

## ARTICLE VI.

## THE REPRESENTATIVE SYSTEM IN THE CONSTITUTION OF MOSES.

TRANSLATED FROM THE GERMAN OF DR. SAALSCHÜTZ, BY S. TUSKA.

§ 1. THE national constitution of the Hebrews was built on a PATRIARCHO-DEMOCRATIC basis. The existence of a perpetual representation of the people is indicated both by their customs and their laws. The representatives consisted of the heads of tribes and families; men who, by virtue of their age<sup>1</sup> and natural position in society, were well fitted to exercise a patriarchal authority.

§ 2. Even while in Egypt, Moses gathered "all the elders of the children of Israel" (Ex. 4: 29), with whom, *conjointly*, he was to appear before Pharaoh (Ex. 3: 16—18.). When, therefore, it is said (4: 30, 31): "He did signs before the people,"—"the people believed in them, and they bowed their heads," we must assume that *all* the people, as is clearly evident from 4: 29, were *not* present on that occasion; but that the elders referred to *fully represented* them. Thus early do we find the datum, so often applicable in the subsequent books of Scripture, viz. that "the people" signifies the same as "the people *represented by their elders.*" Compare Ex. 19: 7, 8, where Moses convoked "the *elders* of the people," and then "*all the people* together" reply to the communication imparted to the *former*; also Judg. 10: 8, where the "people" and the "princes of Gilead" are identified; see also Josh. 23: 2, where "all Israel" is paraphrased, and at the same time restricted, by the phrase "its elders, judges, and officers."

On this supposition alone can it be explained how Moses could speak to *all the people.*<sup>2</sup> From this point of view, also,

<sup>1</sup> The term זִקְנִים (Zekenim), "elders," did not then as yet express a merely formal appellation.

<sup>2</sup> Comp. MAIMONIDES in his Preface to the *Mishna*.

is to be explained one of the most decisive passages in point: "Ye are all," it is said Deut. 29: 10, "standing to-day before the Lord your God, your heads, your tribes, your elders, your officers, every man of Israel; your children, your wives, and thy stranger who is in thy camp, from the hewer of thy wood unto the drawer of thy water." That Moses had at that time actually convoked an assembly, is evident from 29: 2. This, however, could be composed only of the *representatives* of those enumerated; for what business, for instance, had little children in a national assembly? Through the *representatives*, who were the delegates of the people, the latter took part in the assembly; and from them they afterwards learned the subjects and results of the legislative discussions. This passage is particularly important; the *idea of representing* the absent by those who are present, being indicated in it. "Not with you alone," says the law-giver (29: 14 sq.), "do I make this covenant and this oath: but with him who stands with us to-day before the Lord our God, and with him who is *not* with us to-day;" consequently, also with generations to come (v. 25). *These* are represented by the generation of the present, just as, in the national assembly, the absent of the *living* generation are represented by those who are present. The passage begins, indeed, with saying, "your heads, *your tribes*;" yet it is manifest that the entire tribes cannot be meant, as it would, in that case, be needless to mention, in addition, the heads, elders, and officers. The word "tribes" is added only by way of illustration. It explains more particularly the term "heads," and calls to mind the *heads* or *princes* proper of the tribes; both of these titles being likewise applied, in Num. 1: 16, to the twelve princes of the tribes. Thus, too, it is said in respect to Moses (Deut. 33: 5)<sup>1</sup>: "In Jeshurun (surname

<sup>1</sup> Many commentators, both Christian and Jewish, refer the word "King" to God, on the ground of the improbability of Moses assuming such a title in a free state. They suppose, therefore, that the word "Moses" in the preceding verse (4), crept in by the pen of some transcriber; or, that the whole of the 4th verse is thrown in parenthetically as the language of Israel. But the author's explanation of the word "King" (see above), removes the objection against referring it to Moses, and does no violence to the connection of the two verses.—TRANS.

of Israel) he was king (i. e. supreme guide and regent), when there assembled *the heads of the people, together the tribes of Israel.*" Here, of course, the parallelism, "tribes," is nothing more than the "heads" of Israel. It seems, therefore, that in the passage under consideration (Deut. 29: 10), the threefold dignity is specified, by virtue of which the representation of the people could be effected. This threefold dignity was that of the twelve princes of tribes, that of the elders, and that of the officers.

