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**PRIMITIVE CULTURE  
IN ITALY**



# PRIMITIVE CULTURE IN ITALY

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**TO THE MEMORY OF  
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## PREFACE

**T**HIS work is in some measure a companion and supplement to *Primitive Culture in Greece*, although it can be read quite independently of it. Like it, the book is not for the specialist, but for the general reader who wishes to know something of the beginnings of a great and notable civilization, the effects of which are still to be seen in our modern culture. Therefore elaborate documentation has not been attempted, and also, for the sake of brevity, many things are stated as facts which the student of such matters knows to be more or less hypothetical. I have, however, tried not to leave the reader without means of inquiring further into the matter and satisfying himself, if he is so inclined, as to the correctness, or otherwise, of the views I have put forward. As Latin is a language somewhat better known to the educated public than Greek, I have been somewhat less sparing than in the companion work of references to original authorities, especially as most of them can be had in translation. Also, since the late W. Warde Fowler taught me to take a deep interest in the religion of ancient Italy, I have ventured here and there to introduce, at doubtful points, views of my own. My indebtedness, however, both to Warde Fowler and to the great foreign masters of the subject, especially Mommsen and Wissowa, will be apparent to anyone acquainted with Italian antiquities who reads what I have written.

H. J. ROSE

ABERYSTWYTH

*July, 1926*



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# PRIMITIVE CULTURE IN ITALY

## CHAPTER I

### INTRODUCTORY

**T**HE object of this book, like that of its companion,\* is to determine to what extent there survived, in the ancient civilization with which it deals, any characteristic features of savage life and thought. It is well, therefore, once more to begin by stating briefly what these characteristics are, and where, if they exist at all, we may reasonably expect to find them.

The savage, or as he is sometimes loosely called, the primitive or natural man, is really a great way from the beginning of the long upward progress of humanity when he becomes available for students of anthropology. What our earliest human ancestors were like we may guess, but can hardly know. As distinguished from the barbarian, the representative of the next stage in the advance, the savage is usually a nomad, or at least imperfectly settled, roaming about within a definite

\* See *Primitive Culture in Greece* (Methuen, 1925), in the first chapter of which the question of savage characteristics is more thoroughly discussed. In general, anything like verbatim repetition of what has been already said **in that work is** avoided, and the reader who wishes for more detail is referred to it.

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area, but seldom staying permanently in any one spot\* His social organization is loose, and its basis is the clan. By this is meant a number of persons having, or believing themselves to have, a common origin, whether or not they claim to trace their descent from a common ancestor. Within the clan, in its earliest form, there appear to be no subdivisions corresponding to the modern family, or even to the 'undivided family' familiar to students of Indian sociology, and to others as well, through Maine's classical treatment of the subject in *Ancient Law*. One clan-brother or sister is as near to his or her fellow-clansmen as another ; there is no intermarriage possible among any of them, and no degrees of guilt if one harms another. Such distinctions as that between brother and cousin, mother and aunt, apparently do not exist, in the earliest form of this system which our knowledge enables us to reconstruct. The descendant of this primitive clan is the clan with group relationship, in which all the members of an age-class, *i.e.*, all those who were born, or initiated, within a short time of each other, are brothers and sisters, all of the class above them fathers and mothers, and so on, although blood relationship may be more or less recognized.

The clan is governed, in so far as it can be said to have a government, by its elders, especially, though not always or exclusively, by its old men. These are the repositories of the traditions of the clan, especially of the traditions governing ceremonial, tabus, marriage! laws and so forth. They also form the machinery, imperfect and very slow in its action, for altering these traditional observances. The force lying behind them is what may be called, for want of a better term, public opinion; for it is obvious that they could not overcome

by physical strength a young and lusty clan-fellow who set them at defiance, unless the majority of the younger members accepted their decisions and were ready to support them by force, if necessary.

As the clan is regularly exogamous, it must have some sort of more or less friendly relations with at least one other clan, from which it gets its wives, and which in turn marries its women. This does not mean fully amicable relations, or total absence of bickering or even of armed quarrels; but it at least causes the two bodies to recognize each other's existence and so may, apparently as a matter of fact always does, develop into something like alliance, and thus give rise in time to the more nearly civilized unit of the tribe or even nation.

Within the clan, which, it should be remembered, is a very small affair as a rule, a collection of a few score individuals, more or less complete communism prevails. There are a few backward peoples, such as the Tierra del Fuegians of South America, among whom private property seems to be a thing unknown, the few material possessions which they have belonging to every one alike. Generally, however, some few articles, such as tools or weapons, which are in continual use by one person, are regarded as his or her own, *de facto* if not *de iure*. This communism extends to some things which we should not consider property at all. Group marriage, by which is meant, not promiscuity, the existence of which among mankind is doubtful, but the system by which several women are all equally the wives of several men, is not unknown, even on our present-day evidence, and there is good reason to suppose that it was once far more common. Moreover, there are indications that life, and its vehicle blood,

are thought of as belonging to the clan, not to the individual living person. Hence the horror of shedding the blood of a fellow-clansman; it is not a matter of injuring an individual, but of wantonly destroying the clan's most precious possession, its life. It follows that the individual can hardly be said to exist in normal savage thought. The clan is everything.

The clan being thus the closest of close corporations, it follows that the outsider has no rights at all. Save in so far as the practice of exogamy leads to some sort of toleration of the inter-marrying clan, the world is divided into two parts, clan-members and strangers, and the two are unalterably opposed. To kill a clansman is the worst of offences ; to kill anyone else is no offence at all. But on the other hand, if anyone injures or kills a clansman of one's own, the whole clan is a loser thereby and seeks satisfaction; hence the prevalence of the blood feud in one form or another. In this feud others than the living members of the clan take part, for at least the ghosts of the dead are interested, and since they are generally conceived as more powerful and especially as more malignant than the living, their wishes in the matter carry much weight.

Since the dead continue to be members of the clan, it follows that they continue to have a right to share in the clan property. Therefore the cult of the dead, or rather their tendance, while by no means confined to savagery, has its roots therein. They are looked after in one way or another, by offerings of food and drink or the like, either temporarily (for it is very commonly believed that in time they either go away for good and all or else come back as babies) or more or less permanently; not so much, however, as individuals, for as already stated the individual hardly

exists to the savage intelligence, but rather collectively. At the same time they are much feared, as a rule, both because they are dead, and death is in a way infectious and likely to claim another victim, and also because they are often thought of as both powerful and ill-natured. To deduce all tendance or worship of the dead from fear, however, is in my opinion much too narrow a view. As the savage often shows clearly genuine grief at the loss of a clansman, it is surely more reasonable to suppose that he tends him when dead partly because he loves him and wants to make him as comfortable as possible.

Membership in the clan is by no means necessarily confined to human beings or even their ghosts. No very sharp line being drawn between men and beasts, or between animate and inanimate nature, such things as wolves, bears, various kinds of birds and fishes, reptiles, and also trees, flowers, winds and other natural forces, occasionally even artifacts, may be clan-members. This seems to be the root of the widespread system of totemism ; but as totemism is not yet proved to be universally a stage in the development of mankind, and in special, to have existed at any period in Italy, we need pay little attention to it for our present purpose.

It goes without saying that savages, living in such small communities and under mutual suspicion and hostility, have but little trade with one another. Such trade as does exist is often in the so-called ' silent' form, by which one party brings goods (food, implements, or the like) to a neutral spot, and leaves them there, to be inspected by the other, who leaves other goods beside them. The first party then returns and, if satisfied with the exchange, takes the strangers'

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goods and goes away; finally, the second party returns and takes the goods originally left there by the first. Naturally, this curious process is carried out in a sacred or tabu place, and nothing in the nature of money is used ; still, the process of bargaining and the idea of things having a more or less definite commercial value are there in a rudimentary form. There are also systems existing here and there by which one individual, or section of the community, must give another presents, thus conferring the obligation to make as great or a greater gift in return. This is represented by the *potlatch* of the Pacific coast of North America and the Triobriand custom of *kula* (cf. below, p. 216). It does not, however, appear in Italy.

Industry is likewise in its infancy among savages, particularly the specializing of industry; but the material fact that some men are cleverer with their hands than others forces its way to their attention, and some beginnings of specialization are to be found at quite low stages. These are connected, it would seem, with the fundamental ideas of *mana* and magic.

The belief in *mana* is clearly of very early origin; it is perhaps the first wide-reaching theory which mankind ever formed. *Mana* (the word is Melanesian; the Amerindian terms *orenda* and *wakanda* have the same significance) is a vaguely conceived magical force, which may be found anywhere, and is seen to exist in certain persons and things. A strong or lucky man, a well-made implement, a fertile bit of land, a volcano or other impressive natural phenomenon—all these possess (or are) *mana* ; and anything strange or new is likely to possess it. It is neither good nor bad in its nature; it is simply a force, no more moral than steam or electricity; and like these, it may be directed into

desirable channels, if one knows the correct procedure. Like these again, it is very dangerous if mishandled.

I have spoken loosely of this conception as a theory; **to** continue the same figure of speech, for it is nothing more, magic may be called the corresponding practice. The various ceremonies, often, to our notions, highly grotesque, in which the savage engages to make animals or food-plants multiply, bring rain or sunshine, harm his enemies or help his friends, all consist in attempts to make *mana* of one sort or another flow in the right channels. If he has conceived, as he commonly does in a quite early stage, of some sort of spirits who possess much *mana*, the central feature of the ceremonial may be a sort of prayer addressed to them, or, alone or combined with the prayer, a process supposed to influence or even compel them to lend their *mana* to the carrying out of the magician's purposes. At this early stage one cannot clearly differentiate magic from religion; the effective distinction between these is, that magic is in later times a more or less private and unauthorized affair, while religion, which is essentially communal, is public and authorized, carried on often by the whole community, or if not that, then by some person or group of persons who are felt somehow to represent it. It is noteworthy for our purpose that the Italian language of which we know most, Latin, possesses a word (*numeri*) which approaches fairly near to *mana* in meaning.

When, as already mentioned, the savage holds that certain spirits are repositories of *mana*, these are likely to be numerous and vague, distinguished chiefly by their functions, this one specializing in making an **edible root** grow, that one in bringing women safely **through childbirth, and so forth.** **Apart from their**

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functions, there seems to be no limit to the kind of spirit he may believe in; tree- and rock-spirits, ghosts, sky-gods, daimones of water and fire, and so forth; their name is legion, but they very commonly include deities of water and earth, and ghosts of the dead. The name for this stage of religious thought is polydaimonism, though numinism may well be used, as we shall see presently, in speaking of Italy.

But be the gods many or few, small or great, they are the gods of the social unit, the clan or in later days the tribe or nation. Of individual communion with the deities there is little known. They may indeed deal with the society through an individual, a shaman whom they possess or inspire, or a skilled priest or magician who has learned how best to approach them; but the idea that a single person can win to close communion with his god, to the exaltation of his moral and spiritual nature, or indeed that the gods are primarily moral at all, or greatly exalted above humanity in any way, even in power, is a civilized man's belief, or at least that of a quite advanced barbarian.

While the spirits, or whatever repositories of *mana* the community believes in, may be approached at all manner of times, they are especially resorted to at the crucial periods of the life of man and at the great turning-points of the year. Hence we regularly find ceremonies carried out at birth, puberty, marriage, the approach of old age, and death, and at the beginnings of the various seasons. In practice, this often means that the solstices and equinoxes are accompanied by some sort of ritual: not that the savage knows or cares anything about astronomy, but that a very little observation tells him that the days are long, short, or half-way between longest and shortest, **and he per\***

ceives corresponding changes in the vegetation around him, to say nothing of the migrations of animals, especially birds. Occasional crises, such as drought or pestilence, or in a smaller way the illness of some particular person, and also communal undertakings of an unusual kind, such as war, or of a more normal sort, such as a great hunting-party, likewise call for an effort to secure plenty of *mana* and turn it into the right channels.

One effect of this belief in *mana* and the concomitant practice of magic is to divide the whole world, not only into native and foreign, but into sacred and profane. Certain things, certain people, and all things and people under certain circumstances, are sacred, or tabu. They cannot be brought into contact with profane things without the greatest danger, unless they have found means to get rid of their sacredness ; nor, generally speaking, can they be brought into contact with other sacred things of a different kind. The effect of the contact of sacred and profane would be mutual damage, at least in many cases ; so it is to the interest of all concerned to keep them apart. When it is desirable that a tabu thing (such as a new crop, or a stranger) should be eaten, handled, or spoken to, some method of purification must be employed, or more positively, the object in question must be charged with *mana* known to be good and compatible with the *mana* of the would-be users; the first-fruits must be given to a god or spirit, or eaten by a man of known magical power; the stranger must be adopted, or otherwise brought into close relations with the tribe or clan.

Now, unless all our views on the relations of savagery to civilization are hopelessly wrong, every existing people must at some time have passed through a stage

like that just sketched in outline; whence it follows that merely to show that a custom of this or that race or community may plausibly be deduced from a savage custom, is to prove nothing at all, except that the community in question consists of human beings. What is to the point, for a book such as this, is to show that the actual savage custom lasts on, however fossilized and meaningless for those who used it in historical times ; or that a known custom can be derived directly or nearly so from a savage one ; or finally, that something of the savage mentality must be postulated in order to explain why things were done in one way rather than in another.

In dealing with Italy, as with Greece, our task is made more complicated by the fact that we are treating, not one race, but several, and that these races, at the earliest stage which we can trace, were at very different levels of culture. As some few palaeolithic implements have been found on Italian soil, it is obvious that there must have been a time when the peninsula was the home of savages, probably nomadic hunters, in a quite early stage of culture. As these implements, and other traces of the palaeolithic folk, are but few, it is reasonable to suppose that the population was then scanty, or else that, for some reason which we cannot at present guess, the occupation lasted but a short time. In any case, we know so little of these people that we cannot say what part, if any, they had in building up the races of historical Italy. It would seem that their contribution was not very important, and for practical purposes we may begin with neolithic man.

Here we find tolerably abundant evidence both as to culture and race. Finds of skeletons, stone and

bone implements, pottery and the like, all over Italy itself and in the neighbouring islands, notably Sicily and Sardinia, assure us that this part of the Mediterranean basin shared in the great movement, perhaps from Africa, of a people or race who possessed the neolithic culture, that is to say, who could make implements of polished stone, and who understood the manufacture of a kind of pottery which, while still somewhat rude, was by no means at the beginning of that art. Physically, they were dolichocephalic, or long-headed, not very tall, and, likely enough, dark, since their remains are to be found in Africa and Asia Minor as well as in more temperate climates. It is usually the fashion to refer to them, when speaking of Italy and France at least, as Ligurians, since there is a respectable body of evidence to show that their descendants are the people whom the Romans in later days called Ligures.<sup>1</sup> What they called themselves we do not know; but we have good reason to suppose that they were a numerous people, or group of peoples, and enterprising, to judge by the extent of their migrations. The historical Ligures were a notably hardy peasant-population, capable of great physical exertions and on occasion tough fighters, as the Roman legions found out. To this day, smallish, dark, long-headed people, very wiry and enduring, are found commonly enough all over southern Europe. They play now, and seem to have played in antiquity, a useful rather than a leading part in the communities to which they belong, sturdy peasants and labourers rather than statesmen or scholars. If we look at their archaeological record, particularly in the islands, where their culture lasted on undisturbed by the incursions which made themselves felt on the mainland, we find that

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they were capable of development indeed/but were far lower culturally than the Greeks and Carthaginians who in historical times invaded their countries. It is not simply that they are regularly called 'barbarians' by Greek writers, for that need mean no more than 'non-Greek,' but that we find them everywhere playing the part of what we should call barbarians, inaugurating no high culture of their own and making no movements, pacific or belligerent, on a large scale to develop their own resources or trade, or to resist the invaders.

After this civilization had existed for a considerable time, long enough in fact for copper to become known, there occurred the first of the many invasions of Italy from Central Europe. There can be little doubt that the invaders were a more civilized people than those whom they invaded. The latter, while hardly savages, were still in that stage known as aeneolithic, or less barbarously, chalkolithic. Stone was still their chief material, together no doubt with wood, of which we know little, since it naturally has rotted away, but they knew of the existence of copper, imported implements (especially short daggers) made of it, and also worked it themselves, inventing new forms of their own instead of merely imitating the shapes made by the foreigners with whom, by one route and another, they traded. But the new-comers were in the Bronze Age, and could make quite good implements and weapons with this superior material. This is not to say that they made no stone implements, for many such have been found, but stone-chipping was evidently a slowly dying industry, gradually being superseded by metallurgy. Stone was used probably for cheap tools and weapons, by those who could not afford the better ones, or for purposes to which it would not have been reason-

able to put bronze. We keep our best steel for work which is either delicate, such as that of a surgeon, or a matter of life and death to the worker, as that of the swordsman ; a much inferior temper and a less perfect edge does for a boy's jack-knife. The Bronze Age people would have used a sharp stone instead.

With the bronze weapons went of course superior fighting power. A stone dagger is blunter than one of bronze and also more liable to break; a stone axe is unwieldy compared with one of any metal capable of being hardened. Also, the new-comers could make a very defensible kind of settlement, the so-called *terramara*, which we have reason to suppose the venerable ancestor of the typical Roman camp. Hence, little by little, the Ligurians, although tough and numerous, had to give way before the new-comers, and retreat from the fat plains to the poorer soil of the hills. It must not be supposed, however, that even in the plains there were none of them left; indeed, as will be shown later, there is evidence that here and there, notably at what was one day to be Rome, many of them stayed behind and made some kind of tolerable terms with their vanquishers.

This conquest may be considered on the whole a victory for civilization. Whatever may be the case at more advanced stages, in the earlier history of mankind the better and cleverer fighter, the more skilful builder for forts, is the more nearly civilized man. Every time a Ligurian settlement passed into the hands of, or was overthrown by, these bronze-users from the north, a step was taken towards the creation of that great centre of civilization, the Italy of classical and modern times. But the conquerors were still a great way from civilization themselves.. They appear to

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have had no system of writing; their communities lived in small settlements, mere fortified villages, suggesting that the savage tendency to keep to one's own clansmen and have no close relations with anyone else was still there ; these villages in their internal arrangements were incredibly squalid and foul; the artistic sense of the people, in itself perhaps no great proof of advancement in culture, for some quite backward populations have it, was but little developed. Still, the germs of civilization were there, as subsequent events proved.

