in Palestine, which must soon come to the front. I allude more particularly to

those agricultural colonies which are patronised by the leading Jews of this and various other countries of Europe. I suppose that most of those present are aware that there are some ten or twelve Jewish colonies for agriculture in various parts of Palestine, and that very important questions are coming up with reference to the way in which these colonies should be carried on.

Rev. J. G. KITCHEN.—I should like to express the special thanks of all Bible students to Mr. Neil for his paper, for such students know that it is a paper likely to be of great assistance to them. We are already indebted to Mr. Neil for many similar helps, and I do not know anyone, who seems to bring forward such practical ideas which throw light on the Bible, perhaps, since Dr. Thompson, who resided in the East and wrote his well known work thereon. Perhaps no one has had a better opportunity for similar study than Mr. Neil, and of putting it in a popular form. All must feel indebted to him for his researches. (Applause.)

Mr. G. POWELL.—I should like to echo that sentiment.

The AUTHOR.—I heartily thank those present for their kind vote of thanks. Whether my paper is of any value or not, turns really on two questions. First, "Is everything which we find in the East to-day most ancient, or is it not?" That is one of the most important inquiries, and there can be no doubt about the answer. The light coming in from every side—and it is now a brilliant flood of light—throws into boldest relief and gives strongest confirmation to everything that is found alluded to in Scripture. The unchanged manners and customs are in all respects the manners and customs of Bible narratives. Many of the technical terms that are used by the *fellahheen* to-day have no meaning until we take them back to the original Biblical Hebrew, of which they are found to be spoken forms. Every allusion in Scripture, as you go about the country, starts into life. Palestine customs, in their exceedingly primitive features, are evidently of hoary antiquity, as shown by their not only elucidating, but confirming the Bible in every particular. Thus, my Lord, there is a strong *a priori* conclusion that *all* we find now has not been recently introduced, but is most ancient. The second question is, "What is the *nature* of the holding of land alluded to in Scripture?" That they held a certain property in broad acres, as has been pointed out, is clear; the only question is, what was the *nature* of that property. This I have shown was holding in common; but it constituted real property. It had a money value attached to it.

It was a holding that could be conveyed to others, and the lands thus held could apparently be temporarily let to yearly tenants. All those allusions, that appear to us to be to individual holdings in severalty, are really to common rights enjoyed together with fellow commoners—rights of sowing a portion of the open field—not of permanently possessing any part of it. The subject must be so new to many that no wonder doubts arise when it is first put plainly. Give me one single instance of holding broad acres in severalty in all the pages of the Bible! I think the view I take of the ancient character of the tenure of land as now found in Palestine is conclusively confirmed by the remark of Sir Henry Sumner Maine, one of our greatest jurists learned in Indian law, that all “the most distinguished public servants” in India, in the last century held “that no ownership of Indian land was discoverable except that of the village-communities subject to the dominion of the State”—(*Village-Communities in the East and West*, pp. 61, 62.) Oriental monarchs, no matter how powerful, did not interfere with their people’s tenure of land, so long as they paid their taxes and provided men for the army; and the Mohammedans, like the rulers who preceded them, have left the villages to themselves, and thus, thank God, have preserved for us a living commentary on the Book.

The meeting was then adjourned.

REMARKS ON THE FOREGOING PAPER.

A few points strike me in connection with the Rev. J. Neil’s valuable paper on “Ancient Land Tenure, as Preserved by the Villagers (*Fellahheen*) of Palestine.”

I would rather render the term *nusha’a* by *undistributed* than by “common,” though practically “undistributed” land is farmed by the *fellahheen* as “common” land.

It must be remembered that not *all*, but (as Mr. Neil observes) only a large part of arable land is undistributed and allotted annually. In my time, this was chiefly the case on the great corn tracts, *e.g.*, the Sharon and Philistine plains.