§ 3. The mode of representation was closely related to the organization of the people. The whole nation, as was shown in the preceding chapter, was divided into distinct, greater or smaller, bodies [such as *tribes, families, households, etc.*]. With reference to this organic division, three bodies of representatives were chosen. These were, on various occasions, at the head of the people, represented them in the assembly; or, when measures of general interest were to be adopted, assisted Moses, who was their supreme leader. When the people are to be numbered (for the purpose of ascertaining the number of men able to bear arms), the twelve princes of the tribes are expressly named (Num. 1: 5—16) as assistants of Moses and Aaron in this undertaking. These princes, of whom there was one for every tribe,<sup>1</sup> are more particularly described (Num. 1: 16) as the "*deputed of the congregation.*" That this designation, however, did not belong to them exclusively, and that the number of those who appeared in the general assembly as the representatives of the people, was much greater, is evident from Num. 16: 2. For here the 250 men who conspired with Korah against Moses and Aaron, are all said to have been "*princes of the congregation, deputed of the assembly.*" They must, accordingly, have been the most distinguished fathers of families, called also sometimes elders (Num. 11: 16. Deut. 29: 10. 31: 28), and making their appearance while yet in Egypt (Ex. 12: 21). The full assembly of the most distinguished

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<sup>1</sup> The tribe of Joseph, being divided into two divisions, had two representatives. The tribe of Levi, on the other hand, is omitted; it being permanently exempt from military service.

men of all the tribes, is called *Moëd*.<sup>1</sup> This word properly signifies a "fixed appointment" of time or place. The persons assembled constitute the *Edah*,<sup>2</sup> i. e. the "congregation," assembled according to this fixed manner.<sup>3</sup> Hence, those men (see above), as being the *deputed* of [to] the assembly or congregation,<sup>4</sup> are respectively denominated "princes of the congregation" (*Nesië Eda*).<sup>5</sup> Another term applied to those who assembled upon such deputation or convocation, is the word *Kahal*.<sup>6</sup> This term also signifies *assembly*; compare the 12th chapter of Exodus, where (v. 3) mention is made of the "congregation of Israel," and then (v. 21) the phrase "elders of Israel" substituted, with the 31st chapter of Deut., where (v. 28) the "elders of your tribes and your officers" are first spoken of, and then (v. 30) the phrase "the whole assembly [*Kahal*] of Israel," used instead. The two different terms, therefore, are in each case identical in sense, the phrase "*congregation* or *assembly* of Israel" signifying the *people* of Israel present through their representatives.

We have now, then, become acquainted with a twofold council — a *small* one composed of the princes of the tribes, and a *large* one composed of *all* the deputed. These two assemblies, moreover, are to be respectively convoked by different signals, described Num. 10: 3, 4. When simple blasts of the trumpet are heard, the great (congregational) council is to assemble; but when long protracted notes are sounded, the council of princes only shall convene. (See chap. 94. § 4.)

§ 4. In addition to these, a third body of men was chosen. The number of this body was not so small as that of the chief princes of the tribes, nor so large as that of the joint

<sup>1</sup> מועד.

<sup>2</sup> עדת.

<sup>3</sup> Num. 27: 21. Here the whole congregation (*Edah*) is expressly distinguished from "all the children of Israel," and is manifestly designed to denote only the committee, or council.

<sup>4</sup> *Kerïë Moëd* or *Haëdah*, מועד or העדה (קריאי). [The word קריאי being derived from קרא, "to call," signifies those *called* or *deputed*, and not, as the English version has it, "renowned" or "famous."] — TRANS.

<sup>5</sup> Num. 1: 16. 16: 2. Comp. I: 18, where, in addition to the *princes*, the whole *congregation* is convoked; since, in order to obtain an exact list of births, it was expedient to confer with the respective heads of families.

<sup>6</sup> קהל.

body of representatives. It constituted, as it were, the *elite* chosen from among the latter. "The Lord said to Moses: Gather unto me seventy men of the elders of Israel, of whom thou knowest that they are the elders of the people and their officers. Take these to the tabernacle of assembly, that they may stand there with thee. I shall speak with thee, and shall take of the spirit which is upon thee and put it upon them, that they may bear with thee the burden of the people, so that thou mayest not bear it alone."<sup>1</sup> These seventy men were, accordingly, selected from the number of those who were already recognized as elders of the people, and as acting in the capacity of magistrates (Deut. 1: 15).<sup>2</sup> They are to be vested with their new dignity as men deputed and inspired by God; and are henceforth to stand by the side of Moses, and share with him the burden of public affairs. Here, then, we have a permanent senate, composed of a definite number of men in constant activity. This was the body which regularly accompanied Moses as his council and aid. The advantages of this associate body must be evident. For the unanimous voice of the oldest and most esteemed men of the nation, the confidence which *they* put in the measures adopted relative to the people, could not fail to produce a great moral effect upon all. They exercised, as it were, a perpetual mediation between the interests of the people on the one hand, and the highest aims and purposes of the legislator and executive on the other. This senate of seventy is, in all probability, alluded to when the elders, during the conspiracy of Korah, are mentioned as accompanying Moses (Num. 16: 25). Still, every-

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<sup>1</sup> Num. 11: 16, 17; comp. vs. 24 seq. Comp. Ex. 24: 1, 9, where "seventy of the elders of Israel" are thus early mentioned.