We can make at least a guess at the language of these people; it is not at all unlikely that it was an ancestor of Latin. The proof is of course indirect, for as already mentioned, they did not write, and so have left us no examples of their speech. But the Neolithic people, to judge by inscriptions of relatively late date from their territory and place-names reasonably supposed to go back to them, used a language intermediate between Italic and Keltic;<sup>2</sup> the later invaders seem to have spoken the dialects known as Osco-Umbrian; Latin must have some origin, and therefore it is plausible to suppose that the folk of the Bronze culture are ultimately responsible for it. But the question is far from settled.

The Bronze Age passed, and the Iron Age took its place. How this fell out in Italy is a moot point, and two utterly different answers have been given by reputable archaeologists. The first is, that the Bronze Age invaders themselves developed an Iron civilization ; the second, that they were in turn invaded by an iron-using people, who spoke a language akin to theirs and practised a culture not very different in many ways, but still were another and a somewhat more advanced

race. Archaeological finds certainly show that settlements existed which, to judge by their material remains, possessed the characteristics of both the Bronze Age invaders and the so-called Villanovan iron-using people; but on the other hand, there were many settlements whose products, and so far as they can be made out, their habits of life, differed very markedly from those of the *terramara* folk. The latest investigator, Dr. Randall-Maclver, holds that the Villanovans and two other Iron Age peoples, of whom remains are found in Italy, were fairly closely related to each other, somewhat more distantly to the Bronze Age folk, and that their descent from the latter is no more than a possibility. The present writer thinks there is evidence other than purely archaeological for the existence of three quite distinct strata in Italian culture, corresponding to the users of stone, bronze, and iron. Unfortunately the arguments on which such views rest are of a highly technical nature, such as can hardly be discussed here. Perhaps the most important point for our present purpose is, that an Iron Age culture did undoubtedly exist, and was present in northern and central Italy about the eleventh century B.C.

To these invaders, if invaders they were, it is usual to attribute, though again without certainty, that branch of the Italic speech which is known as Osco-Umbrian. The reason is, that in districts where archaeology shows us that they existed, we find in historical times Oscan- or Umbrian-speaking peoples settled, or at least a tradition that they formerly were there. Oscan and Umbrian are known to us from a fairly large number of inscriptions; they are undoubtedly of the same branch of the Indo-Germanic or Wiro speech as Latin, but of a different fork, so to

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speak, of that branch. The original speech contained a sound more or less the same as English *qu* in *queen*—what is technically called a labio-velar consonant. This Latin retained, as for instance in its word for five, *quinque*, and so did certain other dialects, related to Latin. But Oscan, Umbrian, and some obscure cognates of theirs turned the sound into a *p*, and said, for instance, *pumpe* for five. Exactly the same difference exists in the so-called Goidelic and Brythonic divisions of the Keltic tongue, five being *coic* in Irish (it was once something like *quingu*, no doubt), *pump* in Welsh. This fact has been variously interpreted, for there is nothing to prove absolutely that the change did or did not take place independently in Italy and in Keltic-speaking countries.

As to the civilization of these Iron Age people, be they a fresh wave of invaders or not, it is well summed up in the words of Dr. Randall-Maclver: 'They had reached a grade of culture which for a barbaric people must be considered fairly high, without any appreciable aid or inspiration from the ~~Z~~Egean or the Orient.' So once more, although we are still mounting in the scale of civilization, we have not yet come to a people comparable in advancement to the Minoan Cretans, for instance, or the Egyptians. We are dealing with races capable of vigorous action, gifted with no little manual skill, warlike, and no longer nomadic; for of the three peoples we have been considering (or rather, the three grades of peoples, for it is by no means certain that the *terramara* folk were the only Bronze Age inhabitants, and quite certain that the ViUanovans were not the only representatives of the Iron Age) the last two understood and practised agriculture, as well as keeping large and small cattle. But they could **not** write,

they built no large cities as yet, their political organization does not appear to have been on a large scale until later times; in a word, while advanced and advancing barbarians, they were barbarians still.

Into the Italy of the Iron Age came yet another invasion, to be dated about the ninth century B.C. This time it was a civilized people, though not one of the great and fertile civilizations of antiquity. The Etruscans, a nation of Asia Minor, arrived by sea, in no very great numbers, and by their superior organization and culture succeeded not only in gaining a foothold on the coast, but in establishing themselves throughout what is still called Tuscany after them, and for a considerable time in Campania also. This gain was at the expense of the Umbrians, according to tradition, and also involved the establishment for a time of an Etruscan monarchy at Rome, if indeed that city is not originally an Etruscan settlement. They lived in city-states not unlike those of the Greeks, under a government sometimes monarchical, sometimes aristocratic. These states were bound together in more or less firm confederacies, and for a long time, some three centuries at the very least, the Etruscan power was the principal one in central and northern Italy. The people were keen traders on a large scale, bold seamen (which the Italians were not), fond of good living, possessed of much appreciation for fine art, by no means contemptible as soldiers, and practitioners of a religion imperfectly known (for no one has yet succeeded in interpreting their language) but apparently elaborate, complex, and gloomy. They laid great stress on divination in particular, and on the tendance of their dead, as is shown by the vast number of large and richly-decorated tombs, full of all manner of costly

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offerings, which have from time to time been discovered. When it is added that they seem to have had singularly little originality, but to have borrowed freely on all hands, from their Oriental kinsfolk or neighbours before coming to Italy, and from Greeks and Italians after their arrival there, no more need be said of them for the present. They are a foreign element, to be taken notice of by anyone who would study either ancient or modern Italy in any detail, but mostly excluded from the present work simply because they were civilized when they came, and we know too little about them to say what survivals of a savage past they may have had lingering on. If ever we are successful in deciphering their numerous written records, more will have to be said on this point; but at present their speech seems to be isolated from every other we know, ancient or modern, and a few words here and there are all we can make out. As, however, they both influenced and were influenced by the races which we are studying, occasional reference must be made to them. The story of the fall of their power under Gaulish, Samnite, and Roman attacks cannot be told here.

Even less need be said of the numerous Greek settlements in Italy and Sicily, or of Carthaginian invasions of the latter island, save to remind the reader that both existed, and that the former profoundly influenced the thought of all the races of Italy who were civilized enough to be susceptible ; that is, of all which we have hitherto mentioned save perhaps the Ligurians.

The net result, for the student of the most ancient strata of Italian belief and custom, and therefore of that section of their mental history where he is likeliest to find savage survivals, is that he has to clear away a good deal of Etruscan and a great deal of Greek

influence before he can find out what is really Italic. If in Greece proper we find, for instance, a rite described by Pausanias as alive in his day, we may be pretty sure that we are dealing with a Greek practice of some sort; but if we find, in Vergil or Ovid, a description of an Italian custom, we must examine his evidence very carefully before we can say that he is telling us anything about Italic ways at all. The matter is made far worse by the total absence of an Italian Homer or Hesiod. True, we have the great national epic, the *Aeneid*; but every line of that magnificent poem cries aloud that its author is influenced by Greek history, tradition, philosophy, and religion; and in any case, it was written a thousand years or so after the Iron Age culture was established. We have also treatises on agriculture, such as that of the elder Cato, and other works which tell us something of the countryside; but they were written one and all after the typical Italian peasantry had begun to decline, and most of them after it had almost ceased to be; Cato, who is the oldest, presupposes a large estate worked mostly by slaves and with a non-resident owner. Yet despite the double disadvantage of foreign intrusion and native inarticulateness, it is much easier to find traces of savagery in Italy than in Greece.

The reason certainly is not that the Italians were incapable of civilization; it is simply that they did not originate it. The Etruscans came about 850 B.C. or so, and brought with them the art of writing, which they had learned from the Greeks,<sup>3</sup> it would seem. The Homeric poems were then perhaps a hundred years old. They found the most advanced race in Italy, the Villanovans, still barbaric, though approaching civilization; whereas in Greece, a great civilization, that of

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Crete, had long since fallen, the Achaian feudal age was nearing its end, and the full-blown culture of classical Greece was soon to develop. Therefore savagery needed to survive in Italy a comparatively short time to be heard of in some of our documents or to leave its trace on customs in vogue in the days of the Roman republic or even of the Empire. Civilized to a great extent from without, the Italic peoples retained many of the ways of their forefathers down to a late date, and when classical civilization fell, sank back into a barbarism worse than any that was to be found in the eastern, or Byzantine, portion of the shattered Roman Empire,

### NOTES ON CHAPTER I

For the archaeological facts, see the works of Peet, Randall-Maclver, and Modestov cited in the General Bibliography. For a few points, reference may be made to the author's articles in the *Journal of Roman Studies*, 1922, p. 106 foil., and 1923, p. 82 foil. The latest discussion of the relations between Italians and Kelts is Peake's *Bronze Age* (see General Bibliography). A good account of Etruscan civilization and political history is given in R. L. Fell, *Etruria and Rome* (Cambridge, 1924), to the bibliography of which add C. O. Thulin, *Die etruskische Disciplin* (Goteborg, 1906-9), and for archaeological evidence concerning their cults, see L. R. Taylor, *Local Cults in Etruria* (American Academy in Rome, 1923)- It is unfortunate that no modern work on their religion in general exists in English. For the Greek colonies, see any history of Greece. There is room for a good English study of their religious history ; in the meantime, an Italian work, G. Gianelli, *Culti e miti della Magna Grecia* (Florence, 1924), has its merits.

<sup>1</sup> There were very likely two races, one ('Ligurians'), long settled in Europe, who occupied Italy, another ('Siculi') of comparatively recent immigrants from Africa to the islands. See von Duhn, p. 114. The former chiefly concerns us.

<sup>2</sup> Evidence summarized in a paper by Mr. J. Whatmough, outlined in *Report of British Association for Advancement of Science*, 1925, p. 342.

<sup>3</sup> The Greek alphabet may well be as old as this. See C. D. Buck in *Classical Philology*, 1926, p. 14.

## CHAPTER II

### RACE, RELIGION AND CULTURE

**H**AVING thus briefly and roughly outlined the ancient ethnology of the peninsula, we must ask what archaeology has to tell us concerning the religious beliefs and practices and the life of the various peoples we have mentioned. It is clear that some of them were more backward than others ; hence if we can trace some rite from, say neolithic man, and find it still flourishing in historical Rome or Samnium, we shall not be over-bold if we label it a survival and consequently primitive, in the loose sense in which we are now using the word.

Of the palaeolithic folk, as already mentioned, very little is known; but that little at any rate indicates that they had some kind of religious ideas, as indeed might be expected, for we have yet to find a race without them.<sup>1</sup> At least, burials supposed on good if not absolutely cogent grounds to be palaeolithic have been found, and of these there is no doubt that the bodies were prepared for burial, being wrapped in skins, sometimes given offerings (flint implements) and covered with a red layer of iron peroxide. Further, the cave in which the dead lay was not abandoned, but continued to be used by the living.<sup>2</sup>

We may gather this much, then; firstly, that these early inhabitants of Italy believed that some sort of future state awaited their dead, in which they would

be alive enough to need covering and tools or weapons, besides the iron peroxide, whatever its value may have been, possibly a magical protection. Secondly, they were not much afraid of them, or they would have given their burial-places a wide berth. Thirdly, they put children in a different category from adults, for such skeletons of children as have been found appear to have been buried without any ritual at all. We shall see that these ideas, whether they survived from palaeolithic man or were re-introduced by a later race, were by no means dead in the Italy of classical times.

One further point may be noticed, namely that there are signs of these palaeolithic bodies having been, not indeed burnt, but subjected to the action of fire, a ceremonial whose meaning has not yet been made out, but which is worth noting in connection with the variation between inhumation and cremation which we shall have occasion to notice more than once.

Neolithic man treated his dead in much the same way. Here again we find signs of the roasting or scorching process, whatever it may have meant ; but the body is seldom or never really cremated, and the characteristic burial is in a crouching position, lying generally on the left side, while about it lie remnants of the ornaments the deceased wore, and various objects, implements, weapons, rudimentary toilet articles even, and vessels which once contained food, which were given him for his use in the other world. A sort of rude tomb of stone slabs generally protects the remains; children have a much less elaborate burial and sometimes a corner of a burial-place is reserved for them. The characteristic red tinge of the oxide of iron is found in abundance; conceivably its resemblance to blood made it a welcome offering to the blood-

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less dead.<sup>8</sup> Be that as it may, red pigments continued in use down to quite historical times, to besmear, not the bodies of the dead, but sacred things belonging to the gods. Some of the bodies had had the flesh removed before they were buried; a rite technically known as *scarnitura*.

One feature the neolithic graves have which seems to be absent from the palaeolithic ones, and that is orientation. I do not mean that all burials of this period are so arranged that the bodies face the same way; but taking them group by group, it is often found that all or most of those of a given locality do so. Thus in a group of graves at Montefiascone, all the skeletons faced south; in another, at Montecelio in Latium, all faced east. This may quite likely indicate that the dead were supposed to be going a journey in some definite direction. Another point is, that in many cases the objects put with the bodies showed clear signs of having been deliberately broken. Now we know that it is a fairly wide-spread idea among savages that things given to the dead should themselves be 'killed,' apparently that the departed may use, not the objects themselves, but their ghosts.<sup>4</sup>

We may therefore hold, without being too fanciful, that the Ligurians, or whatever they should be called, not only believed in a future life of some sort, but had fairly definite ideas about it. Their dead were to continue to live, probably in a somewhat unsubstantial way, but not as what we should call spirits, for they had material wants, or at least the shadows of such. It would seem that to get to their future abode they had to go somewhere, on the earth's surface or off it, by a route of which at least the beginning was known. We may add that again they do not seem to have

excited much fear, for once more we find the same caves used for the living and for the dead, though this is not always the case.

Apart from this we have a few further scraps of information about their beliefs. Here and there a small, rudely made figure of clay has come to light, to which the neolithic artist has tried to give human form. From what we know of savages, it is not likely that these images were made for amusement or to satisfy a rudimentary artistic craving; it is far more likely that they were idols or served some other magico-religious purpose. But precisely what they were for we cannot now say. Then a few bits of bone have been found from skulls which had been trepanned. Now modern surgery recognizes a very good reason for trepanning; it relieves pressure on the brain resulting from a hurt or malformation of the skull; and not a few peoples far below modern Europeans in culture have an inkling of this and put their knowledge into practice. But we may suspect that it was not always so sound a reason which impelled Ligurians to submit to an operation which, performed with a flint knife and no anaesthetics, must have been agonizing. It is not improbable that the operator often made a hole in the head to let out some evil thing that was there, perhaps a persistent ache. The result, for a patient hardy enough to survive, might actually be lasting relief; but the theory which seems to underlie it involves just that confusion of material and immaterial, abstract and concrete, which is so characteristic of savage thought. The pain, grief, madness or whatever it may be is to be got rid of exactly as if it were water or a pebble; a hole is made, that it may flow or tumble out. A third little point is the occasional appearance, among Ligurian

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remains, of shells that are not found in Italian waters. We must suppose that these shells were precious things, for either they were kept a very long while, if the Ligurians brought them when they entered Italy, or they were imported with great trouble under the primitive conditions of trade which we must suppose then to have existed. The natural explanation is that they were amulets ; for if they were merely ornaments, why could not the numerous Italian shells have been used exclusively, as they were very commonly ? We find, then, reason for supposing that these people practised fairly developed magic, and that they perhaps had a religion involving the worship of gods conceived as having human form.

When we come to the people of the Bronze Age, we find that the *terramara* folk had most characteristic cemeteries. They cremated their dead, and the ashes, or rather the burned bones, were put into urns. These were taken out of the town of the living, the *terramara* itself, presently to be described, and put into a town of the dead, laid out in much the same fashion as the other, so far as its ground plan went. Here the urns were simply packed together, at most separated one from another by a stone slab or the like, but sometimes actually touching. It would seem that when first deposited they were not covered up, perhaps being left with the necks sticking up above ground. When the available space was occupied, earth was heaped over all, and a second layer of urns began to be deposited. Almost nothing was placed in the urn with the ashes, and it would appear that nothing of the nature of a grave-stone was used. Whatever may have been the case among the living, the dead had clearly little or no individuality. Yet collectively they must

have been of considerable importance, else why give them an elaborately separated place, a *tetnplutn*, or piece of ground 'cut away' from the rest of the world, as the Romans later phrased it? We are reminded that the regular Latin expression for the inhabitants of the nether world, *manes*, 'the good people,' has no singular number.

Another very striking characteristic of this people was the shape of their towns or fortified villages. Of their construction I will speak later; the interesting point now is that they were practically what the Romans called *templa*. That is to say, they were roughly rectangular, and had a definite orientation, the long sides running more or less north and south; about as near true north and south as could reasonably be expected of people who had nothing to guide them but the shadows cast by an upright stick or some such primitive instrument, and probably very hazy notions of the amount by which the direction of sunrise and sunset vary at different times of the year. Within this parallelogram, of which we have an excellent example in the *terramara* first excavated with scientific accuracy, that of Castellazzo di Fontanellato, in the province of Parma, was another enclosure, also rectangular, formed of an artificial mound of earth, lying somewhat east of the centre of the whole structure. The whole settlement was divided up into a checker-board pattern by roads crossing each other at right angles. On one of the chief roads, that running from east to west (later ages called it the *decumanus*), was dug a pit, no doubt for ritual purposes. So far as the shape of the place was concerned, a soldier or town-planner, Roman or Etruscan, would have been quite at home; there was the *templum* with its subdividing lines; there was the

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inner stronghold and holy place, the *arx* of the town or *praetorium* of the camp; and there was the holy pit, the *mundus*, about which much mysterious ritual centred. It is not too much to say that this simple figure—in principle, a square cut into smaller squares by an inscribed cross, to the arms of which parallels might be drawn—was the basis of the towns, the camps, the temples, and the divinatory methods of Italy in classical times.

At its base in turn lay a very deep-rooted idea, the separation of the sacred and the profane. The outline of the settlement formed, not exactly a magic circle, but certainly a magic line of some kind, against the outer, unfriendly world; and no doubt it was inaugurated and reinforced with ceremonies of some sort. Within, on the plan so familiar in all manner of sanctuaries, lay a yet holier place, fenced off not simply from foreigners' evil magic, but from the unsanctified member of the community going about his daily tasks. And alongside of this negative magic, defending against evil, was the holy pit, no doubt actively sending out good for the benefit of the members of the community.