If שָׂדֵה, *sâdeh*, be derived, as it appears to be, from שָׂדָד, *sadad*, “to break up clods with plough or harrow” (as in Isaiah xxviii, 24; Hosea x, 11), we may well render it as arable grain land, as distinguished from fruit or garden land.

I have elsewhere drawn attention to the fact that agricultural work in Palestine is, as it was in Bible times, divided into three principal kinds, following the main divisions of the soil:—

1st. Corn and grain culture, on arable land, chiefly on the great plains.

2nd. Vine, olive, and fig culture, on the mountains.

3rd. Vegetable culture, in irrigated "*gardens of herbs*," where there is a stream from a fountain head, chiefly in the valleys by the villages, and on a great scale, formerly in the Jordan Valley.

The *sâdeh*, arable land, is, no doubt, now often held in common and allotted annually by the Chiefs of the Village; but we found this allotment greatly influenced by considerations as to mutual protection; the fallowing of the land; and the proper rotation of crops: 1st, wheat, barley; 2nd, pulse and beans; 3rd, summer crops, melons, cucumbers, summer beans, sesame, and millet.

But Israel's fallow was appointed to be in the Sabbatic year, and they were commanded to work the other six.

It must be remembered that for many, many centuries, the population of Palestine has been so sparse that they have had far more land than they needed to use. The *fellaah* population has, moreover, shrunk enormously within the last 40 years. We found that the system of annual conclave and allotment was resorted to on the undistributed land of the Great Sharon Plain by the villages of the overhanging hills (Jezer is situated near this plain) for mutual protection and as a means of ensuring fallow, and also to prevent quarrels over any plot which, being "undistributed" (unappropriated), one might seek to make his own by continuous occupation. That the custom is most ancient is certain, and also that it prevails in many lands, as Mr. Neil has shown. But all arable land is not now "undistributed" in Palestine. Now, as of old, we have arable fields which are private property (Arabic, *mulk*, ملك).

But I think that, according to the Law of Moses, it was intended that every man was to receive an inheritance; and I read Numbers xxvi, as directing allotment—1st, to *Tribes*, and 2nd, to *Families*, משפחות (still called after their fathers, whose names were in the first great muster roll of Moses, and were in use, though they themselves had died in the wilderness); but also, 3rdly, to *Individuals* of full age (20 years, see verses 4 and 51), stated in verse 51 to be 601,730. To them personal and inalienable inheritance was to be granted, as follows, verses 52, 54: "To these shalt thou apportion (divide) the land for inheritance, accord-

ing to the number of the names. To [him who is] many shalt thou increase *his* (not *their*) inheritance; to [him who is] few thou shalt diminish *his* inheritance. To each man shall be given *his* inheritance according to those that were numbered of him."

This surely points to an allotment to each man individually.

The application of Zelophehad's daughters immediately follows and was approved, their claim being allowed. Then follows the Law. In Numbers xxxvi. 8, "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." They and all future heiresses were thus restrained by special enactment from marrying into any other than their own tribe, and thus (singly and personally—not collectively) alienate the inheritance from their father's tribe. Ten portions were allotted to Manasseh (Joshua xvii. 5, 6), because the daughters of Manasseh "had an inheritance among the brethren of their father." So, in Deuteronomy xxi. 17, we read that a first-born son was to inherit a double portion; as Joseph did in Ephraim and Manasseh, when Reuben had forfeited his double portion, 1 Chronicles v. 1.

Again we have, in Joshua xv, from 16 to 19, Caleb giving to his daughter Achsah, a field, שדה, *sadeh*, as personal property. (Note here the use of the phrase, "a blessing," to mean a super-added gift. The natives of Palestine to this day use the phrase in the same sense—"the blessing," *bárakeh*—an additional handful added to the already full measure; an extra bunch to the full weight of grapes; a small coin, over and above the stipulated pay, all added in token of good will. Thus Achsah received her field, and, besides that, her *bárakeh* of the upper and lower springs).