<sup>2</sup> According to JAHN (Arch. II. 1, p. 59) it would follow from Num. 26: 5—50, that the then existing number of chief families was fifty-nine; and that the heads of these, together with the twelve princes of the tribes, constituted a College of seventy-one. But if we count accurately, the result will be different. For, in numbering the families, we must take into account only the large sub-divisions there given, and not the main divisions. JAHN has, perhaps, overlooked this circumstance. However, the passage quoted shows, at all events, the probable correspondence of the number of chosen elders with the number of chief families.

thing goes to show that this newly constituted council was established to exercise a *moral* influence only; and not to supply the place of the full assembly of national representatives. On the contrary, the power of representing the people, and of acknowledging the force of legislative measures, continued, subsequently as well as previously,<sup>1</sup> in the hands of the proper representatives. Their number, which probably included the seventy elders, was much more considerable; it being, in general, not limited, and increasing in proportion to the population. When, therefore, at the revolt of Korah, the elders of Israel, i. e. as is very likely, the seventy, are gathered around Moses (Num. 16: 25), it nevertheless follows, from v. 2, that the greater council still continued to exist at the same time; the 250 being said to have belonged to it.

§ 5. The different elements constituting the general assembly which Moses addressed, whenever he desired to invest any measure with legal force, and make it binding upon all the people, are regularly and carefully mentioned. It may not be unimportant to examine these more particularly. They are, according to Deut. 29: 10, as follows: heads of tribes, elders, and officers. The assembly before which the daughters of Zelophehad appeared, is described thus (Num. 27: 2): "Moses, the priest Eleazar, the *princes*, and the *congregation*." The last evidently includes, in this place, the two elements, made distinct in Deut. 29: 10, *elders* and *officers*. Compare also Deut. 31: 28: "Gather unto me all the *elders* of your tribes, and your officers." In subsequent narratives we find a *fourth* element added to the three already given; as, for instance, Joshua (23: 2) calls together as the representatives of "all Israel," the *elders*, *heads*, *judges*, and *officers*. Here, then, *judges* are also mentioned. These are,

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<sup>1</sup> In Deut. 27: 1, it is said that Moses and the *elders of Israel* commanded the people. The command in question was only in regard to one particular ordinance, viz. that of erecting monuments on entering the land of Palestine. But provided that the elders here alluded to are *indeed* the seventy, yet it is reasonable to suppose that the command in question was first communicated to the great assembly, before being made incumbent on all the people.

indeed, often mentioned in the Pentateuch, and distinguished from the *officers* (see, particularly, Deut. 1: 15, 16. comp. Ex. 18: 21 sq.). But they are not particularly specified (for what reason will soon appear) in the description of the national assembly quoted above.

We may accordingly delineate a pretty complete outline of that great national assembly of representatives, according to the different parts of which it was composed. In the first place, then, were the *princes* or heads of tribes (Num. 1: 5—17). The numbering of the people here ordained not having extended to the tribe of Levi, *this* tribe, in the passage just quoted, is not represented by any prince. When, however, the Levites are afterward specially numbered, several heads of their families are designated as princes (Num. 3: 24, 30, 35), Eleazar the son of Aaron being mentioned as the prince of the princes of Levi. From this it appears that he who was the *high-priest* was not designed to be, at the same time, the *prince* of a tribe; he was thus prevented from combining, with his sacred calling, the power of a secular chief. The *princes* are likewise mentioned as being present at the transaction of the hereditary affairs of the daughters of Zelophehad (Num. 27: 2); also at the remonstrance of the heads of families belonging to the house of Gilead (Num. 36: 1), and also in Deut. 29: 10. Next to the princes of tribes are the *elders* (Deut. 29: 10). By this appellation, doubtless, not only the seventy, but also other additional heads of families, are meant. In other cases the term “*elders*” may, when no express distinction is made, embrace also the princes of tribes: which is probably the case in Deut. 31: 28. A *third* integrant part of the general assembly are the *officers*. The *judges* are not expressly mentioned. The reason of this is, no doubt, because they were included in the class of elders, they being chosen from the number of the latter (Ex. 18: 25. Deut. 1: 15). On the other hand, it is indeed remarkable that the “*officers*” are, in all cases, carefully distinguished from all the rest (Num. 11: 16. Deut. 1: 15. 29: 9. 31: 28). We shall not, however, stop to discuss this circumstance here, as we have devoted an entire chap-

ter (5.) to the *Shoterim* or officers.<sup>1</sup> All these now, together, constituted the **EDAH** or *assembly of the congregation*. It follows, accordingly, that the supreme legislator of the people did not stand alone on the one side;<sup>2</sup> but that the people themselves were permanently represented by means of institutions which were destined to be of great importance also for the future. This national representation was the more complete and satisfactory, inasmuch as the people themselves were requested to *elect* those who were henceforth to be at their head as judges and officers (Deut. 1: 13; comp. 31: 28, where they are also described as being the proper deputies for the rest).