Unfortunately, little has survived to tell us how these people worshipped whatever powers they did worship. A good many pottery dishes have come to light of a size too small to be of practical use. We are reminded that little dishes (*patellae*) were used in Roman families for setting aside the small portions of the household deities. A few very rough figures attempt to show human and bestial forms. But we do not know that these had any magico-religious value; they may have been toys or ornaments, for we are getting above savagery now, and children's playthings **have a long** history. It certainly seems as if these

people had no large idols of any sort, or some remnants would surely have come to light; again we are reminded of Rome, whose cult was said to have been aniconic until a considerable time after the foundation of the city.<sup>5</sup>

Before leaving the Bronze Age, it is worth noting that in Sicily, where apparently the Neolithic civilization had developed with little or no outside interference, the sort of burial described above was not in use. The Siculi (it is convenient so to call them, without insisting on their identity with the people to whom the ancients applied that name) built tombs which tended to become more and more elaborate as their culture advanced, and put the bodies in them unburned, arranging them, in what is known as the Second Period of their history, around drinking vessels and other apparatus of a feast. This, however, is not the only arrangement, as single burials, of later date than these, are also found. As there was a good deal of grave furniture, it seems natural to suppose that in these people's opinion the dead lived on in the houses that had been made for them, perhaps at an eternal banquet.

In Sicily again, at Cannatello near Girgenti, has been found what is quite reasonably interpreted as a temple, containing a table of earthenware tiles, a limestone slab, a number of shells, and three horns made, like the table, of earthenware, all which objects have most probably a religious significance. Taken together with the elaborate tombs, this makes it clear that these Siculi had the concept of non-human beings, ghosts or gods, living in houses of their own, like ordinary mortals; somewhat as the *terramara* folk apparently conceived of their dead as living in towns of their own.

And here it may be remarked, once and for all, that

the difference between cremation and inhumation does not denote difference of either race or belief, though it may happen to coincide with either or both. To burn the dead does not prove that the survivors have either a lower or a higher conception of the soul, a more or a less developed power of conceiving it as an immaterial being, than if they inhumed. As to difference of race, it is true that, for example, the Ligurians inhumed while the *terramara* people cremated, and it is practically certain that these are two different races; but the proposition cannot be inverted; to find a cremation-cemetery and an inhumation-cemetery, though they be within a mile of each other and of the same date, would not itself, without further evidence, be any reason for supposing that we were dealing with two races.

Coming now to the Iron Age, we are dealing with several peoples and several rites. The most familiar civilization is that of the Villanovans, so-called from the first remains having been found at Villanova, a suburb of Bologna, where the excavators, who naturally were looking for Etruscan objects in that Etruscan centre, were for some time puzzled by what they discovered. The Villanovans, then, seem to have come in from Central Europe, bringing with them a tolerably advanced iron culture. The overwhelming majority of their burials are incinerations, and the shape of the graves and of the urns is alike peculiar. A pit was dug in the earth, and a second, smaller pit in the bottom of that. Into this was lowered the urn, usually biconical in shape (*i.e.*, not unlike two funnels, placed mouth to mouth), which contained the ashes. A more or less elaborate protection of stone was put around the urn, and the upper pit filled with stones. But before filling

the grave in, it was customary to put with the urn in the lower compartment a comparatively large assortment of funeral offerings, generally contained in other urns or jars of some sort. So numerous and varied are these that they give us a fairly complete picture of the material conditions under which these people lived, of their arms, tools and ornaments. The characteristic Villanovan urn is found especially in the north ; as we begin to move south, we find here and there a number of hut-urns, that is to say, repositories for ashes shaped more or less realistically into the form of a hut. In Etruria, still among Villanovan burials, we find another variant; the biconical urn is in use, but it is covered with a pottery imitation of a helmet, or with an actual helmet of bronze. Here and there, in various cemeteries, we find inhumations amid the cremations; and it is noteworthy that many of these are the bodies of children. There were, at the same time, whole regions (notably Picenum, on the east coast) where inhumation was the rule at this age ; and here we have independent evidence to show that we are dealing with a different race. Moreover, we find, notably in Latium, the most important region of all for our study, since it is the district from which we have the best literary evidence, that of Rome, that the rite changes, sometimes quite abruptly, a series of cremations being found underneath a layer of inhumations, as in the famous cemetery of the Roman Forum.

Clearly, we are dealing, so far as the Villanovans are concerned, with a people who on the one hand usually cremated their dead, and on the other, did not (as it used to be the fashion to suppose) unite with that means of disposing of corpses a conviction that the departed was now gone to live in another world. Else

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why did they carefully surround the ashes with precautions against disturbance, and also with offerings which frequently were valuable? Also, why did they, in the south at least, crown the urn with a real or imitated helmet, as if it were the living body of the warrior? The use of hut-urns points the same way; the ashes of the dead still require a house to live in. Further, these people clearly put children in a different category from adults, for they treated their bodies differently. It is, then, no very wild guess that if these children had lived to manhood or womanhood they would have gone through some kind of ceremony, at least a more or less elaborate family or clan celebration of their coming of age. But unfortunately we are still without written records, since our earliest inscriptions, even those in Etruscan or Greek, are much later than the coming of the Villanovans to Italy. We do not even definitely know, although we can guess from the system which prevailed in later times, what their names were like.<sup>6</sup>

If now we turn for a moment to the material and social conditions of the different races with which we have been dealing, it is clear that the communities of the Stone Age people were savage enough. Many of them lived in caves, and the evidence is that these primitive habitations were incredibly foul. When we find on the cave floors fragments of the bones of edible animals, odds and ends of implements, ashes of fires, and not very deeply buried human bodies, it becomes fairly obvious that sanitation, even in its simplest form, was not yet dreamed of. An inhabited cave must have been littered with all manner of rubbish, including decaying animal refuse; and what this meant in a hot Italian summer is easy to imagine. Nor is it

likely that the huts which this people often erected in the open were much better. To judge by the traces left in the shape of dark circular marks on the ground and some few fragments of the materials of which the walls and roof were composed, it is pretty evident that they did not differ much from the temporary shelters known as *capanne*, which are still in occasional use in the less thickly settled parts of the country; and these in turn do not differ in principle from the bee-hive huts of Africa. A shallow, roughly circular hole in the ground, of the desired breadth; some stout boughs of trees which are stuck into this hole around its edges, thick ends downwards, and the tops bent together and fastened to each other or to a ring of some kind; a sufficiency of smaller boughs, or thatch, often daubed over with clay; these are the materials for this primitive dwelling, which archaeological evidence shows to have been very popular all over Europe. Where we find traces of one such hut in Italy, we find others; the people who built them lived in villages, differing from one another only in this, that sometimes the huts were built on the surface of the ground itself, sometimes in shallow, more or less circular pits, as described.

If anything, the settlements of the Bronze Age were yet more unsavoury than the Neolithic. Their ground-plan has been already described; it remains to be said that the whole construction was elevated on piles some distance above the ground, and surrounded with a ditch. In fact, it was a lake-village built on dry land; the people who brought the Bronze culture evidently were the descendants of lake-dwellers, and they, or an allied race, actually erected some pile-villages on the Italian lakes. These villages would of course throw their rubbish into the lake; the people of the pile-

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dwellings on land threw theirs under the hut, where it gradually accumulated till it reached the hut-floors. Then the whole structure was apparently set on fire, and a new settlement erected on the resulting ash-heap. When abandoned, the sites of these curious dwellings were converted in course of time into heaps of rich earth, much appreciated by the peasants of later days, who called it *terramama*; hence the name, *terramara*, given by archaeologists to these monuments. It has been said that *le moyen-dge a vecu sur unfumier* ; the epigram is literally true of the Bronze Age in Italy. But they were at least defensible rubbish-heaps enough, and contrast strongly with the Neolithic villages, which seem to have had no fortifications at all. We may conjecture that each *terramara* formed the dwelling-place of a clan or small tribe, under some kind of chief. A not dissimilar arrangement is to be found among the Dyaks of Borneo to this day. That there was any sort of political union between the various *terremare* we have no good reason for asserting, neither can we disprove it. On general grounds it seems likely that, being invaders and successful ones at that, they did not quarrel between themselves very much, but concentrated their energies rather on conquering such ground as they wanted and beating off attacks from the natives.

Besides their use of bronze, then, these people were more advanced in culture than the Ligurians, in that they were more scientific fighters, at least on the defensive. Whatever may be the outcome of the plans of those amiable visionaries who try to make each successive war the last one that shall ever be waged, it is hither to the case, as has been already remarked, that the more advanced a European is in civilization, the

**better he** fights, at least until physical degeneracy sets in, as it did in classical Greece, for example. Alongside of this characteristic we may set another, a still more unequivocal sign of progress. The *terramara* folk had begun to till the soil, whereas their predecessors in Italy lived largely on wild fruits and game, though they had some domestic cattle.

<sup>1</sup> We find remains of flax, beans, two types of wheat . . . , and the vine (*Vitis unifera* L.). This last, however, is **not** the true vine of cultivation, and we have no evidence that these people used it to produce wine. The grain was pounded with hand-mills of stone. . . . The flax was probably used . . . to produce clothing-stuffs. The abundance of the spindle-whorls proves that it was at least made into thread.<sup>?</sup>

When we pass on to the Iron Age, we find that, to judge by the extensive grave-yards of some of their communities, the people lived in quite considerable settlements. We can, in fact, begin to speak of Italian towns, or even cities, and we often find (as in the case of Rome and Bologna, for instance) that the site chosen was that on which the fully civilized inhabitants of later times continued to live. Of their houses we can catch a glimpse by looking at their hut-urns. These show pretty clearly that what we now regard as a house was in existence—a rectangular building, of solid construction, with a door, not a hole in the wall. The urns, it is true, are often more or less rounded, for straight lines and pottery do not agree very well; but in several we can easily recognize an oblong, probably wooden house, with rafters and gable-ends imitated in baked clay, ornaments of various kinds on the roof (perhaps some sort of charms), and in one or two cases, what looks like the outline of a window in the side. Of the inside arrangements we know but little; they

probably were not elaborate. But such houses might well stand in a town more or less regularly laid out, walled or protected with a palisade, and surrounded by fields. For it goes without saying that these people understood agriculture and the keeping of domestic animals; the hunting, root-digging man of the Stone Age had been left far behind.

So far, we have said nothing of trade. Indeed, the evidence is on the whole that until the Etruscans and Greeks came, little trade went on, at any rate with foreign peoples. This applies to Italy proper, however; the enterprising seafarers of the iEgean seem to have begun quite early to bring their goods to Sicily, where it would appear that they did a brisk trade. For not only do we find a considerable quantity of unmistakable Cretan or Mycenaean ware in tombs of the Bronze Age, but those tombs themselves are often built of dressed stone, in a far more advanced style than we can suppose the natives to have evolved quite unaided.<sup>8</sup>

But on the mainland also, the Bronze Age did not pass without some importation of foreign articles; and when we come to the Iron civilization, we discover, not indeed evidences of very extensive traffic, but still enough to show that the trader was not an unheard-of person by any means; and naturally, as time went on, more and more foreign ware of various sorts made its appearance. The Italians of historical times were traders, and several cities, notably Rome, owe their existence wholly or partly to the possibilities of their sites for commerce.

If we inquire into the moral character of these peoples, we have a little negative evidence to show that it was **not** of the lowest, at any rate; for we cannot find any

proof of the existence of any of those horrors which make the lives and customs of some barbaric and savage races unpleasant reading. Thus, no sufficient evidence exists, even in the lowest strata, for the practice of cannibalism, ritual or otherwise ; nor do we find any survival of such a custom, even in the most attenuated form, in later times. Of human sacrifice, again, we have no clear traces. We do indeed find now and then what might be, and indeed has been, interpreted as the burial of a slave with his master. A few graves at Bologna contain, besides the funeral urn already described, with the ashes of a cremation inside it, an inhumed body, in the crouching position characteristic of Ligurian interments. This has been taken as showing that a slave or prisoner of war belonging to the inferior, conquered race, was killed and buried alongside of his master, the Iron Age conqueror; but this remains a possibility only. One can imagine other reasons for such an arrangement (such as the death at the same time and from natural causes, or in battle, of master and man), and if the custom were at all widespread, we should expect to find many examples, instead of very few. In classical times, human sacrifice does occasionally occur ; but it is highly probable that Livy is correct when he stigmatizes it as 'an utterly un-Roman rite,' and that he would still have been justified had he called it non-Italian.<sup>9</sup> It is due to later invaders, and especially to the Etruscans. When in this book Italians are mentioned, it is to be understood that I do not mean Etruscans or Greeks.

If then we look at Italy in about the seventh century, which is much earlier than the date of our written Italian documents, Latin or other, we find, apart **from the later invaders, a number of races, differing con-**

siderably in their customs and in the degree of civilization which they had reached when first they appeared on the soil of the peninsula itself or of the neighbouring islands. Some, it would seem, regarded their dead as individually important; some tended and presumably thought of them only in the mass; some built themselves substantial houses, and lived in towns; some lived in villages, occupying mere hovels. By that time, no doubt, the odder features of the lower cultures, such as the *terremare*, had disappeared or were fast disappearing. All these races had intermingled more or less, whether as equals or as conquerors and conquered; probably no attempt, certainly no successful attempt, had been made to exterminate any of them. Consequently, they had doubtless influenced each other in all manner of ways, besides being influenced by the Greek and Etruscan invaders, as they were later influenced by the Gauls who poured over the Alps and occupied part of Northern Italy, and later still, when the Roman Empire crumbled, by the Germanic tribes. It was in every way a mixed population, then as now, who lived in Italy and Sicily. Hence we must expect, if there are to be found savage survivals at all, that they may come from any one of the stocks we have mentioned, although no doubt some of the most definitely backward practices and ideas are due to that race, the Ligurian, which seems all along to have been the slowest to develop or acquire anything that could correctly be called civilization.

And now we are faced with a difficulty, indeed with two difficulties, both rather formidable. As already stated, these early Italians have left us no written record of their ideas and experiences. Worse than that, any unwritten traditions which they may have

had are lost to us, having either been forgotten before any Italian took to writing history or legend, or been neglected until it was too late. Of their gods, they seem to have told no stories; of themselves, they no doubt told some, indeed we have one clear mention of old ballads commemorating men of past days.<sup>10</sup> But most unfortunately, the all-prevailing influence of Greece resulted, not simply in the writing of histories after the Greek pattern, but in the invention of legends of Greek type concerning the foundations of cities and the wanderings of peoples. Here and there, no doubt, these stories contained a kernel of truth ; but nowhere do we find them so relatively trustworthy as are the Homeric poems, or the sagas of the Northerners.

This brings us to the other difficulty. Civilization was brought into Italy partly by the Etruscans, partly by the Greeks. The Italians were apt learners, and absorbed much of what the foreigners had to teach them, showing themselves indeed more intelligent than the Etruscans and politically far more stable than the Greeks ; but they borrowed freely, right and left. They had gods of their own; but they grouped them in Etruscan fashion here, and equated them with Hellenic divinities there. They could build and plan settlements ; but they adopted Etruscan rites of foundation (though indeed part of those rites was in all probability adopted from them in the first place) and Greek architecture. They even went farther afield and improved their methods of farming from Carthaginian handbooks. They were trading already, but the Greeks gave them the idea of coining money. They were stout warriors, but they freely admitted in later times that many of their military ideas were foreign. In short, they were notable learners, and naturally all

that they did and said reflected the opinions and practices of their teachers. This is especially true in their literature, but it is hardly less so in other respects as well.

Since then so much has been lost or buried out of sight, what materials have we, besides archaeology? The answer is to be found in the conservatism natural to religious and other practices which depend on long-standing custom. We have tolerably complete records, though we would like to have them much more complete, of what the Romans, and to a less extent the other Italians, actually did when they worshipped or traded, built towns or tilled the land; we can form pretty exact notions of the limits of Etruscan influence; and Greek culture is known in considerable detail. Therefore, when we meet with an idea or a custom in classical Italy, we have two methods of deciding whether or not it is native Italian. Firstly, we may ask whether, supposing it to be native, it contradicts any of the archaeological evidence. If not, then so far it passes. Next, we may ask whether a close Greek parallel can be found, or in some cases, an Etruscan one. If not, again we may say with some confidence that it is Italian. The result may be further checked by what we know of comparative religion and sociology; if the non-Greek, non-Etruscan custom which we think we have found is unlike anything elsewhere in the world, we must be very chary of admitting its existence, and make very sure that we have not misunderstood the evidence.

In the next chapters I propose to discuss a few of the customs which survive the above tests, and ask to what extent they may be supposed to be, not Italian merely, but survivals of savagery in Italy. I will also

briefly point out why some survivals which various investigators have thought they had found are unlikely or impossible.

NOTES ON CHAPTER II

<sup>1</sup> It has been alleged that some of the Orang Kubu of Sumatra have none ; but an examination of the exact account given of them by Dr. B. Hagen (*Die Orang Kubu auf Sumatra*, Frankfurt a/M, 1908), will show that even the most irreligious of them, the Ridans, have one trace at least of belief in the supernatural; they will not stay near a corpse. It would appear also that they are a broken and disorganized people.

<sup>2</sup> See Peet, p. 37 foil.; v. Duhn, p. 5 foll.

<sup>3</sup> See, for a discussion of this matter, E. Wunderlich, *Die Bedeutung der roten Farbe im Kultus der Griechen und Romer* (Topelmann, Giessen, 1925), p. 46 foil.

<sup>4</sup> See Peet, chaps. II, IV ; v. Duhn, p. 8 foll. In general see, for the statements concerning the Stone Age people, the first seven chapters of Peet, and compare Modestov, chapter II.

<sup>5</sup> Peet, chapters XIII foil. ; Modestov, chapter IV ; v. Duhn, p. 116 foll. Roman aniconic cult, Varro *apud* Augustine, *de ciuit, Dei*, IV, 9, 31. For the Sicilian culture, see Peet, chapter XVII.

<sup>6</sup> Besides Randall-Maclver, see W. R. Bryan, *Italic Hut Urns and Hut Urn Cemeteries*, American Academy at Rome, 1925-

<sup>7</sup> Peet, p. 362. For this and the following paragraphs in general, see the references given in the last two notes.

<sup>8</sup> Peet, p. 443.

<sup>9</sup> v. Duhn, p. 168 ; Livy, XXII, 57, 6.

<sup>10</sup> Cato the Elder, quoted by Cicero, *Tusculan Disputations*, IV, 3 ; *Brutus*, 75. This is Cato, *Origines*, VII frag. 12, in Jordan's collection of the fragments of Cato.