In 1 Samuel viii. 14, Israel is warned that the future kings may take from them their *fields*, &c., plainly their personal property. Naboth's history, 1 Kings xxi., plainly refers to his vineyard as personal property. The Jubilee laws against alienation of property also refer to personal acts of mortgage or sale. See also the application of those laws to the Prince, in Ezekiel xlvi. 16, 18. Mr. Neil refers to the span of human life given in Psalm xc. 10, but it should be remembered that in this psalm Moses, "the man of God," is not speaking of human life in general, but of the one generation doomed to die in the wilderness within the 40 years. Other Israelites did live to see more than one jubilee period.

In short, I am disposed to regard the *fellahh* custom of working in common, the "undistributed" princely or crown lands (*ardh-*

miri), as a survival like many others of aboriginal custom not abolished by Israel, because the Mosaic laws were but imperfectly carried out.

According to Mosaic laws there were no crown lands at all. "The land is Mine," Leviticus xxv. 23. The land marks used by the *fellahheen* for marking their allotments are, as Mr. Neil well observes, but slight piles of stones easily removable. Doubtless similar landmarks were used by the Israelites. But in Deuteronomy xix. 14 reference is made, not to any *recent* landmark but to the ancient boundary גבול, *gavool*, which they "of old time ראשונים have set in thine inheritance." So, Proverbs xxii. 28 and xxiii. 10, "remove not the ancient עולם, *olam*, landmark, which thy fathers have set," "and into the fields, שדה, *sadeh*, of orphans enter thou not" (clearly personal property).

Mr. Neil mentions that a portion is cultivated for the village carpenter and *khateeb*, whose business keeps them from ploughing for themselves. We also found that this portion was called *shkārāh*. Here, as is so often the case, we find a Hebraic term in fellahh dialect. *Shkārāh* means "hire," see Jonah i. 3. *Maress* is derived from *maras*, مرس, "rope," not from ميرات, *meerath*, inheritance. The Hebrew word for rope is חבל, *khavel*, whence our "cable," حبل, Arabic "rope." Then, as now, rope was used for field measurement.

As to the purchase by Abraham, Genesis xxiii., of the field and cave of Macpelah, it is expressly said that these were the personal property of Ephron; but it is clear that Abraham sought to get the children of Heth to waive the right of pre-emption which they had as neighbours, and that he succeeded in so doing, otherwise, any member of their families might afterwards have upset the purchase.

This right of pre-emption, by even a neighbour, is strictly enforced to this day among the *fellahheen*. So also property in fruit trees exists, distinct and separate from that of the soil in which they grow. Abraham had the trees secured to him as well as the field, *sadeh*, and cave.

Connected with this separate property in trees are the curious and interesting laws of tenure by *amār* (cultivation of waste land), into which space and time prevent my entering at present. Nor may I do more than just mention the curious fact that in South Palestine, the peasantry are governed by an unwritten code which they call *Sharyat Ibrahim* = the code of Abraham. This code is

held in the greatest reverence, and is respected even by the Turkish Government officers. It is unwritten, and is administered by the village elders, as distinct from the *Sharyat el Mahhkameh* (Moslem law) and the *Sharyat el Osmanli* (Ottoman Imperial law).

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REPLY BY THE AUTHOR.

It is a great satisfaction to find that so competent an authority on the manners and customs of modern Palestine as my critic minutely confirms my facts.

I am willing to adopt the derivation of *maress*, from *مرس* *maras* (or rather, for *مرس* is a collective plural, popularly used as a singular in the sense of cable, from *مرسه*, *marasah*), "rope," as preferable to my own from *ميراث*, *meerath* (pronounced by the natives *meerass*), "inheritance;" and this greatly confirms and strengthens the interpretation I have given of all the Scriptural allusions to "the lot" and "the rope."

The reference in Deuteronomy xix. 14, Proverbs xxii. 28, and Proverbs xxiii. 10, to "ancient land marks," may as reasonably be referred to the boundaries of tribal and family inheritances—of which our parish boundaries are probably the modern survival—as to individual holdings in severalty. Clearly no conclusive argument can be established either way on these passages.