From among these, now, who were already formally acknowledged by the people as their representatives, the seventy elders were to be chosen (Num. 11: 16).

In the person of these representatives the people have an all-important voice. They consent to the proposals of the lawgiver, or also express to him their own wishes.<sup>3</sup> Even

<sup>1</sup> In the chapter referred to, the author shows that the judges and officers occupied nearly the same relations as in modern times the court and police.

<sup>2</sup> SALVADOR (*Institut. de Moïse*, l. 2, ch. 2) justly observes, that the statement in the text, on account of its brevity, does not always render this circumstance prominent. Thus, in Ex. 5: 1, it says merely that Moses and Aaron stood before Pharaoh; while from 3: 18, it appears that the elders of Israel were with them.

<sup>3</sup> It is particularly interesting to observe in the text the form of a *message*, in which the lawgiver, before the assembly of the people, states the motives of a new measure which he, at the advice of Jethro, wishes to introduce. Whereupon follows the solemn consent of those present: "I spoke unto you at that time, saying, I am not able to bear you myself alone. The Lord, your God, hath multiplied you, and you are this day as numerous as the stars of heaven. May the Lord, your God, multiply you a thousand fold, and bless you as he hath promised you. (Yet) how could I myself alone bear your trouble, your burden and your strife (i. e. the trouble of the many necessary decisions of cases. Ex. 18: 16)? Select wise, understanding, and experienced men for each of your tribes, and I will appoint them as your rulers. You answered me, saying, *The thing which thou hast spoken is good to do*" (Deut. 1: 9—14; comp. Ex. 18: 13—26). On the other hand, again, it is related (*Ibid.* vs. 22, 23) that the assembly itself informs the lawgiver of its wish; to which he, on his part, consents, though his present plans are thereby retarded. "I said unto you," the lawgiver declares (v. 20), "Ye have come to the mountain of the Emorites; go thither, and take possession of the land. And ye all came to me — not, of course, the whole people, but all their representatives — and said: We will send men before us, that they may search us out the land, and bring us word again as to the way by which



the acceptance of the divine law is regarded as a voluntary entrance, on their part, into the covenant (Ex. 24: 3—8. Dent. 27: 17, 18. 29: 2—15, 25, comp. 1: 24—26); just as the relation into which Abraham entered with God (Gen. 15: 18, comp. v. 9) is termed a *covenant*, and represented in symbolical forms, a covenant into which man, on his part, is to enter of his own accord and with self-consciousness. Joshua, also, when about to depart this life, causes the people solemnly and *voluntarily* to renew the covenant (Josh. 24: 1—25. comp. 8: 30—35). After the Babylonian captivity, a similar covenant is made, and ratified by the signatures of the national representatives (Neh. 10: 1 seq.).

This uniform national representation, through the several heads of all the tribes and families, existed in full force and vigor, not only during the life-time of Moses, but also long after him; and was well adapted to check any encroachments on the part of the priesthood. Had the priests at any time made an attempt to further a hierarchal supremacy, they would unquestionably have found an insurmountable barrier in the national assembly. That this should be so was undoubtedly the intention of the Hebrew legislator; and this appears manifest from the fact that he excludes the priestly order, particularly the high-priest, from everything which might be regarded as a monopoly of power. On the contrary, he throws open to public and universal competition all offices and dignities, and every other means of acquiring public influence. That the people availed themselves of this privilege, to the almost entire exclusion of the priests, is evident from the history of the kings, the supreme judges and commanders, and, in particular, from the records of the prophets. The consciousness of liberty and moral independence, generated by the peculiar organization of the people into many divisions, each moving freely and independently under its own civil authorities, must have contributed largely to this effect. These sub-divisions of the nation found themselves on all occasions, as we shall see,

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we shall go up, and as to the cities into which we shall come. *And the thing was pleasing to me, and I took twelve men from among you, one for each tribe.*

powerfully represented; thus acting as a counterpoise to the supreme magistrate, and, in later times, to the king.