## CHAPTER III

### THE GODS

**I**N this chapter and the following ones, I propose to make use largely of written materials, and especially, since that is the most abundant source, of the written materials left by the Romans and by those Greeks who wrote of Roman customs. This is a matter of necessity, not of choice ; it would be most interesting to survey the rites and customs of the remoter districts, particularly in comparatively early times ; but the other cities of the peninsula have left us no literature and, save for later times when they were nearly as Roman as the Romans themselves, very few inscriptions. We are dependent for our notions of their religion very largely on what the Romans incidentally tell us about them. However, ours is a less scanty source than it might be, for many ' Roman ' writers, indeed the great majority, were not born in the capital. From Ovid of Sulmo, Varro of Reate, Vergil of Mantua, we learn a good deal of what was done and thought well out of sound of the Italian equivalent of Bow Bells, the *strepitus Romae*. Yet even so, it was the glorious past, historical and legendary, of the Eternal City which most interested writers and readers alike ; and an unkind stroke of fate has robbed us of the *Origines* of the elder Cato, in which he discussed the ancient history of the other Italian cities.

To begin, then, with the gods of the Roman state

cult, the story of how their true character was rediscovered by modern investigators is far from uninteresting, but too long and technical to be told here. Suffice it to say, that we know them to have been, utterly different from the better-known deities of Greece. The latter people were polytheistic, and had an elaborate mythology; the objects of their worship, that is, were a comparatively small number of figures, clearly conceived both as to their functions and as to their supposed appearance, and having quite marked individualities. Hermes, for example, in the classical period, was the patron of oratory, of the gymnasium, and of those who, honestly or otherwise, sought gain. He was conceived as having the form of a young athletic\* man, graceful and swift of foot; he was the son and the favourite messenger of Zeus the sky-god; his mother was Maia, daughter of Atlas. This is one of the simpler figures, comparatively little developed, and the principal character of comparatively few mythological stories. If we take a more august and complex deity, such as Apollo, many pages might be devoted to giving even a sketch of his functions and the tales told concerning him. Now if we turn to a typical Roman deity, such as Vulcan, or to give him the more correct form of his name, Volkanus, we find that he was the god, or spirit, of destroying fire, and therefore was worshipped outside the city limits as a rule. When we have said that, and described a few details of the ritual with which he was worshipped, we have told the whole story. He had no mythology at all; when a Roman poet says that Vulcan did this and that, and especially that he was married to Venus and made a shield for Aeneas or some other hero, he is talking of the Greek smith-god Hephaistos, with whom Vulcan was identified, but

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with whom he had originally nothing whatever to do. Vulcan made fire burn and destroy things, and that was his whole function. He had not even a form, expressed in a cult-statue or otherwise, which was native to Italy; his statues are simply representations of Hephaistos. The Roman cult, although it included one or two high gods (the ancient triad, Iuppiter, Mars and Quirinus, seems to exhaust the list for Rome), was essentially polydaimonism; the worship, that is, of a number of beings sharply defined and limited as to function, but who apart from their functions have practically no existence in cult or in imagination. They are not so much gods as particular manifestations of *mana*. Spiniensis provided the *mana* necessary to get thorn-bushes (*spinae*) out of people's fields; Cinxia, that needed for the proper girding (*cingere*) of the bride; and so with innumerable others. What stories could anyone tell about such phantasmal, uninteresting beings as these?

The Latin word for them, or for their power, is interesting; it is *numen*. The literal meaning is simply 'a nod,' or more accurately, for it is a passive formation, 'that which is produced by nodding,' just as *flamen* is 'that which is produced by blowing,' *i.e.*, a gust of wind. It came to mean 'the product or expression of power'—not, be it noted, power itself. Properly speaking, the gods, and sometimes other powers more than human, or than ordinary humanity, have *numen*; but as their business is just to have *numen* and nothing more, they are themselves often called by that name, especially in the plural, *numina*. As the theological thought of Rome advances, the word takes on a higher meaning, and comes to signify 'divinity,' 'deity'; but we are not now concerned with this part of its development.

But it might well be said that to conceive of a spirit of any sort, even if he does nothing more exalted than to give farmers, from time to time, power to perform successfully the important business of manuring their fields (over which the god Stercutius presided), represents a not inconsiderable effort of abstract thought. Indeed, priestly theologians in Rome laid hold of these ancient *numina* and extended and classified them, adding many of their own invention, until they might almost be said to form a list of the detailed functions of Deity in general, or of the various ways in which his help might be sought. But their history can be traced back to a much lower stage than that, indeed to nothing higher than the savage concept of *mana* locally resident in some place, or in some material object.

It will, I think, be readily conceded that a deity who shows clear signs of coming down from the Stone Age, whose one function is to strike when called upon, and who is so vague that he is now one, now many ; whose outward form, moreover, is nothing but a flint knife, without which he seems to have no being at all, is about as primitive an object of worship as we can reasonably ask for. Just such a deity is to be found in Iuppiter Lapis, Iuppiter the Stone.

In the venerable shrine of Iuppiter Feretrius there were kept in historical times certain ancient flint stones. To take the most solemn form of oath in private matters, the swearer held one of these and said, ' If I knowingly deceive, then may Iuppiter, without scathe to the City and the Citadel, cast me forth from my good things as I cast this stone,' flinging the stone from him as he spoke. In a more serious business still, the ratifying (or as the Romans said, the striking) of a treaty, one of the Fetiales, the ancient priesthood who were charged

**with** international affairs, killed a pig with a flint-stone from the same shrine, and said, ' If the Roman people shall be the first to depart from this treaty by common consent, and of malice prepense and aforethought, then do thou, Iuppiter, on that day smite the Roman people even as I shall this day smite this pig, and smite it the harder according as thou art stronger and mightier/

It surely is clear enough that the Stone is older than Iuppiter. The stones were probably ancient knives or hand-axes of flint, Neolithic at least, palaeolithic for anything we know. In them dwelt much *mana*, great and powerful *nutnen* ; by pantomimic magic in the one case, in the other by the same reinforced by the touch of blood, the officiant stirred up this *numen* to terrible action, restrained by the powerful formula employed, a conditional curse. Bronze-using and iron-using people came and found these venerable flints, and, impressed by their sanctity, connected them with the greatest god they knew, Iuppiter, the ' bright (or divine) Father,' who among his other activities punished perjurers. That Iuppiter was one and the stones many did not apparently stand in the way of the indentification, though some moderns, more versed in arithmetic of a practical sort, have been troubled by it.<sup>1</sup>

A similar identification took place in the case of another ' high god,' Father Mars. I am not now discussing the tangled question of what Mars' original function was; certainly in historical times he was a war-god, though he was not that alone. Quirinus likewise was a war-god, so far as we know his functions at all, for he had, in classical times, fallen altogether into the background or been obscured by the wrong-headed idea that he was Romulus deified. Now in the Regia, the ancient building in the Forum which

**had** once, as its name implies, been the palace of the kings of Rome, there were certain spears which were generally called the 'spears of Mars,' *hastae Martis*. But Plutarch, to whom we owe much curious information about Roman antiquities, lets us into the secret; the spears were, or one of them was, actually called Mars. The *war-numen* was embodied in a particular spear, or, quite as likely, in the whole group of spears. In the case of Quirinus, we know that certain weapons, or it may be armour, known as the *arma Quirini*, were ritually anointed by the *flamen* or priest of Portunus—why Portunus, the god of gates, *portae*, we do not know; it may be that Quirinus had originally nothing to do with these holy weapons. Here then we have a clear enough trace of what is commonly, though loosely, called fetish-worship. What they were anointed with we do not know; but that they were anointed at all is pretty clear proof that they were felt to be in some way alive and conscious, and therefore capable of exercising *numen*.

It is a common enough figure of speech in antiquity to use the name of a god for the name of his province or his special gift. The housewife in Vergil 'boils down the sweet liquid of the new wine with Vulcan/*i.e.*, over a fire; his shipwrecked Trojans, on getting ashore, 'make ready Ceres spoilt with the waves/ in other words, proceed to take out and dry their water-soaked corn. This is a mere bit of rhetoric, to Vergil at least, and imitated from Greek models; he could perfectly well have said 'fire' or 'corn' if he had wished to. But there is one deity whose name and that of his sphere of activity are one and the same, and that is the venerable Ianus.

In the Forum there stood an old gateway, probably

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never used for any practical purposes, for it does not appear ever to have been on the line of the city walls, and known as the *ianus*. Ianus was also the name of the god of gates, from whom the first month of the year is still named, January. It is not true to say that he lived in the gate, or that the gate was his temple or even his image ; he *was* the gate itself. It is true that he also was, or inhabited, the doors (*ianuae*) of all the buildings, public or private, in Rome ; with such vague figures this need trouble us no more than the Iuppiter who is a stone or stones, Mars incorporate in a spear or several spears. But it was *the* gate, the old double barbican in the Forum, in which the god's *nutnen* was particularly to be found. In all probability, the gate was used for an important piece of magic, the marching out of the army to battle and its return when the campaign was finished ; for it would appear that there was a right and a wrong way of marching out, and no doubt, also a right and a wrong way of marching in again. It was remembered that the ill-fated clan of the Fabii went forth on their last campaign by the right-hand arch (*ianus*) of the Porta Carmentalis, ' an unlucky route ' adds Livy.<sup>2</sup>

We have hitherto seen a few examples of deities restricted as to place, appearances of *mana* which were confined to a particular object or a small group of objects. It should be noted that many of these curious little spirits (they are generally called by a German name invented by Usener, *Sondergotter*) are severely restricted as to time. Take, for instance, the *numen* Vnxia, ' her of the anointing.' The Christian apologist Arnobius waxes merry over her and several like her. ' Would these gods have no names,' he asks, ' if the bridegrooms' doors were not anointed with fat

by the brides ' (or various other parts of the marriage ritual were not performed) ? The answer seems to be that they would have, not only no name, but no existence in cult or belief. To use a favourite modern term, they are ' projected ' from the rites whose names they bear, as *Spiniensis* and *Stercutius*, already mentioned, are from the agricultural operations after which they are named. This sort of thing continued indefinitely, and new *Sondergotter* could be, and were, invented by priestly ingenuity as occasion arose. Thus, when a fig-tree grew on the roof of their temple, the priesthood called the Arval Brothers invoked, among other powers, three very curious little godlings, *Adolenda*, *Commolenda*, and *Deferunda*, that is Burner-up, Smasher, and Carrier-away, whom no one mentions elsewhere, and who clearly are the spirits corresponding to the actions in which they were engaged, namely getting rid of the obnoxious tree.

Other *numina* there were, so vague as not even to have a descriptive name of adjectival form. It is by no means uncommon to find a dedication, or hear of a prayer, *si deus si dea*, ' to the deity, male or female/ of a particular place. There is for instance an altar with that inscription still in place on the Palatine. I have elsewhere pointed out, as had often been done before me, that deities with no name exist in Greece too—Unknown Gods here, Pure Gods there, a Good God in third place. But at least these are described by their adjectival titles, and may have had a name which was kept secret; *si deus si dea* goes a step further in vagueness.

Most of the *numina* so far mentioned were more or less positively good, or at least harmless, in their activities. But *mana* is a non-moral force, as we have seen; it is not, therefore, surprising that there are

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mischievous *numina*. I have already mentioned Volkanus; two other figures of some interest are Febris and Robigus. As regards the former, it is well known that malaria has been for many centuries the scourge of Italy. The hardy Roman peasants of the early Republic suffered from it less than their descendants in late classical and mediaeval times, for, in order to make the most of their land, they drained it well, thus doing away with the breeding-grounds of the mosquito who carries the germ; but they were not entirely free from it, even so. Now if we look at it from the savage point of view, it is obvious that much *mana* is needed to make a strong and vigorous person suddenly begin to shake with ague or burn with fever; clearly in the districts where such things happen a considerable magic force is being exerted, or as the Roman phrased it, *numen adest*. This unwelcome *numen* was named Febris (fever, or especially malaria) and propitiated accordingly. Here and there two subsidiary goddesses were worshipped, whose names, Tertiana and Quartana, need no interpretation. Robigus is the spirit of 'rust' in wheat, and was important enough to have a day set apart for dealing with him, the Robigalia, April 25. It was a curious ritual, conducted by the *flamen* or special priest of Quirinus, and consisted partly of the sacrifice of a dog. The details are obscure, but if we compare the fact that at Carseoli foxes had lighted firebrands attached to them on the Cerealia (April 19) we get perhaps a gleam of light on the subject. The fox is red, the colour of the spores of 'rust'; so, probably, was Robigus' dog. Quirinus, whose priest officiates, is connected with fire. Originally, it seems to me, we may suppose that the evil *fxre-niana* which showed itself in the fire-coloured pest devouring the

wheat was assailed, incarnate in the reel dog, and so destroyed; fire driving out fire is a fairly common notion, and there are a few more ancient examples of an evil power being coerced or destroyed, not humoured into going away or keeping quiet. However this may be, there is no doubt that Robigus was a very unpleasant and unwelcome *nurnen*. Later theologians, pagan and Christian, loved to attack the cult of Febris and her like as examples of the wrong-headedness or depravity of much, if not all, of the traditional cult; it is fairer to say that it was simply non-moral, and to that extent savage.

And now the question arises, to what extent cults of this sort were merely survivals in classical times—fossil remnants, that is of a state of mind long since past. It is usually asserted that by about the beginning of the Christian era the ancient worship of the Roman state was a mere matter of form, kept up from force of habit, conservatism, or as a political device. Of this I am not so sure. It is no doubt true that very many of the ancient gods had sunk into oblivion; we find not a few to whom no dedications exist, and a number of whom we may feel fairly certain that they are the product of antiquarian or priestly systematization. But in the first place, this is not true of all, even of the *Sondergotter*; Tertiana for example has a dedication from Risingham, and the north of England was not conquered by Rome until the end of the first century A. D. In the second place, the Christian apologists, notably Tertullian, Arnobius, and Augustine, devote no little space to these figures. They were in deadly earnest and had a practical aim in view, despite their often inflated rhetoric; is it likely that they would have wasted so much ink in refuting what no one

believed? Finally, the mere fact that some of these godlings are demonstrably of late origin surely indicates that the tendency to which they are due lasted long in the minds of the Romans and of the Italians generally. No doubt such conceptions were as far from the minds of educated thinkers then as now; but it does not appear that they had by any means vanished from the thought of the vulgar. Indeed, when we remember that to this day the saints have, in popular imagination, a decided tendency to specialize in much the same way, one curing toothache, another favouring lovers in difficulties, and so on, and that this occurs in face of an official theology of the most vigorously monotheistic type, it seems only reasonable to suppose that in this respect the uneducated Italian of to-day is but continuing the tendencies of the uneducated Italian of the late Republic, or the early Empire.

Of the above deities, some, such as Iuppiter Lapis, were worshipped in the guise of what might loosely be called fetishes. Properly speaking, however, a fetish is an object, often a rude figure of some kind, into which magically potent substances have been put, thus assuring the presence of a spirit or force of some sort, more or less personal. Without the ritual by which this force is made to reside in the object, it would have no magical or religious value at all, but be simply a stock or stone, no more venerable in the eyes of the savage than in those of the sceptical white man. It is worth noting then, that something to all intents and purposes a fetish was to be found in ancient Latium, namely the god or spirit of boundaries in his visible form, Terminus. We have seen that Ianus means both the gateway and the spirit that guarded it; so Terminus is the name alike of the boundary-stone, or boundary-

stake, and of its presiding *nutnen*. But it would seem that merely to put a stone or a stake in the ground between A's land and B's would not make it a Terminus with a capital T, so to speak, however well practical purposes might, to our notions, be served thereby. A hole was dug in the ground, and into this were put blood from a sacrificial victim, wine, and other offerings, together with the holy ashes of the fire which had burned the flesh of the sacrifice. The stone or stake itself was oiled and garlanded, and so lowered into the hole and made fast there. Then, every year, on the twenty-third of February, a part of the rite was gone through again. The neighbours whose lands the Terminus divided met, sacrificed a lamb or pig and also brought bloodless offerings, corn and a sort of cake called a *libutn*, garlanded the boundary-mark, and sprinkled it with the blood of the sacrifice. Thus the ancient fetish had its vigour renewed for another year, and continued able to vindicate the rights of property, if any tried to violate them.<sup>3</sup>

This is but one example, however, of a notion deep-rooted in early forms of cult. It is true that men need the gods at every turn ; but it is also true that the gods need men to worship them. The sacrificial formulae in use at Rome, and doubtless elsewhere in Italy as well, included one curious stock phrase, the meaning of which has been admirably elucidated by the late W. Warde Fowler.<sup>4</sup> That is the phrase *macte esto*. The latter of these words presents no difficulties; it is simply the imperative of the verb 'to be.' The former was for some time a puzzle. On examination, however, it is clear that it is derived from the root MAG, meaning 'great/ with a participial suffix; it signifies therefore, 'made great,' 'increased'; the ending is

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that of the vocative case, which Latin occasionally uses instead of the nominative when the verb is in the second person. The whole phrase therefore means, 'be thou increased' or 'made great.' And the context in which we find it shows very clearly how this was to be accomplished: it is regularly *hisce dapibus made esto*, or the like, 'be thou increased by these sacrificial banquets,' 'by this victim,' or whatever the offering might be. The greatness or increase of the gods, therefore, is due, not to their own divine power entirely, but to the offerings from their worshippers. If there were no offerings, the god could not be 'great,' in other words, his *mana* would fail.

Once we grasp this principle, a great deal that was obscure in the relations of Italians with their gods becomes much clearer. If they prayed for benefits at the hands of their deities, at least they had something to offer in return. The gods were the superior contracting party always and everywhere; but it was never the case that they counted for everything and the worshippers for nothing. Intense respect was shown them in word and gesture; a Roman woman at least would go to the length of prostrating herself in adoration; but the adorers were not so far below any of the deities that they could not bargain with them, and often make quite good terms for themselves. The process of bargaining was known as a *uotum* or vow, and we happen by great good luck to have the full text of one of the largest transactions of this type ever made, the vow to Iuppiter early in the Second Punic War, besides numerous less important documents of the same kind. They are invariably in the following formula: 'Iuppiter' (or whatever god might be addressed), 'if thou wilt keep the Roman state in the next five years in no worse

condition than it is now ' (or, bring back such-and-such a person safe from his journey, or prosper such-a-one in his undertakings), ' then the Roman people ' (or it might be the consuls for the year, or a priestly corporation, or a private individual) ' will give thee,' and then follows a minute and exact specification of the offerings to be made. Turn now to a purely secular contract between two men, who call a deity in to witness their transaction : the old rascal Labrax, in the *Rudens* of Plautus, agrees as follows: ' If Gripus returns me my valise intact, then I promise to give the said Gripus, here present, the sum of one Attic talent.' Not dissimilar was the way in which the deities of a besieged city were addressed, in the ceremony known as *euocatio*. ' I pray thee, Queen Iuno, thou who now dwellest in Veii, to follow us in the hour of our victory to our city, which shall in future be thine, to be received in a temple worthy thy greatness,' says Camillus in Livy, keeping the sense though not the words of the traditional formula, which instead of the vague promise of an adequate temple, definitely named a cult greater and more ample than the god in question had enjoyed in his own city.