The words of Proverbs xxiii. 10, "and into the fields of orphans (*וּבְשָׂדֵי יְתוּמִים*, *oovisdaiy* (plural construct of *sadeh*) *yethoameem*) enter thou not"—by the term *sadeh* my critic admits that the unenclosed arable land is meant—are plainly the figure of synecdoche, either that form of it to which I have alluded on page 4 of my paper, by which *sadeh* stands for land generally, *i.e.*, the part put for the whole, or else that form which consists of the very opposite, the whole put for the part, by which "the *sadehs* of orphans" signifies that portion of the *sadeh* to which they are entitled in the annual allotment. The exceedingly figurative

nature of Bible language, as on its human side that of a purely Eastern book, is even more overlooked than its curious allusions to Eastern manners and customs; for while we have a number of really valuable works on the latter subject, it is deeply to be deplored that we have not even one of a thorough or exhaustive kind in our own, or, I believe, in any other modern tongue, on the former!

This question is not in any way affected by an extraordinary fallow having been appointed for Israel every seventh year, for, whether or no they farmed during the intermediate six years by a rotation of crops, the land would have constantly to lie fallow for short intervals, and would need, as it does now, to be cleaned and manured, year by year, by feeding the cattle over it when in stubble. And, seeing that Israel came up out of Egypt, as they went down into it, a nation of shepherds rather than farmers, the question of pasturage for their vast flocks and herds must have been much more important to them than to the modern *fellahheen* of Palestine, who are farmers rather than shepherds. Equally, too, with the *fellahheen* of to-day, they would be influenced, at their first settlement amid the unexterminated nations of Canaan, and for long years after, by considerations as to mutual protection.

The fact that "all arable land is not now 'undistributed' in Palestine" is explained by Mr. Samuel Bergheim's observations on my paper as to the ceaseless and determined efforts of the Turks, the ruling power, to bring about a holding in severalty, with a view to facilitate the collection of taxes.

But another far more important fact, equally true, that all arable land—even that small portion which in recent times, often by force and fraud, has been wrested from the Village-Communities, and has passed into holding in severalty—is still everywhere open and unenclosed, is the strongest possible argument against this latter mode of tenure being ancient. No remains, nor the faintest traces of remains, are anywhere to be found of walls, ditches, hedges, or fences of any kind separating the *sadehs* of Palestine into fields or farms, which are always to be found where land has been long and legally held in severalty. The utter absence of any such divisions of the *sadehs* witnesses to the common rights of pasture over all the plough land during seasons of fallow, and such common rights of pasture over plough land are only practicable or possible where there are common rights of tillage under the joint husbandry of Village-Communities.

My critic practically grants all that I have mainly endeavoured

to prove, namely, that, however it came about, the ancient tenure of land in Israel, as in all the other nations of that time, was a holding of the *sadeh*, or "broad acres," in common, with a periodical, probably annual, reallotment amongst the commoners, for my critic says, "In short, I am disposed to regard the *fellahh* custom of working in common the 'undistributed' princely or crown lands (*ardh miri*), as a survival like many others of aboriginal custom not abolished by Israel, because the Mosaic Laws were but imperfectly carried out."

The only point, therefore, at issue between us is the construction to be put upon the Law of Moses, as it relates to the tenure of tillage.

This Law was unquestionably given to a people who had never seen or heard of any other tenure of the *sadeh* by the mass of men than that of the holding in common by Village-Communities. My critic appears to admit this. For them, as an Eastern people, custom would have possessed an inexorable power. How, then, on the face of it, is it possible that, if, as my critic maintains, the Law made suddenly for the first time in the experience of mankind so radical a change (and one that has only come about even in later times, and amongst Western nations given to change, very slowly) as that from the holding by tribes and families in common to the holding by individuals in severalty, so little, *so very little*, should be said in that Law on this subject at all, and that little, from a legal stand-point, of the most vague and general character? So sweeping, startling, and tremendous a change would, naturally, call for minute, explicit, and (from the general style of the Mosaic Law) repeated statements. Yet my critic can find *only one* very brief, vague, general provision bearing directly on this subject in the whole Law; as I shall presently show, namely, Numbers xxvi. 52-54, and three allusions to it, Numbers xxxvi. 8; Joshua xv. 16-19; and xvii. 5, 6!