§ 6. That this mode of patriarchal, constitutional representation continued, in part, to exist even at subsequent periods in the history of the Hebrews, is proved by the ample testimony of the historical books of Scripture. It was, indeed, at particular times, especially during the reign of certain kings, disregarded; still the elements thereof remained ever present. It was only the coöperation of these elements that were sometimes lacking; their *influence*, as a general thing, could not be thwarted. After Moses, we find this representative system, in the first place, still flourishing vigorously in the time of Joshua. When the deputies of the Gibeonites came craftily to effect a league with the Israelites, it is said that they came to Joshua and spoke to *him* and to the *men of Israel*; whereupon, however, it is stated that *the men* (literally the *man*, the entire body of men being regarded as a unit) of Israel spoke to them (Josh. 9: 6, 7). Then we are told (v. 15) that Joshua made a league with them, and the *princes of the congregation* swore unto them. When, afterwards, the deception of the Gibeonites was discovered, "*all the congregation* murmured against the *princes*;" and then "all the princes spoke to the *whole congregation*." Here, again, the whole congregation evidently stands for the assembly of the chiefs merely; the whole army itself being designated by the phrase "children of Israel" (v. 17, 18). Again, when the two tribes and a half, on the other side of the Jordan, erected a monument having the appearance of an altar, the rest of the tribes being offended thereat, it is said (22: 12): "The children of Israel heard it, and the *whole congregation* of the children of Israel gathered at Shiloh." They sent an embassy consisting of Phinehas, the son of the priest Eleazar, and ten princes of tribes. The embassy, after having visited the two tribes and a half, returned and "brought them answer" (v. 32). Here, of course, it is likewise evident that the "whole congregation," assembled at Shiloh waiting for a reply, was not the whole nation, but only the representatives. Nor, on the other

hand, was that assembly composed only of the princes of the tribes, *these very princes* having been chosen from among the rest to go on the embassy. Another assembly of a similar character, to which we have already alluded, was convened by Joshua for the purpose of renewing the covenant with God. There, again, *all Israel* was present in the person of its heads, elders, judges, and officers (23: 2. 24: 1, 2). The following expressions, occurring in that connection, are worthy of remark: "Joshua gathered *all the tribes* of Israel at Shechem;" and immediately following: "he called the elders of Israel and their heads, their judges and their officers;" and again: "Joshua spoke to all the people" (comp. 24: 19), and then the *people* speak to Joshua (v. 21; comp. v. 22, 24, 25, 27). At length, Joshua dismisses the *people* each to his heritage. Here, then, it is perfectly clear that the convertible phrases, "all the tribes of Israel," and "all the people," are used to denote those only who are delegated by the people to represent them in the national assembly, and more particularly described in accordance with their respective dignities. As regards the latter, it is probable that by the "elders of Israel," in this instance (24: 1), are meant the princes of tribes; and by the term "heads," immediately following, the heads of family only, as in Num. 36: 1.

§ 7. Michaelis has already intimated, that by reason of this division of the people into several distinct masses and bodies, each able to govern itself independently of all the rest, and all of them capable at any time, by means of the heads of tribes and families, of being united for a common enterprise, that by reason of this organization the nation, even at times when they were without a common supreme head, were never at a loss. For it was thus a very easy matter for them to assemble, adopt resolutions, and, in common, carry them into effect; just as the elders, judges, and officers, who bore the relation of patriarchs to the rest, could furnish a tolerably well regulated system of judicial administration. In fact, if the narratives in the book of the Judges be not inconsiderately pronounced to be fables, it would be impossible to account for the circumstance that a man or woman

(e. g. Deborah) could, in so short a lapse of time, rouse the people to action, collect an army and lead it against the foe, otherwise than by that system of representation. The *representatives* of the people could be easily convened, or else informed by message (Judg. 7: 24), and animated to work for the common cause. These, again, by means of the heads of families standing under their jurisdiction, could speedily obtain from the *masses* whatever was further needed to carry their measures into execution. A remarkable instance in point is related in the 20th chapter of Judges. Though the nation was without a common chief magistrate, a war against the tribe of Benjamin was undertaken and carried through by all the other tribes in common. A disgraceful deed had been perpetrated within the jurisdiction of the tribe of Benjamin. But the latter was unwilling to deliver up the perpetrators of the foul act. The news of what had happened having been transmitted to every tribe, "all Israel went out, and the congregation was gathered together as one man, from Dan to Beersheba, unto Mizpeh; and the chiefs of all the people, all the tribes of Israel, presented themselves in the assembly of God, 400,000 men able to bear arms." The commentators infer from the last clause that all the 400,000 men were present in Mizpeh, at the very first assembly. But they do not take into consideration the difficulties underlying such an inference. For, as the person insulted was questioned in regard to the particulars; and as an embassy was then despatched to the tribe of Benjamin in order to effect a delivery of the criminals and peaceably to arrange the whole affair *before* the war was resolutely undertaken against the *tribe itself* (which, as a whole, had not participated in the outrage); the people would have acted devoid of all sense and prudence, in thus assembling all on a sudden, in such multitudes, at Mizpeh. As some time must have elapsed during the negotiations, it would surely have been impossible for them, even if their number had been less, to be maintained in that single city. We would hardly hesitate to assume that the statement relative to the number of warriors, refers to the body of able-bodied men

(given in round numbers) then disposable; an army which *could* be raised, but was not yet present in person, it being *only represented* by the "chiefs of the people." If this were not the case, the special statement that all the *heads* were also present, would be wholly superfluous, this being a matter of course. At all events, the historian wishes to intimate that the preparatory *deliberations* were held by the heads<sup>1</sup> of the people. In regard to the independent wars, undertaken by individual tribes, we are told at the very beginning of the book of Judges, 1: 3, 22 et al.<sup>2</sup>