The gods, then, can be to a great extent persuaded to answer prayers by promise of valuable consideration. We do not, however, find that they were in any way forced to accept the offer. That they could be, if recalcitrant, starved out like the Olympians in Aristophanes' extravaganza, *The Birds*, is not an idea which any Roman seems to have entertained. Indeed, the Romans of the Republic, and all other Italians of whose early religious ideas we have any knowledge, were markedly reverential in their whole attitude towards

Thyre is, however, a

trace or two of the conception, arising from quite definitely primitive ideas of the divine nature, that a certain amount of actual compulsion could be applied, if only one knew the right way to set about it. The sixty-first of Plutarch's *Roman Questions* throws light on the matter.

'Why,' he asks, 'may not that deity, whether male or female, in whose especial protection Rome lies, be mentioned, inquired after, or named: which prohibition is sanctioned by religious scruples, for they record that Valerius Soranus came to a bad end by revealing the secret? Is it because, as certain writers on Roman matters assure us, there are certain conjurations to evoke the gods, by the use of which the Romans believe they have themselves called forth certain deities from the enemy to themselves and brought them to live among them? They fear, therefore, to be treated in the same manner.'

Now the 'conjurations and spells,' by what we know of them, are in the nature of a bribe; let the deity desert Veii or Carthage and the Romans will give him or her a finer temple and a more splendid cult. But it is clear that this offer was much likelier to be heard if the deity was called by his own name; why, provided that one could be equally intelligible otherwise? 'Supreme deity of Rome, be thy name what it may' would surely be, not only a permissible way to address the mysterious god or goddess, but one sanctioned by Italian ritual. The answer must be, that if the name were known and mentioned, the owner of the name' was to some extent constrained to heed what was said.

Finally, we get rites in which, so far as we can restore their earliest form, we hear of no deity at all, but a sacred thing without a personal name. When the Romans and other Italians were troubled with drought, they frequently, like more modern believers in a benign

**power** capable of influencing the weather, had **formal** prayers and processions to ask the sky-god for it. This is vouched for in the case of a country town—it is not certain which—by a character in Petronius' novel (*Satirae* 44) for example. But in Rome, although prayers and sacrifices were also used, there was a more primitive method as well. Outside the Porta Capena lay a stone called the *lapis manalis*, probably 'the dripping stone,' which was carried in procession into the city. So far as we know, no god had anything to do with this venerable object; it may be, as some modern writers suppose, that in later times it was connected with the great cult of Iuppiter, who certainly had a tendency to swallow up these lesser figures, but we have no reason for saying that it was always so, and certainly the name of the god did not affect that of the stone. It is simply a piece of magic, with a magic thing used to bring about a desired result.

Indeed the magical element is very noticeable in all genuinely Italian cult of which we have any knowledge. More will be said on this matter in the next chapter, but in general we may point out how well Rome in particular, so long as we consider the purely native cults, serves to illustrate two famous formulae descriptive of the beginnings of religion, those of Frazer and of Durkheim. The former savant is of opinion that magic (the attempt directly to control the forces of nature, without the interposition of, or appeal to, any power superior to man) is the precursor of religion everywhere; the latter would deduce all gods from a sort of embodiment or 'projection' of the activities of the community. Neither theory is generally accepted now without qualification, but both undoubtedly contain considerable elements of truth. Savages do **lay**

great stress on ritual and formulae, and seem not seldom to conceive of these as being means of compelling, rather than persuading, whatever powers they worship to do as they wish ; they also make their religion centre to a very large extent around communal acts, such as the much-quoted Australian *intichiuma* ceremonies, in which no doubt the individual feels himself strengthened by the presence of his fellows, and attributes this feeling, if he reflects upon it at all, to the presence of a supernatural power.

Now if we look at the Roman deities of the oldest stratum—what they technically called *di indigetes* or 'native gods'—we find again and again, as already remarked, that the lesser ones have no existence apart from certain acts of their worshippers, and that even the high gods such as Iuppiter and Mars appear regularly in connection with a ceremonial intended to secure some practical end of the community. For instance, Mars is worshipped at stated seasons of the year in connection with the summer campaign which represented the whole military activity of an early Italian community ; at the same seasons he is appealed to in connection with the crops, for he is also a deity of agriculture, however exactly he came by his two-fold nature. Between the Armilustrum of October 19, and the Equirria of February 27 there is not a single occasion on which Mars was officially called upon to show his power; and the reason was simply that in early days the weather was too cold and wet for their somewhat primitive methods of fighting, and there was little or no farm-work to do. So little were the Romans careful to make the activities of their gods include all spheres or all times that they not only left many of them practically unworshipped for long

periods, but seem to have had no gods in places where anything like a developed theology would have thought them absolutely necessary, unless it had arrived at the conclusion that there is but one God, whose activities have no bounds in time or space. Thus, it is very doubtful whether such a person as a god of death, or of the dead, ever existed in early Rome. Orcus, of whom we hear a good deal in Latin poetry, is nothing but a Greek bogey, Horkos the oath-spirit, mispronounced and misunderstood; his connection with the lower world is simply that according to Greek notions the powers who punished the perjurer lived there. Pluto is the Greek Pluton taken over bodily, and Dis is Pluto translated into Latin (both words mean simply 'the rich one,' a euphemistic way of mentioning so terrible a deity). Acheron or, as Plautus pronounced it, Acceruns, is a Greek river of Hades. The only possible Roman god of the under-world is the obscure Vediovis, the 'not-Iuppiter' or 'opposite to Iuppiter,' of whose cult we hear but little anywhere in Italy, though it may once have been important here and there. No one wanted to have anything more to do with death or the dead than was necessary, and when they had to be dealt with, as at the various Feasts of All Souls, it was enough to mention the Manes (good people) or Di Parentum (ancestral divinities, *i.e.*, glorified ghosts), and even these were not dealt with individually until quite late times, but in groups. It is certain that there was no god of the sea (Neptunus, who did duty as such in later times, began as a spirit of fresh water, springs and rivers). What did anyone want of the sea, since the Romans, and for that matter most of the Italians, preferred to live safely on dry land and leave salt water to eccentric foreigners

such as Greeks, Etruscans and Carthaginians ? Therefore, as they worked no sea-magic and had no sea-ritual, so far as they were concerned there was no sea-god.

How strongly communal their worship was may perhaps be illustrated by the fact, a strange one when we consider how necessary smiths must have been for those sturdy farmers and fighters who play so large a part in the traditions (mostly literary and very full of imaginative details) of the early Republic, and for those users of quite complicated and advanced pieces of metal-work whom archaeology reveals to us, that there was no god of smithcraft. As already mentioned, Volkanus or Vulcan was the god of destroying fire only, so far as we know; no figure corresponding to Hephaistos in the Greek tradition existed. Indeed, until they imported Minerva from neighbouring Italian communities, there was not even a deity of craftsmanship in general. The reason would appear to be, that the early craftsmen were not united in guilds, nor did they work together in factories, but by twos and threes. They formed no group, that is, large enough or permanent enough to have any communal ritual or to 'project' a divine representative of themselves. It was in a much later age and under the influence of foreign thought that such phenomena are observed as the elder Africanus passing some time daily in silent contemplation in the temple of Capitoline Iuppiter. The community as a whole, or a definite part of the community, or some smaller unit such as a clan or a family—these are the typical Italian worshippers. They might, indeed, and generally did, present their sacrifices and gifts or their requests through some one representative; this was very natural, as one could

hardly expect every citizen or every member of a clan to remember the ritual, often extremely complicated; but this is a very different matter from an individual sacrificing or praying on his own behalf alone.

All this is not to be taken as meaning that the religion, even the native religion, of Italy was and remained on a low level. Such is not the case; it was orderly, decent, and as far as it went, moral. The gods were thought of, for the most part, as reasonable and respectable beings, a sort of upper class of citizens, having the civic virtues, and such of the private ones as are of use to the state or the clan, well developed. In other words, when we find Italian religion articulate enough for us to study it, it is no longer purely savage, at any rate it is well removed from the lowest grades of savagery. But in its form and in many of its conceptions, the theology, if it can be called such, of Italy before the influence of Greece made itself felt, still shows clearly enough the savage past which lay no very great distance behind it.

#### NOTES ON CHAPTER III

<sup>1</sup> The subject of *Sondergotter* has been discussed from various points of view by Usener, *Gottmamen*, p. 73 foll. ; Wissowa, *Gesammelte Abhandlungen*, p. 304 foll.; Peter, in Roscher's *Lexikon*, under *Indigetes*; and by the present writer, *Journ. Rom. Stud.*, 1913, p. 233 foll. ; and *Roman Questions of Plutarch*, p. 76 foll., besides more or less detailed treatment in the various manuals of Roman religion, for which see the General Bibliography. The passages concerning Iuppiter Lapis will be found conveniently collected in Blinkenberg, *Thunderweapon*, p. 111.

<sup>2</sup> Plutarch, *Romulus*, 29; arms of Quirinus, Festus, p. 238 (Lindsay) ; Vergil, *Georg.* I, 295 ; *Aeneid*, I, 177; Livy, II, 49.

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<sup>3</sup> Arnobius, *aduersus nationes*, **III**, 25; **Unknown Gods**, etc., see *Prim, Cult, in Greece*, p. 77 ; foxes at Carseoli, Ovid, *Fasti*, IV, 679 foll. I have discussed Robigus in an article entitled *Lua Mater*, in *Class, Rev.* xxxvi (1922), p. 15 foll. Tertiana, *Corp, Inscr, Lat*, VII, 999. Terminus, Ovid, *op. cit.* II, 641 foll.

<sup>4</sup> Warde Fowler, *Rel, Exper.*, 182 foll. Camillus and Iuno, Livy, V, 21.

## CHAPTER IV

### WORSHIP AND MAGIC

**T**HAT the Italian gods in classical times retained much that was primitive has been indicated in the last chapter. But a primitive god may develop into a worthy recipient of civilized cult. There are features about Yahweh which are savage enough, in the earlier strata of the **Old** Testament; but developed Judaism, so far from being savage, is one of the loftiest religions in the world, belonging to that small and highest class in which cult and ethics are inseparably connected. One could imagine the quaint godlings just described passing insensibly into the vague but sublime figures of a lofty theology; or rather, there is no need to imagine it, for Stoic theorists like Varro read their own doctrines into the ancient religion of their state to such an extent that one or two modern writers, before the development of the science of Comparative Religion, have supposed that the Romans were pantheists, which is rather a philosopher's creed than a savage's. But in general no such thing happened, and we shall find, if we look at official ritual, in Rome and out of it, that much survived which is closer akin to savagery than to any ideas which votaries of the higher religions could share.

Whatever view we take of the origin of religious feeling and practice, it is certain that a rite which

**does not** necessarily involve the invocation of any sort of god or spirit, in which indeed such invocations, if they appear at all, have the air of being comparatively late additions, is of an early, 'primitive' type. And, if it is also connected with the very old distinction between sacred and profane, or between friendly and hostile, in other words, if its main business is to mark a sacred boundary, that certainly is nothing against its antiquity. Just such a rite is to be found in the practice known in general as *lustratio*.

In classical Latin, the verb *lustrare* means 'to purify,' but it never loses its secondary sense, 'to move as in a solemn procession,' We may fairly say, then, that its full significance is 'to make a thing magically pure by means of a procession'; in other words, to walk around it, thus drawing a magic circle. This rite survives, of course, or did till recently, in much more modern surroundings than classical Italy; for instance, the parish bounds are still beaten here and there in England (thus knocking all evil out of the sacred boundary), and the old town of Burghead in Scotland used to have a *clavie*, a kind of large torch, carried about it, thus tracing as it were a magic circle of purifying fire. But these have long been mere picturesque local customs, kept up out of deference for ancestral tradition or revived to please antiquaries; they are no part of anyone's serious belief or of the official religion of the locality. Things were different in ancient Italy, where such a practice was recommended in a manual of husbandry of the most matter-of-fact kind, Cato's *de agri cultura*. A person formally appointed by the owner of the estate—no doubt in earlier days it was the owner himself, but when Cato wrote, absentee landlords were common and large

estates the rule—led around the boundary what were technically called *suouetaurilia lactentia*, in other words a sucking pig, an unweaned lamb, and an unweaned calf. When this was done, the beasts were sacrificed to Mars, in his capacity as a god of agriculture, though libations were also poured to other deities, Janus and Iuppiter. When we find other authorities, Vergil and Tibullus, both country-bred and knowing very well what they were describing, recording what is substantially the same rite with other deities substituted for Mars and even different victims, or rather one victim instead of three, we may reasonably suspect that the god and the sacrifice are alike intruders, and that the essential thing was to lead or carry some magically potent object around the farm. That that object was a beast of some sort is very likely, for ancient Italy teems with holy or lucky creatures, as the wolf, vulture, wood-pecker, goose, and so forth, which in historical times were reputed sacred to some deity, but likely enough were potent in themselves (that they were totemic there is no evidence) originally. It is quite conceivable that the rite just described, the *ambarualia* as it was called, consisted originally in carrying or leading young beasts around the fields, that some of their *mana* might pass into the young crops. The same verb, *lactere*, 'to be milky,' was used alike of young crops and suckling animals, which of course would increase the magical sympathy between them. To this day, at Loreto Aprutino in the Abruzzi, a ceremonial is gone through on the feast-day of the local saint, San Zopito, a martyr of very doubtful historicity, which is full of magical atmosphere. A particularly fine ox is fattened up for the ceremony and then led through the town bedecked

with ribbons and other trappings, and with a child on his back; he is taken to the church and made to kneel before the image of the saint, and so goes his way, conveying blessings by his mere presence and also, in a less seemly manner, producing a substance in particularly high repute for increasing the fertility of the fields. A feature of the rite, which lasts three days, is a house-to-house visitation by the ox, who collects offerings in money, and finally a visit to the home of the local nobleman, where the beast is made welcome and his conductors hospitably entertained. Good S. Zopito, whoever he was and if ever he existed, has but little to do with all this, although his legend has been improved to bring in an ox somehow; the actual rite cannot be traced back very far, but the mentality which produced it is probably as old as the first settlement of the Abruzzi. The only non-Italian feature of the whole business is that the ox and the procession leading him go through the town, not around it. A noteworthy fact is that vigorous attempts by the senior clergy of the district to suppress the ceremonial and have the saint honoured in a more orthodox fashion were utterly ineffectual, and produced a good deal of discomfort and some danger for the would-be reformers.

As this ceremonial takes place in a little town, not in the open fields, it is in place to note that the ancients had, besides the *ambarualia* ('round the fields') a ceremonial known as *amburbium* ('round the town'), whereof the best-known example comes from Iguvium, **the** modern Gubbio, where there is to this day, or at any rate was till very recently, a curious procession, rather reminiscent of the ancient one, in which certain **objects known** as *ceri* are solemnly carried. **The**

**ancient ritual** was very developed, and was in the hands of a special priesthood or corporation known as the Frater Atiiersiur, which: would be in Latin the Fratres Atiedii, and its details are most interesting to a student of ancient religion, as the language in which they are couched (Umbrian) is to the linguist. However, only a few concern us at present. With various complicated ceremonies, a procession moved from point to point around the city and citadel, and in particular, stopped at the various gates and made sacrifice there to sundry local deities of whom little or nothing is known. In this connection, three points are of importance for us now.

The first is the careful exclusion of foreigners from the rite. 'Send beyond the boundaries,' says our record, 'the Tadinatè people, the Tadinatè tribe, the Tuscan and the Narcan folk, the Iapudic folk (saying), "if any remain, then bring (such person) whither it is lawful to bring him, do unto him as it is lawful to do." ' This is good magic, and of a fairly primitive kind; the foreigner would have a thoroughly bad effect on the whole ritual by his mere presence and the simple fact that he is a foreigner. It is not a question of preventing him from finding out how to invoke the deities of the place; other means are taken of stopping that. It is simply that he has the wrong kind of *mana* and must not be allowed to mix it with the spiritual atmosphere of Iguvium. Rome took similar precautions at some ceremonies.

Next comes the precaution against anyone, even a citizen, hearing the actual words of the ritual. Several times the caution is repeated, 'let the officiant make **the** prayer inaudibly.' In these passages the words of **the** prayer, or spell, are naturally not recorded in

our documents. Now the general feeling of antiquity was, that prayers, if of a kind which any decent person would offer, were to be recited audibly; this applies to several invocations in this very rite, which presumably were recited for all to hear, since the text is given in full. Horace tells us of the hypocrite who calls audibly on Janus and Apollo, and then 'moves his lips, fearing to be heard: "Oh fair Laverna" (the goddess of thieves), "grant that I may deceive men." ' These mumbled or silent prayers, then, are something too magical to be spoken aloud at all; they cannot be disreputable in content, for the official priesthood of the state utter them; they are precious charms which, like the name of the tutelary deity of Rome, must be kept a mystery lest the stranger get to know of them, or possibly lest their power evaporate if profane ears hear them.

A third point of interest is one common to many Italian rites. 'If any irregularity interrupt the rites' (this is the general meaning of a phrase somewhat uncertain in its details), 'let the officiant observe the omens, go back to the Trebulan gate' (the starting-point of the procession)' and begin the ceremony over again.' It is very clear that a number of interruptions and irregularities were possible, for not only had long formulae to be recited, but a number of ritual gestures had to be made, and the materials of the sacrifices were quite complex. The least slip, to say nothing of any such occurrence as an ill-omened noise or the like, would spoil all. We have countless instances of this sort of thing; to take but one example, Rome had once to repeat the whole costly and elaborate ceremonial known as the *feriae Latinae* or festival of the Latin League, because one subordinate officiant in one repe-

tion of a prayer made an omission ; as I interpret the passage, he did not give the full name of the Roman people. The repetition took place, says Livy, ' because in sacrificing one victim a magistrate of Lanuvium forgot to pray for the *populus Romanus Quiritium.*' Lanuvium was a small town which, save for its ancient temples, was of negligible importance at the time in question, 176 B.C., and the mistake, in my opinion, consisted merely in not giving the full formal title, for the man can hardly have forgotten to mention the chief city of the world at all. The inhabitants of the little town paid heavily for his forgetfulness, as they had to find the victims for the new celebration; but the wrath of the gods fell on Rome, one of whose consuls on his way back from the unsuccessful ceremony was smitten with paralysis and died shortly after. The whole story is told in the sixteenth chapter of Livy's forty-first book.