Again, my critic appears to admit—and who can doubt?—the frequent allusion to this custom of periodically assigning each man's portion of land by "the lot" and "the rope," in the language of Hebrew prophets employing illustrations for a Hebrew people. What other conclusion can be drawn from the use of this figure—giving as they always do the most familiar imagery in order to be understood by that primitive, untravelled people, Israel, who were forbidden intercourse with other nations—by David* and other Psalmists,† by Solomon,‡ by the author of

* Psalm xvi. 5, 6.

† Psalm lxxviii. 55.

‡ Proverbs i. 14.

Chronicles,* by Isaiah,† by Amos,‡ by Micah,§ and even by Moses himself,|| than that this periodical redistribution of the lands of each Village-Community was practised by those for whom they wrote, and that it was a lawful and proper practice?

I am willing to rest the whole case on the cogency of these last two considerations.

Of the eight passages which my critic quotes from the Old Testament, Numbers xxvi. 52-54; Numbers xxxvi. 8; Deuteronomy xxi. 17; 1 Chronicles v. 1; Joshua xvii. 5, 6; xv. 16-19; 1 Samuel viii. 14; and 1 Kings xxi., only four have any direct bearing on the question of the nature of the tenure of tillage.

The story in 1 Kings xxi. does not refer to a *sadeh* at all, but to a *vineyard* (בֵּיתֶיךָ), always enclosed by a *jedar*, or unmortared wall of loose rough stones, and, like a garden or a house, as I have shown in my paper, doubtless held formerly, as now, in severalty.

The warning given by the prophet in 1 Samuel viii. 14, as to the king, "And your *sadehs* . . . the best he will take and give to his servants," may as well be applied to the appropriation of lands belonging to a Village-Community as to lands in individual holding, and settles nothing either way. The king's "servants" to whom the lands would be given may equally have been the heads of clans or families who would hold the lands in common.

Deuteronomy xxi. 16, 17, is just as indefinite, for there a man is simply said to "make his sons inherit that which he hath," and commanded to give his first-born, even though by a wife he hates, "a double portion of all that he hath," without specifying whether real or personal property is meant; and, if real property, then, I maintain, the inheritance consisted of his freehold house, garden, vineyard, olive orchard, fig orchard, or trees, standing on the lands of others, and, lastly, his right to plough his share of the annually allotted common *sadeh*.

In 1 Chronicles v. 1, the writer speaks only of tribal inheritance.

My critic says, "according to Mosaic laws, there were no Crown lands at all. 'The land is mine,' Leviticus xxv. 23." But Israel was at first a theocracy. Jehovah was their King. *Agreeing with this, the royal due of Crown land (ard amiriyeh), the tithe, was commanded to be paid to Him.* The words, "the land is mine," together with the claim of the tithe, tell strongly against the absolute holding by individuals in severalty, and as strongly in

* 1 Chronicles xvi. 18. † Isaiah xxxiv. 17. ‡ Amos vii. 17.
§ Micah ii. 4, 5. || Deuteronomy xxxii. 9.

favour of the holding in common of Crown lands, Jehovah Himself being the king, and taking the place and privileges of an earthly Eastern sovereign.