§ 8. In the books of Samuel, again, we find frequent mention of the general national assembly, e. g. "all the elders of Israel gathered themselves, and came to Samuel unto Ramah," to urge him to choose a king (1 Sam. 8: 4). This assembly of the elders is called "the people," in the verses following (7, 10), in the latter of which it is said that Samuel communicated the words of the Lord "to the people that asked of him a king;" comp. v. 19, 21. It is pretty evident that the "people" here mentioned cannot refer to the *multitude* of the assembled elders, but to the *people of Israel* proper, who were there *represented* by their heads. That the assembly was of this character, appears from the fact that Samuel, though reluctant, at last yields to its determined and energetic resolve (v. 19). Again, Samuel called "the people" together at Mizpeh (10: 17), in order to proceed to the actual election of a king. The summons reads thus: Present yourselves before the Lord by your tribes and by your families, lit. "thousands" (v. 19); and

<sup>1</sup> These are peculiarly designated by the term פִּנּוֹת (*pinnōth*, Judg. 20: 2). — literally "corners." This term probably, which occurs also 1 Sam. 14: 38 in a similar relation, is properly applied to a military character, denoting a *leader*: comp. the German *Flügelmann* (*leader of the file*, lit. "wing-man"). This would go still further to support what we said above. The historian states the entire number of the force at disposal, at the same time remarking that their leaders, who had undoubtedly been already at their head on other occasions, were present at the gathering. These, moreover, could give the best information in regard to the number of men ready to take up the sword.

<sup>2</sup> According to 1 Chron. 5: 10 (comp. 18—22 and 4: 38—43) individual tribes, independently of all the others, waged wars, by means of which they enlarged their territories, even in the reign of Saul and Hezekiah.

"Samuel caused *all the tribes* of Israel to come near" (v. 20). No one, surely, will presume that the tribes were here gathered *en masse*; and yet it is perfectly manifest, from these quotations, that they were fully represented by delegates. After the first glorious exploit of Saul, Samuel convenes a great national assembly at Gilgal (11: 14 sq.), in order to exhort the people and confirm the royal dignity of Saul. Here, too, it is said: "Samuel spoke to all Israel" (12: 1); which, of course, is to be taken in the sense as restricted above.

According to 2 Sam. 2: 4, "the men of Judah" came to anoint David king. Again (2 Sam. 3: 21), Abner says to David: "I will arise and go, and gather *all Israel*, that they may make a league with thee." There is no doubt that here, too, reference is had only to the representatives of a single tribe, as well as to those of the whole people. These representatives alone Abner could volunteer to assemble, knowing that, if he could persuade the chief men of Israel, he would, to a certainty, obtain the consent of all the rest. In 2 Sam. 5: 1, we are told that "*all the tribes* of Israel came to David unto Hebron," to pay him homage as their king; instead of which it reads (v. 3), "all the *elders* of Israel came to the king unto Hebron; and he made a league with them; and they anointed David king over Israel. "All the tribes," therefore, signifies no more nor less than the tribes represented by their *elders*. When, after the rebellion of Absalom, the representatives of the people assembled to do homage anew to David, a strife ensued between the men of Israel and the men of Judah (2 Sam. 19: 43, 44). Whereupon Sheba, a Benjamite, cries out: "Every man to his tents, O Israel (20: 1)." The disastrous results involved in this call, in so far as it was obeyed, arose from the very fact that the *representatives* alone of the people were here assembled. If *they* dispersed before the intended homage was effected, the whole people would, as a natural consequence, revolt from the king. Were we to presume that great multitudes had flocked together from all parts to this assembly, their protracted meeting would, on the contrary, have been more dangerous than their dispersion. Again, when David resolved to trans-

port the ark of the covenant (1 Chr. 13: 1), we are informed that he *consulted* with the princes of thousands and hundreds, and with all the leaders. Here, then, the permanent existence of those ancient institutions (Ex. 18: 25) is indicated. Those who were thus convoked for consultation, are called "the whole congregation of Israel" (1 Chr. 13: 2). The address of David is particularly interesting on this occasion; it was as follows: "If it seem good to you, and us of the Lord our God, let us send abroad to the rest of our brethren in all the land of Israel, and with them also to the priests and Levites, in the cities of their suburbs, that they may gather themselves unto us." By the "rest of our brethren," is undoubtedly meant the other leaders of the people. Solomon, also, orders "all the elders of Israel, all the heads of their tribes and princes of families," to convene at Jerusalem, for the purpose of transferring the ark of the covenant (1 K. 8: 1). The persons thus assembled are then spoken of as "every man of Israel" (v. 2); and, again, as "all the elders of Israel" (v. 3). In the 29th chapter of 1 Chron., "the princes of fathers and the princes of the tribes of Israel, of thousands and hundreds, and the princes in the service of the king" (v. 6), who brought donations for the building of the temple, are designated the "congregation" (*Kahal*), v. 1; in v. 9, however, "the (represented) people." The donations, therefore, were probably presented in the name of the *people*; the contributions of the "princes of fathers" being left to or imposed on each individual house of fathers, in proportion to their respective means.