So likely were omissions of one kind or another that the Iguvians like Italians generally, took precautions in advance against them. Part of the long ceremonial was a sacrifice of three fatted oxen to Iuppiter Grabovius—what the title means we do not know, but it was borne locally by more than one deity. In the prayer occur the following words, repeated again as each beast is killed: ' Iuppiter Grabovius, if in thy sacrifice any mistake has been made, anything done wrong, or if anything has been lost or any fraud or offence committed, if there has been a mistake, whether noticed or not, then, Iuppiter Grabovius, if it be right to do so, let it be atoned for by the sin-offering of this fatted ox.' This is reminiscent of what one of the wilder tribes of India, the Lushais, do in their ritual, for one of their invocations ends,

Bless us in spite of the faults in this our chant,  
 Bless us in spite of the faults in this our worship.<sup>1</sup>

It is interesting to look at a few of the numerous parallels to the above details which can be gathered from accounts of modern savages and barbarians. Firstly as to the exclusion of foreigners. It is quite obvious, if we look around a little, that the main reason was that they are magically undesirable in connection with important ceremonial. For in the first place, they are by no means always excluded—there was, for instance, nothing that we know of to prevent all and sundry from looking on at that very important ceremonial, a Roman triumph, so long as they did not utter ill-omened noises in the hearing of the persons engaged in it; and it was by way of precaution against such noises that all manner of ritual was accompanied by music or other fairly loud and continuous sounds. Secondly, they are not the only persons excluded. Festus has preserved us an old formula, which used to be recited before some ceremony: 'Stranger, man in bonds, married woman, virgin, begone.' In like manner, the temple of Leukothea at Chaironeia was protected by an official with a whip who cried aloud, 'Let no slave, male nor female, enter, neither any Aitolian, man or woman.' It is not as an enemy so much as in the capacity of a carrier of inappropriate sacredness, or of none at all, that the foreigner is warned off. The magical atmosphere is getting decidedly electrical, and it is important that the current should neither be interrupted nor discharged in the wrong direction.

If now we turn to A. W. Howitt's well-known work on *The Native Tribes of South-East Australia*, we **find**, at quite a low level of human development, precisely

this exclusion of women and of the foreign, uninitiated male from those rites which the community in question (the Kurnai) regard as particularly important, namely the *jeraeil*, or ceremony at which 'the boys are made into men,' The women, Howitt states (p. 625), are told, and, so far as he knows, they believe, that if they were to be present the presiding god or spirit, Tundun, would kill them ; and apart from this supernatural protection, he was assured by one of the headmen, 'after nearly half a century of occupation of Gippsland by the white men,' that if a woman did intrude, he, the headman, would certainly kill her. Howitt himself was a privileged person; obviously no ordinary white, however friendly, would have been allowed to see what he saw ; but even he had to present his credentials. The ceremony went on for a while, and then he was told that before proceeding any farther the elders wanted to make quite sure that he had himself been initiated into the mysteries. He produced certain sacred objects which he had obtained elsewhere, from two natives, of whom one was dead and the other took good care not to be present; then only would the officiants proceed with their ritual. The exclusiveness, then, of the good burghers of Iguvium was no Italian peculiarity, but a very ancient feeling, which had probably existed in Italy since long before their ancestors invaded the coxmtry. It originated in no sense of superiority, or of the especial holiness of the local rites. Such a feeling may indeed have had a great deal to do with the precautions taken by Athens, for instance, to prevent any uninitiated person entering the Hall of Initiation at the Eleusinian mysteries, or at Jerusalem, where, as is well known, an inscription (still preserved) warned all Gentiles, on pain of death, to keep away from the

inner parts of the Temple. But the Kurnai whom Howitt knew certainly did not imagine themselves superior to the whites ; they were simply different, and the white man's magic, apart from the exceptional case of Howitt himself, was not their magic and would not mix with it.

For an example of the recommencing of a ceremony because of a ritual fault of by no means conspicuous character we may turn to a race considerably higher than the Kurnai, but still well below the level of civilization. An American investigator, Mr. Walter McClintock, contrived to win his way into the affections of the Blackfeet Indians in the days before their culture was utterly destroyed by the encroachments of the white and by their own loss of interest or belief in their ancient ways. The adopted son of one of their chiefs, he was admitted on a footing of entire equality to a number of their ceremonies. On one occasion he witnessed a performance known as the 'dance of the lynx,' in which a dancer imitated the actions of a lynx hunting squirrels. All went well for a while, when suddenly 'O-mis-tai-po-kah raised his hand and stopped the service. The medicine women were astonished. Every one in the lodge was silent. The chief announced that the ceremonial had not been conducted correctly. The rhythmic drumming and singing began again ' and the old chief himself went through the ceremonial, introducing some features which the less experienced performer had not remembered. 'It required,' says the author, 'a wonderful feat of memory to conduct accurately the Beaver ceremonial,' of which the lynx-dance formed a part, and which lasted 'from early morning until after sunset. Every song, prayer and dance must be performed correctly. If any mis-

takes are made, it is believed that misfortune will surely follow,' The Italians of historic times did not venture to trust to their memories, for we have numerous instances of the officiants either themselves reading from a book the words of the songs or prayers used, or else repeating them carefully after an expert who dictated to them.<sup>2</sup>

As to the inaudible repetition of a particularly important spell, it is part of the stock-in-trade of magic the world over. To take another Australian example, Howitt saw the stomachs of certain young initiands being kneaded by a wizard. They particularly required attention, it appears, because they had been long subjected to the influence of the whites, and were full of 'greediness.' A charm was used, but it was muttered, and he could not make out the words. Thus across a gulf of many centuries and many thousands of miles we find once more the Iguvian prescription, *kutef persnimu*, 'let (the officiant) mumble the prayer.'

This insistence on form in ritual leads logically to a result which looks at first sight like the product of advanced and sceptical priestcraft, but is in reality to be found among quite uncultured folk. 'In ritual,' says Servius, the learned commentator on Vergil, 'imitations are accepted for realities' (*in sacris simulata pro ueris accipi*). One thinks of such things as the burning, at Chinese funerals, of paper imitations of all manner of valuables; but it will presently be shown that we need not look to an ancient and developed civilization for parallels. To begin with the Italian facts, Festus tells us that there was a technical term, *ceruaria outs* ('cervine sheep') signifying 'a sheep which was sacrificed for a hind,' Nor is this confined to public ritual, or to sacrifice. We are variously told

that **the** bride, on arriving at the bridegroom's **house**, rubbed the doorposts with wolf's fat, with hog's lard, and with olive oil. Surely this means that she was supposed to use wolf's fat; but the wolf of course became rarer and rarer as civilization progressed in Italy; the fact that he was the sacred beast of Mars in no way prevented him being hunted down. Therefore wolf's fat would not be easy to procure ; hog's lard would be readily enough come by, and finally ordinary oil, the usual form of fat in the simple dietary of the poorer Italians, then and now, took its place.

If we again consult Howitt, we find a very good parallel for the 'cervine sheep.' His Kurnai friends, for one of their rites, needed the flesh of an ' old man ' kangaroo. But after exhaustive search they could find none, some white hunters having shot all those in the neighbourhood for their hides. Finally ' one genius suggested that a male wallaby should be substituted. The old men approved, the difficulty was got over.' But the wallaby was treated exactly as if it had been a kangaroo, the novices for whose benefit the ceremony was conducted were told that ' the ghosts had caught a kangaroo,' and by eating the flesh of the wallaby they were made free of that of the male kangaroo, which had formerly been tabu to them.

It was not always necessary, in Italy, even to use another beast to simulate the one supposed to be sacrificed. Festus again gives us information; in certain ritual contexts, ' bulls and sacred herbs ' meant pastry images of these things. But they were still called by the names of the real things, and that is very important in magic. Vergil has innocently misled more than one commentator who knew less than he did of the ways of magic, in a famous passage **in the fourth**

book of the Aeneid. Dido, amongst other magical rites, sprinkles ' feigned water of the fount of Avernus.' Even for a queen, it would not be easy to get, at Carthage, water from the Italian lake of that name, which was supposed to communicate with the infernal world, or, anywhere on earth, water from a veritable fountain of Hell. But she calls it water of Avernus, and that is good enough for magic. Children call water tea, and it does very well for a dolls' tea-party. A recent writer has done good service in calling attention to the many resemblances which exist between magical beliefs and practices and the attitude of mind going with ' make-believe ' ; between the psychology of a wizard and that of the thrilled spectator at a sensational play, for example. The difference, at most, is this : the theatre-goer knows that the person before him is not really the persecuted and virtuous daughter of a nobleman in difficulties, but Miss Such-a-one the actress, who is paid a salary to take part in the play; at least, he would know that, if he stopped to think for a moment; but he is enjoying the play too much to do anything of the kind. The magician knows that the water he uses is from an ordinary spring, but he probably feels that in some way it has become water of Avernus, because he has formally called it so, and names are real. And he too, like the play-goer, is interested in what is going on, and will not stop for sceptical reflections. It is no doubt true that many wizards and priests are occasionally or always cheats and hypocrites ; we know, for instance, that most educated Romans of Cicero's day regarded the whole business of the state cult as a political device to impress the vulgar, and yet went on allowing themselves to be elected to priesthoods. But in general, we may safely say that, quite apart from

definite belief, which often closes the eyes to outward experience, or explains it away in more or less ingenious fashions, the enchanter is himself the first dupe of his own incantations, and the priest, of however absurd a cult, the firmest believer in his own miracles. One may almost say that the more the charm depends on mere naming and assertion the likelier it is that the magician is sincere. For instance ; the Bakongo on occasion free themselves from troublesome ghosts by burying in their graves bits of reed filled with gun-powder. It certainly must be obvious that these are not guns, and would not shoot anyone or anything, even granted that a spirit can be shot at all. But the charm is firmly believed in by many; the things are called guns, and magically that ought to make them effective. It was among natives rendered somewhat doubtful of the old ways by the activity of Christian missionaries that a witch-doctor went through an elaborate pretence of shooting, using a real gun and producing real blood for inspection ; and his trick was a total failure, on one occasion at least.<sup>3</sup>

Indeed the importance of magic for all departments of early Italian life, so far as we can reconstruct it, can scarcely be over-estimated. As an example, we may take the history of the word *carmen*, whence comes our word *charm*. The meaning 'charm,' 'spell,' 'incantation,' is quite common in Latin of the best period, and it seems to be a later development only that makes it mean no more than a metrical composition, a song or poem; although of course in our documents the two meanings are found side by side. '*Carmina*,' says Vergil, 'can bring down the very moon from the sky,' but elsewhere he uses the same word freely enough to mean a poem with no magic about it, as any good

dictionary will show. But if we look at some early documents we shall find not a few interesting uses. Of the famous collection of laws known as the Twelve Tables a number of fragments survive; one of these forbids the singing of an evil *carmen* against anyone. We need not linger over the mistake, ancient and modern, which supposed that this law forbade libellous poetry to be recited; it is something much more important than that, a prohibition of private, anti-social magic used for evil ends. It is only a 'bad song' that is forbidden, however, even in private use; there clearly was not the smallest objection to a person using white magic as much as he liked. If it were not so, we certainly should not find in so orthodox and respectable an author as Cato the Elder an elaborate magical method of curing a sprain. A long reed is split in two; each part is grasped by a man, and the performers then dance nearer and nearer to each other, singing an unintelligible jingle the while (the words are not Latin, and it is questionable if they are of any tongue), until the severed halves touch one another. The object is self-evident; as the split reed comes together, so may the parts wrenched out of place by the sprain. What a *malum carmen* was like we may learn from the numerous *defixiones*, as they are commonly called, or curses written on tablets, mostly of lead, and thrust into appropriate places, generally graves or the like, consigning the person cursed to the direst vengeance of the infernal powers. Most of these are late and patently foreign in origin, being full of references to non-Italian deities and rites; a few are older, one in particular, an Oscan lead tablet known as the Curse of Vibia, being probably of the third century B.C., and calling upon an Italian deity, Ceres the Avenger; but

even so, there is much about the phraseology, **where** its meaning can be glimpsed through the damage **done** by time to the tablet and our own imperfect knowledge of Oscan, which suggests Greek influence. In any case, such things as this were what the Twelve Tables objected to and prohibited, as in another clause whose sense, if not the language, has come down to us they prohibit another bit of evil magic. No one was to 'attract another's harvest,' Vergil again furnishes an explanation, for he mentions a formidable wizard who could 'cause the growing corn to go to another place.' In other words, it was believed that witchcraft had power to make the crops leave another person's land and go to that of the sorcerer.

A 'bad song' then was a charm, and the power of that charm was of a kind which we know, not only from peasant-magic of recent times—for that may be, sometimes certainly is, the descendant of learned magic of a former day—but from actual savagery. Charms and curses to harm an enemy are world-wide; the witches who make the corn go away have their complement in the Cherokee ceremonies to make it come and prevent it going. When their fields were planted and tended till harvest-time and the proper invocations made, the ear of faith could detect a rustling among the stalks of maize; the Old Woman (the Cherokee Demeter) was coming into the field, bringing the maize with her. Furthermore, 'care was always taken to keep a clean trail from the field to the house, so that the corn might be encouraged to stay at home and not go wandering elsewhere.'

Some of these 'bad songs' were, likely enough, not in verse at all, though it is probable that the earliest ones were, for verse, as a literary form, seems always to

precede prose. But Livy, in quoting a legal formula (the directions for procedure in a murder trial) says that it was *horrendi catmintis*, it consisted of a gruesome *carmen*. The words as he gives them are not without rhythm, but they certainly are not verse as they stand, nor does it appear that by rendering them into Latin of an earlier day than that of Livy or any likely authority for him to use, they would become metrical. The passage is doubly interesting, therefore, considering that Livy was interested in the antiquities of Rome and would hardly use his words here without warrant; a 'song' need be neither metrical nor a charm, but might be prose and a legal formula. Elsewhere he uses it of another prose formula, that used in concluding a treaty and reciting its terms.

The whole history of the word throws not a little light on Italian, at any rate on Roman, character. We know the stress laid by their lawyers on exactness of phraseology and on the letter of the law; we know also how often a vow or other sacral formula was drawn up, not only in something like legal phraseology, but with a care in drafting which might baffle the cleverest and most unscrupulous attempts at evasion. Besides drawing the obvious conclusion, so often drawn before, that the Romans regarded their religion largely as a matter of contracts and agreements, may we not say that they regarded contracts and agreements as partaking largely of religion, or at any rate of magic? This is just what we should expect if much primitive feeling survived, for only with advancing culture does any such separation as that between Church and State, civil and canon law, take place.<sup>4</sup>

If magic so pervades both religious and civil life in ancient Italy, and if the gods are so largely no more

than half-personified functions, we need not be surprised to find that among the very few folk-tales which we may reasonably suppose to be native, there is one which tells us of a wonderful happening, indeed, but not of the doings of any god or fairy. Omitting the proper names, which vary in the different versions, and the attempts made by ancient writers to connect it with some really or supposedly historical event, we may reconstruct it as follows from a dozen different authors. In the palace of a certain king or noble there appeared a strange portent; in the fire of the hearth there was seen the likeness of the male organ of generation. By the advice of those learned in such matters, the masters of the house took a virgin—free or slave, the stories differ here—whom they dressed as a bride and left alone with the enchanted hearth. Soon after she felt that she was to become a mother, and at full time she bore a son who proved to be a mighty hero and a wise chieftain or king, and whose life was attended with strange adventures and an occasional miraculous appearance of fire, surrounding his head or otherwise declaring itself in alliance with him. There is a simpler form of the tale, which comes from Praeneste and may well be the earliest version, which omits the appearance in the hearth-fire and says merely that a girl sitting beside the hearth was impregnated by a spark which fell upon her, and bore a most goodly son.<sup>5</sup>

The story is weird enough in any of its forms, and I know of no parallel in that store-house of tales, Greek mythology. A Highland legend, however, which has found its way into English literature, is very like it. Sir Walter Scott (*Lady of the Lake*, canto III, stanza 5) gives a version re-modelled in accordance with the

taste of his time; but the notes on that passage preserve the original form, 'transcribed . . . from the geographical collections of the Laird of Macfarlane,' A girl was sitting alone by a fire which had been made from 'the bones of the dead men that were slayne long time before in that place' when a gust of wind blew some of the ashes over her, 'and she was conceived of ane man-child,' who being duly born, 'his name was called *Gili-doir Maghrevollich*, that is to say the *Black Child, Son to the Bones*.' The Keltic story introduces at least the bones of a man to help explain the miracle, and the Italian saga-men make the fire a portentous one, taking strange shapes; but behind it all is the very ancient and wide-spread idea that fire is life. The woman bears a living and lusty child because life has entered into her, albeit by a strange fashion.

Failure to recognize this has led, in ancient and in modern times, to curious attempts to explain the legend. From about the beginning of our era it has been variously supposed that the father of the wonder-child was the fire-god (Vulcan) or the spirit of the household (Lar familiaris); Klausen, and in later times Frazer, have used the story as foundation for a theory that the Vestal Virgins in Rome and their equivalents elsewhere were originally the brides of the fire-spirit. But as the only fire-spirit who has anything to do with the hearth in Italy is feminine, Vesta; as the Lares are pretty certainly in their origin gods of the farmland; and as we have no reason to suppose that any Italian deity was ever conceived of (apart from Greek mythology) as being anyone's father, in the physical sense, this theory need not detain us long. We have hold of something almost more interesting still; the primitive notion of the *mana* of that strange thing,

fire, lasting and affecting popular imagination through centuries, not simply of foreign influence, but of native ritual of the official sort, which personified it in a way wholly alien to this or any similar story.

For, if we look at the official ritual of the hearth-fire, we shall find it hardly more complex in its ideas, although generations of use and wont had complicated its practice, than the grotesque and naive folk-tale just studied. Every householder naturally had a hearth, whereon burned the fire that cooked the food and warmed the chief room, in old days the one room, of the house, and into which was thrown at every meal a portion of the food, by way of a sacrifice. As the householder would be out of doors most of the day, farming, trading, law-making, or fighting as the case might be, the tending of this hearth fell upon his wife and daughters, perhaps helped by a slave-girl or two; for the male slaves would be busy in the fields or elsewhere out of doors, and all but the youngest of the sons would most likely be with them, or attending their father, on whom by force of public opinion fell the chief burden of their education. It was very natural that the *numen* of the hearth, tended mostly by women, should be thought of as female, Vesta; nor is it surprising that later and more anthropomorphic ages imagined her to be a virgin, since the mother could hardly be expected to leave the important business of making and mending the family clothes every time the fire needed fresh fuel, when a little girl could replenish it as well as she. Near the hearth would stand a cupboard of some kind, the *penus*, in which was kept the food supplies of the family, with the simple vessels needed to keep and prepare it. Somewhere outside would be a spring of water, from which

the girls would fill their pitchers for drinking or washing purposes.