And now a word as to the relevant passages. In Numbers xxxvi. 8, we read "Every daughter that possesses an inheritance in any tribe of the children of Israel shall be wife to one of a family of the tribe of her father." This certainly may refer to the possession of an inheritance in a *sadeh*. But what is the *nature* of the inheritance? I hold it to be simply a right to till a shifting annually-allotted portion of the lands of her father's Village-Community, and not a freehold in severalty. There is nothing in the verse my critic quotes to decide either way. But there *is* in the verse immediately preceding, which gives the reason for the enactment, "For every one of the children of Israel shall keep himself to the inheritance *of the tribe of his fathers*." It is more the *tribal* or *family* inheritance than the individual inheritance that is kept before us all through the Old Testament; and the holding in common by the various tribal communities throws a new and vivid light on this peculiar feature of Bible life.

And this disposes of the allusion in Joshua xvii. 5, 6, which, like all the rest of the provisions in this chapter, was distinctly tribal. The chapter begins, "And there was a lot for *the tribe* of Manasseh . . . for Machir, the first-born of Manasseh . . . and he had Gilead and Bashan. . . . There was also [a lot] for the rest of the children of Manasseh *by their families*" (Joshua, xvii. 1, 2).

It also disposes of Joshua xv. 16-19, where Caleb's daughter Achsah, on being given in marriage to his nephew Othniel, first moved her husband to ask her father for a *sadeh*, and afterwards for the upper and lower springs, presumably in its immediate neighbourhood. This occurs in an account of "the lot of *the tribe* of the children of Judah *by their families*" (Joshua xv. 1). Here Caleb, who must have been at that time the venerable head of a large clan of Judah, is said to receive the city of Hebron, apparently with all its dependencies for miles around, for we find him sending out an expedition to conquer Debir (*El Dhoheriyeh*) some twelve miles away. He then gives a *sadeh*—to which, of course, would be attached the possession of the town or village to which it belonged—to his nephew Othniel, also presumably a chieftain, for the Village-Community consisting of his family and followers. The very fact of the gift of the "springs" (גְּלוּלוֹת, *goolloath*; some would render this word "reservoirs," and others "reservoirs fed by

springs") added as a "blessing" (v. 19), points unmistakably to this, for no one knows better than my critic the inestimable value of even a *single* Palestine spring, and how unlikely it is that more springs than one, both on the upper and lower ground, would be given to one man in his separate holding! But nothing is more natural than to suppose that these springs, *four at least*, were sought and given to be enjoyed in common by Othniel and Achsah's Village-Community. This equally explains the gift of Hebron to Caleb in Joshua xiv. 6-15, and of Timnath-Serah to Joshua in Joshua xix. 49, 50.

And now, finally, as to the one and only distinct reference to *sadeh* tenure under the law. This one passage consists of five short verses in all (Numbers xxvi. 53-56), of which we have a brief repetition, still more in favour of the view I take, in Numbers xxxiii. 54. Concerning this passage my critic says first, "I think that, according to the Law of Moses, it was intended that *every man* was to receive an inheritance." But when giving the passage quoted in support of this opinion, my critic immediately limits "every man" to "individuals of full age (20 years, see verses 4 and 51), stated in verse 51 to be 601,730." This excludes all men under 20 years of age. But the number of the men who were to inherit, if the 601,730 were all, is still further limited, as will be seen from verse 2. There it is said, "Take the sum of all the congregation of the children of Israel, from 20 years old and upwards, throughout their father's house, *all that are able to go to war in Israel.*" And, in verse 4, this is said to be done "from 20 years old and upwards; *as the Lord commanded Moses.*" The command here referred to is given in Numbers i. 1: "And Jehovah spake unto Moses . . . Take ye the sum of all the congregation of the children of Israel . . . from 20 years old and upward *all that are able to go forth to war in Israel.*" From this it is clear that only able-bodied warriors over 20 years of age were numbered—the host, or army. In the East men marry early, even from 12 years of age, and the astonishing increase of Israel in Egypt seems absolutely to require this explanation. There must have been, therefore, at their entrance into Canaan a very large number of men with small families between the ages, say, of 16 and 20, and surely, some at least—and those princes and heads of houses—infirm by reason of age, for though, it is true, none, except Joshua and Caleb, were then above 60, many must have been about that age. All these, if my critic's hypothesis is true, received no inheritance at all, and, if we agree with the first

statement, that by the Law of Moses "*every man* was to receive an inheritance," we are shut up to the conclusion that the 601,730, if indeed the country was distributed amongst these only, must have been given the lands of their respective districts, not as their own private *Se, mullk*, or freehold, property, but to be held in common by all their "family," or clan.