§ 9. On the accession of Rehoboam to the throne "all Israel," of their own impulse as it seems, went to Shechem for the purpose of obtaining an alleviation of the burdens imposed on them by Solomon (1 K. 12: 1 seq.). The insolent answer which the king returned to "the people" (v. 13), called out the following expression (v. 16) from "*all Israel*:" "We have no part in David; to your tents, O Israel!" With these words every connection between the tribes of Israel and the young king was forever severed. "All Israel," however, heard that *Jeroboam* had returned; and they send

thither and call him to the *congregation* (Edah), and install him king over all Israel." Here it is clearly seen that "congregation" signifies the assembly of *representatives*; and that in the person of *these*, all Israel were present. Other instances, showing what influence on the royal succession the people had in expressing their will, through their representatives, no doubt, may be found (2 K. 21: 24, 23, 30. 2 Chr. 23: 20, 21. 26: 1, 2. 36: 1).

During the captivity, also, we find reference made to the representative system. Thus, Jeremiah addressed a message to the *elders* (Jer. 29: 1). Zerubabel was accompanied by the *heads of families* (Ezra 4: 2, 3. Comp. 6: 7).

Finally, as late even as the time of the Maccabees, mention is made of the supreme head together with the elders (1 Macc. 12: 6, 35). There is no doubt, moreover, that the *Sanhedrim* of subsequent times was founded on that patriarchal constitution so peculiar to the Hebrews.<sup>1</sup> The influence of that council was, indeed, suppressed by many a king; but it could never be wholly extinguished: we find it from time to time, especially on all important occasions (when alone it is noticed), stand out in all its potent vigor. It was this democratic element, too, which acted as a mighty support to the prophets, ever favoring and protecting their freedom of speech; Comp. 1 K. 18: 19. Jer. 26: 16—19.

§ 10. Though all these data, drawn from the history of the Hebrews, do not properly come within the scope of the Mosaic Law, still our brief consideration of them here, which might be even more amplified, will not, we trust, be deemed superfluous. For the events themselves, and the expressions employed in this description of them, afford an excellent commentary to that which, judged by the light of

<sup>1</sup> In regard to the circumstance that the *Sanhedrim* of seventy-one men formed an immediate continuation of the Senate of seventy elders instituted by Moses, as is asserted by the Rabbins, Scripture itself furnishes no definite data. In one instance alone—in a prophetic vision of Ezekiel 8: 11, 12—mention is made of "seventy men of the elders of Israel;" these being represented, however, as worshipping idols. However, it is very likely that the Institution of the *Sanhedrim*, even as respects its external form, was founded on a more ancient one.—Comp. Talmud *Sanhedr.* I. 6.



the Pentateuch alone, might not perhaps be perfectly obvious. We can thus clearly discern the proper signification of the phrases, "Moses speaks to all the people," or, "the congregation of Israel." We thus perceive the *object* of the "Tabernacle of the congregation." The patriarcho-democratic constitution thus appears, not only sanctioned by the narrative and civil polity of Moses, but also really efficient, in all times, as an essential element of national life.

§ 11. We have applied the term *patriarcho-democratic* to the Hebrew Constitution. On the use of this term we have a few more remarks to make. HEEREN<sup>1</sup> has clearly shown how inadequately the ordinary division of governments into monarchies, democracies, and aristocracies, determines their real essential difference. For the difference depends, not on the number of the rulers, but on the relation existing between the latter and the people. Despotic elements may enter into a democracy; just as on the other hand, a monarchy may, by means of constitutional forms, become republican. Heeren, accordingly, divides government into *despotic* (where the people are in a state of involuntary subjection), *autocratic* (where the people are indeed free, but have no share in the administration of the government), and *republican* (where the administration of government is subject to the people). WELCKER<sup>2</sup> regards even this division as not sufficiently comprehensive and discriminating; since, in his opinion, it does not embrace a Theocracy. His division is as follows: 1st, the period of childhood (Despotism); 2nd, the period of youth (Theocracy); 3d, the period of manhood (Constitutional Government). Against this division, too, weighty objections might be raised. The result, however, at which he arrives (*l. c.* p. 101) is indeed worthy of remark: "The principle of a government is, after all, nothing more nor less than the voice of conscience, the sense of moral obligation common to all. This voice, however, must declare itself, first of all, in favor of objective law; thus expressing its regard for its own dignity and that of others, by

<sup>1</sup> Ideen I. (Appendix 6).