The house of the early king or chieftain would be little more elaborate than those of his subjects, and his staff of servants not much greater. His daughters, like those of the Homeric barons, would do their share of the household work. Still, after all he was the king, and to a certain extent the high priest too. Therefore his family cult was rather more important than anyone else's, for to some extent at least it was on behalf of the State, not of his individual family only. Hence the king's hearth developed in time (no one knows in how long time, or by what exact stages) into the Hearth of the State, the *Vesta publico*,. Royalty came to an end, but the *Vesta publica* could not be allowed to drop, the less so as it had been made into a sacral institution, quite separate, it would appear, from the actual hearth of the king for the time being, long before the beginning of the republic in Rome.

Hence it is that we find the Vestal Virgins, living by the Regia, the ancient and much-rebuilt palace of the kings, and tending the sacred hearth which lay within a round temple—a temple in our sense, but not what the Italians called a *templum*, for it was not on a dedicated precinct traced by the rules of augury. The shape no doubt simulated that of the old round hut. Besides the hearth the building contained the *penus* of Vesta, and among the implements were old-fashioned pieces of pottery, made without the wheel; no water from the city's water-mains might be used, all having to be fetched from a sacred spring by the Vestals themselves. The Vestals were all girls of good family, and the youngest of them were aged from seven to ten. After thirty years' service they might

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retire, and even marry, if they saw fit, although few did so.

Their duties were not confined to tending the holy hearth-fire; the daughters of the king, or of any other citizen, had plenty of other occupations, such as the important one of making the coarse and impure salt from the salt-pans at Ostia somewhat purer and more fit for table use, looking after the contents of the store-cupboard and the rites connected with it (for it also had its presiding spirits, the *di penates*), and also taking part in the ritual intended to secure fertility for man and beast. All these things the Vestals did, preparing the *muries* or brine which they used in their rites, guarding the *penus Vestae* (all manner of things, ranging from the holy fetishes in which the 'luck' of Rome was contained to the wills of private individuals, were at one time or another committed to them), and sharing in a number of rites, such as the October Horse and the Parilia, of which there will be more to say later on, and which had fertility for their object. Their holiness increased as the cult grew older; the *penus*, for instance, probably in its origin simply a place where no man had any business (what would he be doing among women's implements and women's magic?) became a most sacred and mysterious spot, with tales attaching to it of the vengeance that fell upon any man who penetrated it, no matter from what motive. They themselves were of course expected to be chaste; the daughters of any respectable burgher, most of all the king's own children, naturally would be, for the ancient Italians were a decent people. In time, if by any chance a Vestal did prove frail, the event was regarded as a most terrible portent, to be expiated, not only by the burial alive of the offender, and the

scourging to death of her lover, but by other ceremonies, sometimes of a decidedly non-Roman horror. But through all this sacerdotal elaboration, we can still trace the simple magic of the ancient one-roomed house, with its hearth and store-nook tended by the unmarried daughters.

Nor, if we should examine any others of the most important ceremonies of Italian religion, should we find anything much more complex in principle than this worship of Vesta. There did exist, indeed, a very complex and mysterious group of pseudo-sciences, those connected with Etruscan divination, and later on a still more impressive mass of wrong-headed theory supported by great names, astrology. But these things were not Italian, and the latter took a long while to become naturalized; the former was always confined to specialists, and except for them it died out. But a cult which, while surrounded with reverential awe, turns out on investigation to have neither lofty doctrine nor intricate mysteries behind it, is surely of a simplicity which may be fairly called savage and which agrees well enough with what we know of actual savage worship.

#### NOTES ON CHAPTER IV

<sup>1</sup> For the ceremonies of *lustratio*, see especially Warde Fowler, *Religious Experience*, p. 209 foll.; *Anthropology and the Classics*, p. 169 foll. For particular points: the inscription containing the Iguvian records is to be found in both Conway and Buck. For Burghead, see Simpson, *Buddhist Praying-Wheel* (London, 1896), p. 207. Cato, *de agri cultura*, 141. For S. Zopito, see J. A. Spranger in *Journ. Roy. Anthropol. Inst.* lii (1922), p. 306 foll., cf. *Man*, 1923, no. 65. Horace, *Epp.* I, 16, 59. The Lushais, Shakespear, *Lushei Kuki Clans* (London, 1912), p. 72.

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<sup>1</sup> Festus, p. 72 (ed. Lindsay, Teubner, 1913). Leukothea at Chaironeia, see Plutarch, *Quaest. Rom.*, 16. McClintock, *Old North Trail* (London, 1910), p. 95.

<sup>2</sup> Howitt, *op. cit.*, pp. 626, 635. Servius, on Festus, pp. 49, 57 (Lindsay). Vergil, *A en.* IV, 512; see A. D. Nock in *Class. Rev.* xxxviii (1924), p. 169. The 'recent writer' is Prof. Garveth Read, *Man and his Superstitions*, second ed., Cambridge, 1925. Bakongo, see Rev. J. H. Weeks, *Primitive Bakongo* (London, 1914), p. 243.

<sup>4</sup> Vergil, *Eclogues*, VIII, 69, 99. Cato, *de agri cultura*, 160. Curse of Vibia; besides Conway, Buck and other editors, see for the latest treatment R. G. Kent in *Classical Philology*, 1925, p. 243 foll. Cherokees; see Mooney, *Myths of the Cherokee*, Report of Bureau of American Ethnology, 1897-98. Livy, I, 26, 6.

<sup>5</sup> The principal sources for the story are Dionysios of Hal-karnassos, *antiquitates Romanae*, IV, 2; Ovid, *Fasti*, VI, 627; Pliny, *nat. hist.* XXXVI, 204, and Servius on Verg. *A en.* VII, 678. See Warde Fowler, *Virgils Gathering of the Clans*, p. 58. I have also discussed it in *Mnemosyne*, N.S. liii. (1925), p. 410 foll.

## CHAPTER V

### WORSHIP AND MAGIC (*continued*): **THE** CALENDAR

**N**OTHING is more noticeable in the festivals of the Roman republic, on which we are obliged to depend very largely for our knowledge of early Italian worship, than their markedly seasonal character. So far at least as official public cult is concerned, there is hardly a deity who is worshipped all the year round; they take their turns as their functions are required. Thus, Volkanus has his festival in late summer, August 23, when fires are likeliest to occur in the hot dry weather; Consus and Ops, the deities of the store-bin, are worshipped about the same time (after the last of the harvest is in) and again in the middle of December (winter wheat is sown at various dates from October to January, according to latitude and height above sea-level), with the festival of the god of sowing, the Saturnalia, in between them. Mars is honoured at various times in his own month, March, at the beginning of the campaigning season, and again when that season is over, in October. Even Iuppiter, though honoured in every month, for the sky is always overhead in all weathers, is not worshipped every day, but on the Ides, the day of full moon, when there is most light. Even a superficial examination **of the calendar** shows **that it** is essentially a list of festivals, and only secondarily a list of days making

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up a year; and if we compare the *Fasti Antiates*, a stone calendar recently discovered at Antium, with the other calendars, which are of later date than Julius Caesar's reform, we see how careful that great man was to leave the ancient holy days as nearly as possible unchanged in their position relatively to the beginnings and ends of the months.

The pre-Caesarian calendar may well be very old, as old perhaps as the Etruscan dynasty of the Tarquins; and it gives us a lunar year. There are twelve months, as with us, our month-names having come down from those in use at Rome; every month professedly begins on a day of new moon. Of these, February had 28 days, March, May, July, and October 31 each, all the rest 29 each; total, 355. As this would in a year or two result in getting patently out of touch with the position of the sun and the condition of the vegetation, it was brought more or less into line with the solar year, by which we reckon, by inserting, or as it was technically called intercalating, another month at intervals. In a leap-year February stopped at the *Terminalia*, the 23rd; then began an intercalary month of 28 or 29 days, whose last five days were the remaining days of February; then the year began anew with March I, which remained the official New Year's Day until comparatively late.

All this is certainly very clumsy, and looks 'primitive' enough to us, for it would result in a series of years whereof not one was of the right length, and the majority began and ended at wrong times, relatively to the sun and to the seasons. Yet a little inspection makes it clear that it is not primitive at all, but relatively late and learned, founded in all probability on Greek astronomical knowledge. It is continuous,

**although it reckons by the moon; but the moon** disappears altogether from the heavens every **lunar month** for the space of between one and two days. The first of the month, the *kalendae*, must therefore, in the developed calendar, be the day of the true or synodic new moon. Also, four of the months are much too long for lunar months; we have here, it would seem, the result of some early attempt to get the calendar into working order by taking account of the fact that the lunar month is not an integral number of days.

If, however, we look at some of the ceremonies connected with the calendar, we see very clear traces of an older state of affairs, when less was known of astronomy and more attention paid to actual observations. *Kalendae* means 'callings,' and we know from a passage of Varro who 'called' and what it was that he called. They are so named, he tells us, 'because on that day the Nones of the month are called by the *pontifices*, who say whether they are to fall on the fifth or the seventh day. In the Curia Calabra, on the Capitol, these words are repeated five times, *calo Iuno Couella*, or seven times is repeated *calo I una Couella*.' According to the number of times this rather mysterious formula is repeated, the Nones would be on the fifth or the seventh day of the moon; they are so named because they are the ninth day, counting inclusively, from the day of full moon, the Ides (13th or 15th). In other words, the days of (visible) new moon, of first quarter and of full moon were observed. After that, if anyone wanted to date accurately, he could say it was 'so many days before the Callings' of the next month. There was no regular name for the unlucky third quarter, the time of waning moon. And even this is **not** the beginning of things, for five days is too soon

after visible new moon for the first quarter; the desire to have it always the lucky number, 3 X 3, of days before the sacred Ides had triumphed over accuracy. Yet already we are coming near savagery. There is a ceremony of new moon; savages and barbarians of all grades have that. The people at least do not know how long the month is going to last; no more do the Hos of the Ewe-speaking district of Africa, and yet they count by moons. However obvious it may seem to us that a month must have some number of days in it, it is by no means obvious to the savage that it ought to be, or even may be, possible to express one in terms of the other. The Kaffirs are said not to count the dark of the moon at all; the moon is 'asleep' then; we may be very sure that the day of 'callings' was not originally in the dark of the moon, indeed our authorities say it came when the new moon was visible.

But we can go further back yet in the history of the Roman year, if we consider a statement made by several well-informed authors, that in the days of Romulus (that is to say, in the remote past) the year had but ten months, March to December, and that January and February were added by some one else, Numa or one of the Tarquins. To persons starting from our orderly modern calendars this statement has seemed so very odd that scholars of eminence have doubted it or tried to explain it away; but to anyone who compares the savage methods of time-reckoning, as Dr. Nilsson has done, the tradition seems perfectly intelligible, the more so as the names of the months support it. Only the first four, March to June, have names, the rest are simply numbered, Quintilis (July) being 'fifth month,' Sextilis (August), 'sixth,' and so on to December, or tenth. We know that January I

was not originally New Year's Day, although the naming of the month after the spirit of the door, and hence of beginnings in general, makes it clear that the reformer, whoever he was, intended it to be the first month in future. Hence it is clear that we have a gap of some, sixty days from the end of one 'Romulean' year to the beginning of the next. This gap, as I think, lasted, although much shrunken, after the reformed twelve-month year had been accepted; for we have seen that the intercalary month began after February 23, the Terminalia; now there was a tendency to regard the Terminalia as the last day of the year, and indeed on any other supposition it is not easy to see why the intercalation should take place there, and not at the end of the month. (We regard the extra day of leap-year as Feb. 29; Caesar meant it to be Feb. 23 repeated; hence the name bissextile for a leap-year, *i.e.*, the year in which the sixth day, counting inclusively, before Mar. I, comes twice.) Therefore the last five days of February really did not belong to it, but formed a sort of interregnum between the two years; hence, as I think, the practice of holding the ancient and mysterious ceremony of purification called the Regifugium in that time, that is to say, outside of any month, and thus not allowing it to affect any month with its dangerous magical atmosphere.

Be that as it may, the ten-month year can have been workable only by allowing a gap, equivalent to about two months, to pass uncalculated and unnoticed between the years. But this is exactly in accordance with savage ideas on the subject. There is spring with its various activities, and then summer, and then autumn; in all these seasons all manner of things have to be done in the proper order—spring sowing, and by

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and by the various processes, material and magical, to protect and cherish the growing crops (in earlier days, the wild vegetation, no doubt) ; then presently, the successive harvests, and lastly the autumn and early winter sowing; and all through the spring and summer, the various warlike activities of a small community constantly raiding and being raided. When all these things were to happen was determined by appropriate methods of divination, or the practical observation of the condition of the crops and other growing things, the presence or absence of migratory birds, and so forth. That it could all be reckoned in advance by counting days would have appeared a very curious notion indeed, savouring of strange foreign magic. All this is no imaginative reconstruction of what might have happened, but a sober description of what does happen, in many parts of the world. Thus in New Guinea, the people seem hardly to conceive of a year—a chronological unit—at all; in many parts of the tropics, they count by dry or rainy seasons, and in more northerly regions, by winters and summers ; in Borneo the year ends after the rice-harvest, but has no definitely marked beginning ; in Palestine to-day and in the Inca empire of yesterday, the nearest approach to a year, in popular calculation, is from harvest to harvest; in Arabia, one does not rent anything by the year, as a rule, but until next spring. And from all over the world we have examples of peoples, not always of the lowest grade of culture by any means, who cannot say how many years (or other units of time) old a person is, but know that he was born ' the summer after the big earthquake' or ' the winter of the famine.' That the year is a measurable time is an idea which appears no more to occur to them than **the**

laws of momentum and the theory of gravitation occur to a child when he jumps a stream or throws a stone. Hence what we should consider the great inconvenience of having a year of unknown length was no inconvenience to the earliest inhabitants of Rome, or to their descendants for many generations after.

But after the series of seasons there comes the gap. This is simply the dead time of year, the winter, when men neither fight nor farm, and it is too cold, stormy, and muddy to go on trading journeys. As the Amansi would say, it is *evulevu*—the empty month; the Omaha might call it the time 'when nothing happens.' What is the use of counting days, or months either, at that season of the year? In passing, it may be remarked that probably the tradition of so long a dead season, which hardly fits with the mild Italian winter, was brought from the north by some of the invaders.<sup>1</sup>

It may be interesting, since we have seen that so large a part of the ancient worship consisted of magic, practised at seasons determined by a decidedly backward calendar, to trace one or two cycles of magical practices through the year. The activities which the Romans looked upon with most complacency and most readily attributed to their ancestors were two: farming and war. That the early Romans never did anything else, as a state, than these is of course an absurd supposition; there can be no doubt, for example, that trade was of considerable importance. But trade, being as offensive to Roman snobbery as to our own, or nearly so, is a thing we hear much less about; in any case, it seems to fit less well with heroic figures and historical scenes. A dictator fetched from the plough is a much more convincing figure than one brought from behind a counter. Fighting, then, and farming

were really important, and probably have been made still more so in the traditions and the calendar of Rome, since both were for a long while mostly controlled by the non-trading class, the patricians. Moreover, both these activities are closely connected with that typical Italian god, Mars.

The first month of the early Roman year, as has been already pointed out, is named from this god. The kalends of March are sacred to him, thus getting his protection for the beginning of the year, and therefore the beginning of the fighting season; a very important matter, for it is especially true in magic that 'well begun is half done.' Of course early Rome, like all other states of a similar grade of culture which we know anything about, had no standing army or professional soldiery of any kind; every able-bodied citizen was also a warrior, and the whole organization of the state was identical with that of its militia; indeed, the very word *populas* (civilized people, nation, state) seems properly to mean 'army.' The leaders of this army, after the kingship ceased to exist, were the annually elected magistrates, the same for civil as for military purposes. No one expected for a moment that either it or its opponents would keep the field the whole year round; who would feed it or see to its crops if it did so? Tradition stated that a Roman army never prolonged a campaign through the winter until the long and obstinate resistance of Veii, 403-393 B.C., made it necessary to arrange for carrying on the war winter and summer. Every year, therefore, brought a new campaign to be arranged from the beginning, or at least the possibility of one, to be provided against. So the festivals connected with Mars in his warlike aspect are scattered up and down the month. On the

**14th came the Equirria, the second celebration of that rite, for** there had been one already on February 27th. This consisted in a performance whose details are not exactly known, but which obviously had for its object the securing of good luck for the cavalry horses. On the 17th fell the *agonium Martiale*, or festival of Mars, and at it, or at the Quinquatrus of the 19th, or both, **a** very old-fashioned ritual was gone through. Mars had **an** ancient college of priests, the Salii or Leapers, recruited from the ranks of the noblest families in the state. These, on the occasions when custom required their activity, appeared dressed in bronze armour of ancient pattern (originally, no doubt, simply in the armour they would wear in actual battle), carrying the sacred shields (*ancilia*) of which in later times it was told that the original one, after which the rest were modelled, fell from heaven, and something of the nature of a spear or spear-shaft. Thus attired, they marched about the city, halting at intervals to dance and clash their weapons, and singing a hymn whose exact sense it sorely puzzled the scholars of later days to determine (only fragments survive, so the question is likely to remain unsolved), but which certainly included an invocation to all manner of deities. There were two such colleges, one, as has been said, belonging to Mars, the other apparently to the very similar deity, Quirinus. The sacred shields which they carried (in shape like a figure 8, a form very characteristic of the Bronze civilization in some parts of the Mediterranean, notably Greece) were very intimately connected with **the** god himself, for **a** necessary preliminary **to** any **actual** campaign was to shake them and cry, 'Mars, **awake** !' During the seasons of these dances and **pro-**  
**cessions** nothing of importance that could **in** any **way**

be avoided was undertaken; they were *dies religiosi*, days on which one feels hampered by scruples; in other words, there was much spiritual electricity about. A curious accompaniment of the ritual was that a chorus of women took part; in historical times they were hired for the occasion, but they were dressed in uniform like the *Salii* themselves, it would appear, and bore the same name, *Saliae uirgines*, 'leaping maidens.' One may conjecture that originally they were no hirelings, and that their part in the performance was by no means unimportant.