My critic reads Numbers xxvi. as directing allotment "1st to Tribes, and 2ndly to Families, *משפחות* . . . but also 3rdly, to Individuals." But where is there a hint as to such a threefold division? The only verses in this chapter that direct allotment at all are as follows: "Unto these the land shall be divided for an inheritance, according to the number of names. To many thou shalt give his inheritance much and to few thou shalt give his inheritance little; to every one shall his inheritance be given according to those that were numbered of him. Only the land shall be divided by lot; according to the names of the tribes of their fathers they shall inherit. According to the lot shall the possession thereof be divided between many and few" (Numbers xxvi. 53-56). And this is the only enactment in the whole Law on the subject, repeated, as I have said, once very briefly in Numbers xxxiii. 54. My critic inserts the words "him who is" twice in verse 54, making it read, by a rendering slightly different from, but in virtual agreement with, mine: "To [him who is] many shall thou increase his inheritance; to [him who is] few thou shalt diminish his inheritance."

I admit that these words may be thus understood by the figure of ellipsis. But if they apply to the allotment to 601,730 individuals, what becomes of the allotment to "Tribes" and "Families," for which there is then no command in this passage or anywhere else? If, on the other hand, "[him who is] many" and "[him who is] few" stand respectively for "the family, or clan, which is many," and "the family, or clan, which is few"—the "him" understood, though not expressed, being a form of metonymy by which the head is put for his house or the chieftain is put for his clan—then all is rendered clear and consistent.

For when we turn to the detailed account of the carrying out of this enactment, given in Joshua xiv-xxi—the *only* account we have of any allotment at all, an allotment, too, which is expressly said to be that which "Jehovah commanded by the hand of Moses" (Joshua xiv. 2, 5)—we find that it is spoken of throughout as an allotment of considerable districts to "Tribes" and "Families" *only*, and not in any sense as an allotment of small freeholds

in severalty to individuals. The account of the allotment in Joshua xv. 1, opens with the words, "And the lot of *the tribe* of the children of Judah by *their families* was to the border of Edom, &c." Then follow the tribal borders, from verses 1-12, and, as soon as these are described, we read, "and this is the border of Judah round about according to *their families*." First Caleb is said to receive the large district of Hebron and its dependent villages, even, as we have seen, to 12 miles away at Debir, an enormous tract of country, which he must have received for his clan and not for himself alone; and in verse 20 the "family" division in general for the tribe of Judah is introduced by the words, "this is the inheritance of *the tribe* of the children of Judah according to *their families*," and a list, not of individual holdings but of cities and villages, follows in verses 21-61. In the next chapter, Joshua xvi., it is the same. Verse 5 commences an account of the tribal boundaries of "the children of Ephraim according to their families," and verse 9 alludes to the separate cities for their families without particularising them. Joshua xvii. speaks in just the same way about the distribution of land to Manasseh. Then, after a short digression, at Joshua xviii. 11, the account of the allotment of the rest of the country amongst the seven remaining tribes is given in like manner, the tribal boundaries first and the cities allotted to families next, but not a hint anywhere of allotment to individuals. The "Tribe" and the "Family" alone come into view, yet this long description of the distribution of the Promised Land closes with the words, "and Jehovah gave unto Israel all the land which he sware to give unto their fathers; and they possessed it and dwelt therein" (Joshua xxi. 43). The discovery of the holding of land in common by Village-Communities, consisting of families or clans, for the first time, throws a flood of light which quite clears up the hitherto apparently defective and inexplicable account of the allotment of the land in the days of Joshua.