<sup>2</sup> Recht, Staat und Strafe, p. 11 et seq.

which means a firm basis is to be given to the laws." That these words indicate the very element which is the most essential in the Mosaic Theocracy, will appear evident from our remarks relative to that institution (chap. 1.). That the principle above mentioned may obtain in all forms of government — even in a despotism, where, as Welcker and Heeren remark, the monocrat is the wisest and noblest man — cannot admit of a doubt. Much depends accordingly on the spirit of the law, and the power which the latter exercises over the consciences of the people. It will not, however, on the other hand, be a matter of indifference, in what degree the joint national sense of right exercises, in the spirit of that law, an influence on the administration, resolutions, and undertakings of the State. Now, even if all the people do not *en masse* take part in the administration of government, but only their proper delegates and representatives, it is of the utmost importance that the measures resolved upon by the latter, have their origin in the mind of the people. In this respect, now, the form of a patriarchal democracy, as established by Moses, vindicates its preëminent worth. The elder of the house, of the family, stands most intimately related to those whom he represents in the national assembly. *His* interests are essentially those of his constituents; what *he* has resolved and deliberated upon has binding force to them. Such was the constitution of the Hebrews — a constitution which existed in some of its elements, even before Moses, but which the latter regulated and amply developed. Through such a mechanism the prophet, who had not in those times the means which in our day are so well adapted to the diffusion of knowledge, was enabled to cause his voice to be heard among the most distant masses of the people. What the fathers, fired with enthusiasm, once resolved, became a duty sacred to the whole people. These relations are yet far from being properly appreciated. The law, according to the institutions of the lawgiver, had its broadest foundation in the body of the people; and through the peculiar organism of the constitution, whatever the latter desired, could, when the thought had been once expressed

and approved, soon became a universal reality. That the law be founded on the conscience — on which Welcker lays such stress — is the very thing which Moses aims at, when he says: “What I command thee this day is not hidden from thee, nor is it far away; but it is near unto thee, in thy mouth and in thy *heart*” (Deut. 30: 11—14). How this universal conscience of the people passes over into action may be seen among other things, from an incident — worthy of note in this connection — related in the book of Judges (19: 25 sq. and 20: 1 sq.). A scandalous deed, perpetrated on the person of a concubine belonging to an obscure and insignificant individual, impels the whole nation, as one man, to bring the criminal to justice. Such, moreover, was the nature of this form of the constitution, that its essential elements could be but little affected by a change in the person of the chief magistrate of the nation. Never, even when there was *no* common head, did the organic movement of the whole come to a stand-still, or become a wild confusion of unbridled passions. On the contrary, the tribes, the families, ever remained well regulated, each forming a unit in itself; and through the patriarchal power of the elders and princes these units were easily managed, and just as easily enabled to combine with one another, forming one great united whole. What MONTESQUIEU (*Esprit de Loix*, l. 9, c. 1.) says in praise of federal republics, as well as his remarks (*ibid.* c. 2) in regard to the *disunited* monarchies of Canaan, whose decline and fall were occasioned by the very fact of their disunion — is thus in some measure applicable also in the case of the Hebrews.

§ 12. The circumstance that the representatives were at the same time the *judges* and *officers* of the people, must have greatly contributed to interweave the constitution, as thus far represented, with the innermost life of the nation. The representatives thus continually, even in ordinary times, occupied a sphere of activity, which, essentially dependent as it was, on the confidence and patriarchal influence they inspired, at the same time served ever to maintain the most intimate intercourse between them and the people. Yea, it

is a most remarkable feature of the constitution, that the judicature and police proceeded, strictly speaking, from the *midst* of the people (Deut. 1: 13). The *people* thus, as it were, guided and *judged* themselves through the agency of men whom—the Supreme Suffetes [Judges] not even excepted—their confidence elected. They had no functionaries appointed, according to *rank* or *wealth*, by some *central* power of the government. Nor did their officers serve for pay; but free, without emolument, unapproachable by bribes, venerable with age and patriarchal influence, they were selected from among the people, to administer the judicial and other functions.<sup>1</sup>

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## ARTICLE VII.

### SACRED TRADITIONS IN THE EAST.

BY REV. E. BURGESS, RECENTLY MISSIONARY OF THE A. B. C. F. M.

AMONG all the people of the earth, the religious sentiment appears to be stronger in none, than it is with the adherents of Brahmanism. At least, there is no people with whom religion is more connected with all the affairs of life, than it is with them. From the moment of birth, till death, and after death, the Hindû is subjected to religious ceremony. Probably no language, previous to the invention of printing, possessed so large an amount of literature, as the Sanskrit; and that literature was almost all religious. The most important of the Sacred writings of the Hindûs, are among the most ancient, if they are not *the* most ancient, writings extant at the present day. Sanskrit scholars make the first of the Vedas to be at least as ancient as the books of Moses, and

<sup>1</sup> The statements made in this paragraph are made more manifest in the succeeding chapters of the work.