On the 23rd of March came a not unimportant ceremony, the *Tubilustrium*, or purification of the trumpets, a piece of war-magic very readily understood, especially if we consider that music and magic are quite closely connected. The Roman army as we know it used trumpets for as practical purposes as our own forces do ; but it is likely enough that, as hautboys were blown during sacrifices to drown all ill-omened sounds, so one use of the trumpet or bugle in the earliest Roman legion was to scare off evil influences. As is so often the case at Rome, this festival is one of a pair, for there was another *Tubilustrium* on May 23.

During the summer months there were no regular festivals of Mars, or any other war-magic that could be shown in the calendar; if there was fighting at all, it would chiefly take place then, and so no dates could be fixed beforehand. Of course there was magic used by the army in the field; not simply divination, to ascertain whether battle should be joined or not, but other rites as well, of which one of the most important and curious was that used after a victory, the famous 'sending under the yoke.'

This was a simple procedure enough, and seems to

have been in use all over Italy and also, if Caesar is speaking literally and not using the phrase merely to mean 'utterly defeated,' outside Italy altogether, in Switzerland. The conquered force, having surrendered at discretion, was disarmed and the men stripped to their shirts. They then went in file under an erection something like a miniature football goal in appearance, consisting of two spears stuck into the ground, with a third fixed horizontally across them. The Italians of historical times appear to have forgotten what this was for, retaining the custom occasionally simply as a mark of humiliation to the vanquished, the opposite of letting them march out with the honours of war. In modern times, however, the acuteness of several scholars, especially Sir J. G. Frazer and the late W. Warde Fowler, has made all clear. It is essentially the process through which any army must pass when returning from a campaign; the degrading 'yoke' is in origin practically the same as the triumphal arch.

The world over, we find among simple folk, savages and peasants, the notion that evil magic, guilt, disease, and undesirable things generally, can be got rid of by some process of rubbing them off. To crawl through a hole, especially a hole in something magically potent, such as a tree or a sacred stone, is an effective form of rubbing. To this day tourists crawl through the 'needle's eye' in the crypt of Ripon Minster (it is a hole in the stonework, large enough to let anyone of not too enormous girth slip through quite easily), in deference to the local belief that whoever does so will, if single, be married in a twelvemonth. There are numerous recipes for curing diseases of children, particularly rupture, by passing the patient through a cleft in a tree with appropriate ceremonial. In Roman tradition, Horatius

when he had killed his sister was purified by going under a beam laid across one of the narrow lanes of the city. All these persons have this in common, that they have something which they want to be rid of—singleness, disease, blood-guilt\* Now the army, if defeated and captured, has two things to be rid of, from the point of view of its conquerors, namely blood-guilt, or at least contact with blood, and foreignness. Therefore it is provided with a hole through which to crawl, and so can go away purged and also rid of its foreign magic, thus enabling it to go home safely (the yoke seems not to have been used if the conquered were to be put to death or kept as slaves) and leaving the conquerors free from any dangers from its sorceries. The victorious army had also something to *get* rid of, bloodshed and contact with the foreigner. It was given a more dignified hole in the shape of an archway, through which to re-enter. It is noteworthy that triumphal arches are regularly separate things, not part of the city walls, any more than was the *ianus* through which, as noted in Chapter III, the outgoing army seems to have passed.<sup>2</sup>

When the campaigning season, successful or otherwise, was over, that is to say when autumn was come, war-magic was not at an end. Well begun is half done in magic, certainly, but also all's well that ends well. (I purposely cite proverbs, to illustrate the fact that these maxims, which we find setting forth popular wisdom in practical matters, are very often appropriate enough to what was once an intensely practical business, namely magic.) A warrior and his arms having been through a series of ceremonies are to a great extent rendered tabu thereby; if he is now to come home, hang up his sword, and mingle with his fellow-

citizens who have not been on campaign, and especially with the women and children who never go to war, it is important that he be desacralized. One does not want *war-mana* mixed up with the peaceful concerns of the household or the market-place. Therefore we find, corresponding to the ritual of March, another set of ceremonies in October. Once more the Salii paraded, and the rite known as the Armilustrium was gone through. This was carried out at a spot of the same name on the Aventine, a hill which though actually in Rome was outside its sacred boundary or *pomerium*. Here, we may suppose, the arms were rid of any dangerous sanctity or impurity (the two are near akin) that clung to them, either from their dedication to warlike uses, or from their sojourn abroad. Whether originally the weapons actually carried by the soldiers were thus treated, or whether the Salii and their old-fashioned equipment always represented the entire contents of the Roman arsenals, we do not know ; the former seems more likely. Of another very curious rite which came somewhat earlier in the month, I mean to speak presently.

If now we glance for a moment at savage custom, we have no great difficulty in paralleling the doings of the Salii, for what was their performance in essentials but a war-dance ? These are so familiar, from their extensive use in North America, that no illustration need be given; but the part of *the Saliae uirgines* is less obvious. It is of course well known that the wives of warriors often have to observe various tabus which if violated would mean bad luck of some kind to their men on campaign; but an interesting parallel comes from West Africa, where the Efik women used to put on their husbands<sup>1</sup> clothes, be called by their names,

and hold a festival, drinking palm-wine, laughing and talking together, and dancing about the town all night, after the departure of the men for the war. We may imagine that in Rome some similar rite was gone through by the unmarried girls of the soldiers' families ; the sister of an unmarried Bornese head-hunter carries out a considerable amount of magic on his behalf. The principle of the ceremony in any case seems to be that a woman connected with the warrior by blood or marriage further identifies herself with him by dressing more or less like him, sometimes carrying weapons to make the resemblance more complete, and then proceeds to act in a magically lucky manner, or at any rate to avoid magically unlucky actions. Thus, while the warrior's own religious observances are restricted by the necessities of active service, his *alter ego* creates a store of good luck which is, so to speak, credited to him. It is characteristically Roman that the matter was not left in the hands of individual members of their soldiers' families, but done by experts supervised by a state priesthood.<sup>3</sup>

As to the ritual of October, that again can be paralleled easily enough, for it would be hard to find a savage or barbarian people whose returning warriors do not go through some sort of ceremony, whether to purify them from the pollution of blood or to get rid of the war-magic which is no longer needed; and the necessary ritual is very often gone through outside the town or village in which they live, as the October Armilustrium was performed outside the sacred city boundary.

If now we turn from war-magic to agricultural magic, we still find not a little in Italy which is reminiscent of savage practices. I have already spoken of the

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rites of circumambulation; apart from these, a series of ceremonies are to be found in the ancient calendar, and one at least which is not in the calendar at all, but pretty certainly very old.

Beginning once more with March, we find little in that month itself which has much to do with the fields; a number of purificatory ceremonies had already been gone through in February, one effect of which probably was to rid the fields of evil influences of whatever kind. On the day of full moon a festival was held in honour of Anna Perenna, the spirit of the year, but this is not particularly agricultural. In April, however, a curious rite was gone through, to which close Greek parallels can be quoted; this was the *Fordicia*, in which, as the name implies (*forda* means a cow in calf), a cow and her unborn calf were sacrificed to the Earth (*Tellus Mater*); the foetus was taken out and burned and its ashes used later on in another rite, as will be shown. But why a cow in calf? To my thinking, we are here dealing with a quite old idea, involving a characteristically savage confusion between material and immaterial. The cow has fertility (she has shown that by conceiving) just as she has horns and a tail; so, just as a horn might be cut off and made into some sort of implement, instead of remaining on the cow's head and being used by her in fighting, in like manner the fertility is cut off, so to speak, instead of being used for its normal purpose of producing calves, and given to the earth, which obviously will soon need it to produce crops. Or, to put it in another way, the cow is full of pregnancy-*mana*, and pregnancy-*mana* is what Earth needs then; 'a teeming victim unto teeming Earth,' says Ovid. At Sikyon in the Peloponnesos, the Eumenides, who

were ancient powers of fertility, had in like manner a sacrifice made to them of beasts with young.<sup>4</sup>

Other rites went on in this month, one of which, the Robigalia, has already been described; over these we need not linger. But there was one ceremony about this time of year which is decidedly interesting, because of its close resemblance to practices definitely savage. This is the sacred spelt-harvest of the Vestals, which takes place between May 7 and 14—so early that *it* is obvious that only a few ears here and there of this or any other grain could have been ripe enough to pluck. Now the Vestals were among the very holiest persons in the whole state; they were therefore particularly adapted for the delicate duty of beginning the harvest, which no doubt they did thus early in order to make sure that every secular act of harvesting should be quite in order. We shall get a very fair idea of what the Vestals were about if we consult Skeat and Blagden's account of the behaviour of a Sakai magician at the beginning of harvest. This worthy, who has already performed important magic at the season of planting the rice, now takes a reaping-knife with a lump of beeswax stuck on its handle, over which he has repeated the following charm or prayer:

' " O thou that squintest, turn thy back on me ; thou that art blind, confront me. Lo, I reap the seven heads of rice, yea, and take the soul of the rice, and bear it with me to the house."

' The magician then withdrew the reaping-knife from the sack's mouth, and proceeding to the circle of the seven holes and fastening seven rice-plants (one taken from each of the holes) to the upper part of the handle of the reaping-knife . . . took them back with him to the hut.'<sup>5</sup>

The 'circle' contained plants sprung from the rice similarly gathered at the preceding harvest; the ears

gathered by the magician were preserved, and certain magical restrictions attached to the rice gathered by the women in the next three days. We cannot definitely say that the Vestals supposed themselves to be carrying the soul of the spelt with them, but we know that they preserved the grain they had gathered, and used it on certain stated days for an offering of *mola salsa*, *i.e.*, coarse meal mixed with salt. It does not appear that their fields were haunted, like those of the Sakai, by a squinting demon who peered cross-eyed into every corner to do what harm he could, and needed to be blinded by wizardry. Still, we have seen in Chapter III, some reason to believe that they hoped on occasion to be able to kill that peculiarly obnoxious devil Robigus, who made rust come in their wheat.

In May also took place a very odd rite, some preliminaries to which had been gone through in March; this was the ceremonial of the Argei. The March ceremony was simply a procession to a number (twenty-seven) of little sanctuaries or chapels dotted up and down Rome; in May, the state clergy, including the Vestals, assembled on the ancient wooden bridge over the Tiber, the Pons Sublicius (not far from the present Ponte Rotto) and cast into the stream a number of puppets of rushes, thought by some who witnessed the ceremony to represent bound men (which need mean no more than that they were roughly made, without arms) and dressed in a costume which included an old-fashioned headgear, the *tutulus*.

I need spend no more time over this ceremony, which has been a hundred times discussed, than to say that I hold unreservedly to the opinion of those who see in it the widespread practice of throwing the corn-spirit into water, either to drown the old one or to give

strength to the new one, or both. It is most characteristic that this rite, which is properly that performed by individual farmers, was at some time, possibly the third century B.C., taken over by the state, the regular patron and organizer, at Rome, of all honest magic. But magic it was, and of a simple kind, widespread among early agriculturists the world over.

October brought another very curious bit of ritual, the so-called October Horse (*ecus October*), in honour of Mars. A horse-race was held in the Campus Martius, the contestants being, as was the more usual method in antiquity, in chariots and not on the backs of their horses. The off horse of the winning team was then sacrificed, his tail being brought by a runner to the Regia and hung up over the altar there to drip upon it, while the head was fought for by two parties of men, one drawn from the Via Sacra, an old street running through the Forum, the other from the Subura, a district on the side of the Forum away from the river. As the blood was used by the Vestals for purifying material, and as a ritual contest often accompanies agricultural rites, and also, as the corn-spirit not infrequently takes the form of a horse, it may be that we have here agricultural magic again, but the whole business is very obscure, almost as obscure to us as it was to ancient antiquaries, who lost themselves in vague and sometimes extremely silly conjectures as to its meaning.

There were therefore agricultural rites which had at times a smack of the primitive about them. But farming is a long way from being the earliest occupation of man; Adam the gardener is not the first of the human line, but a comparatively junior branch of the ancient tree. Pastoral occupations, the taming and

tending of sheep and cattle of one sort or another, are yet earlier, and before those again come hunting and the gathering of such edible plants as grow wild. Of this last we have no certain trace in Italy, unless perhaps it be supposed that the cult of the goddess Flora (in Oscan, Flusia) ultimately concerned itself with wild growths, as those of Tellus and Ceres did with the cultivated plants. But of the pastoral stage we have clear traces in two important Roman festivals.

The first of these took place in the month of February, on the fifteenth, and was called the Lupercalia. The accounts we have of the ritual are so complex and so clearly indicate that the rite was the product of no sudden invention but rather of long growth, that it is impossible to discuss the whole matter here. The latest treatment of the subject which I have seen<sup>e</sup> seems to me to indicate that its diligent author has been overwhelmed by the complexity of the material; nor can it be said that the earlier attempts to explain it come out to any very cogent solution; I certainly do not profess to say what it all means. But there are certain features of which we may not too rashly claim that we have an inkling as to what they signified, for those who originated them, and these point to the protective magic of a little community of shepherds, dwelling in the ancient hill-top town of the Palatine, the oldest settlement at Rome, according to tradition, which here is probably right. The name of the festival seems to mean 'the ceremony of keeping off wolves,' a very appropriate rite for shepherds, especially primitive shepherds, to be engaged in. Despite many obvious slips in anthropological data, Mr. Kipling's imaginative genius has enabled even the dullest of us to realize something of what the perpetual struggle

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against one of the most formidable of carnivorous beasts meant to early man, in *The Knife and the Naked Chalk*. The method of 'keeping off' these persistent raiders of the flocks included the following curious performance. Certain young men, probably members of two clans especially skilled in such magic—the *Quinctii* and the *Fabii*—stripped themselves naked, save for a girdle of goat-skin, and thus attired and armed with certain preliminary rites, were called *creppi*, that is 'he-goats.' In their hands they bore strips of goat-skin, which were called *februa*, or purifying objects. They now proceeded to run around the foot of the hill, striking at every woman they met with their *februa*. To anyone who has studied the magic of savages and peasants, their proceedings are intelligible enough. Being naked, save for the skin of the most truculently male of the smaller domesticated beasts, and being further strengthened, not only by this magic girdle, but by the 'doctoring' which they had undergone, they radiated good influences from their persons, and ran quickly so as to accomplish their task before it had all evaporated. Their holy footsteps wove a girdle around the town and all within it, which might reasonably be expected to be proof against the machinations of wolves and all other evil things from without. Moreover, lest any of their good magic should go to waste, they knocked some of it into the women, at the same time probably knocking sterility out. 'The barren, touched in that holy chase, Shake off their sterile curse.'

This was so early in spring that the sheep probably were still pent up in folds or sheds of some sort, possibly in the town itself. Later came the business of turning them out to the new spring pasture; and this

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was attended by a ceremony relatively late in the year, for Italy that is, which I for one think must have been brought into the country by some of the invaders from across the Alps, although it seems of little use to ask which of them. This was the Parilia, or feast of Pales (the chief deity of shepherds), on April 21; it resembles in several ways the ritual of first pasture in Slavonic countries. That it definitely is connected with the beginning of spring pasture is clearly recognized by a writer of the time of Nero, Calpurnius, from whom we have some pretty, though wholly artificial, pastoral poems. In one of these he makes an old shepherd say to a younger one :

' But let not your stalled flocks forth into the pasture until Pales is appeased. On that day make an altar of fresh turf, and with salted meal-offering invoke the Genius of the place, and Faunus and the Lares ; on that day let the blood of a victim warm the sacrificial knife, and with this victim, ere it be slain, lustrate your folds ' (*i.e.*, lead it around them—the magic circle again). ' Then straightway, when the sun is risen, let your sheep go to the meadows, your goats to the thickets.'

We know a little more about what was done at Rome, from a number of other passages. The stalls were purified with various materials, including in historical times bean-straw, the ashes of the unborn calf sacrificed at the Fordicidia, and the blood of the October Horse. Bonfires were lighted, and it would seem that sheep and shepherds jumped over them—a well-known rite of purification. All this, as had been mentioned, can be paralleled from Slavonic peasant-magic, and from much other magic of simple folk in many parts of the world. That it was kept up, under the aegis of the State clergy, in historical Italy shows that it had got a

firm foot-hold, if not on their sentiments, at least on those of their fathers.

Thus we have, running through the year, parallel series of purely, or almost purely, magical rites, one connected with war, the other with farming or with pastoral life; and we find that these rites can be paralleled from the ceremonies of savages. Hence we see very clearly that the savage past of the Italian races was not so far behind them but that it showed itself clearly in their religion. At the same time, it must not be forgotten that it was distinctly past, and the ritual it had left behind largely fossilized. I have already mentioned that the October Horse puzzled the ancients themselves. It is worth while to give a few of the explanations in full, if only because they are so utterly wide of the mark. Here are Plutarch's attempts, in the ninety-seventh of his *Roman Questions*.

' Is it, as some say, because they believe Troy to have been taken by a horse, and so punish a horse, since they are

" Men from blood of noble Troy descended

And by the way with Latins' issue blended " ?

Or because the horse is a spirited, warlike and martial beast, and they sacrifice to the gods what pleases and suits them best, and the winner is sacrificed because to the god belongs victory and power ? Or rather because the work of the god is done by standing fast, and soldiers who keep their ranks defeat those who do not keep them but flee . . . so that they **learn in** a figure that there is no safety for those who fly<sup>4</sup>?

Plutarch, although of course not himself an Italian, here utters sentiments such as no Italian of education would at that time have disagreed with. The rite may be commemorative (the story of the settlement of Latium from Troy, immortalized in Vergil's *Aeneid*, was generally accepted as historically true in the main); it may rest upon certain dogmas as to the nature of

Mars, symbolically set forth, or it may be an allegorical moral lesson on the virtue of courage. But all these things are distinctly civilized. Savages have little in the way of historical knowledge; they have less dogmatic theology; and the connection between their religion and any sort of ethics is usually very slight; at most, some of the gods or spirits object to some kinds of crime. It simply did not enter the heads of investigators that their ancestors of a few hundred years back had had savage ideas, or for that matter, that savages' ideas were savage; rather did they credit races far below their own in civilization, the rude inhabitants of the interior of Phrygia, for example, or the 'Ethiopians' of Nubia, with the possession of a very elaborate and philosophical conception of Deity, set forth by means of allegory in rites sometimes uncouth and strange. The long controversies between Christians and pagans, in the West as well as in the East, are very instructive as showing to what an extent civilized ideas of religion were dominant, for both sides again and again tacitly assume that a religion ought to be ethically good and theologically enlightened, and constantly twit one another with holding views incompatible with the highest morality or the most developed philosophy. The victory of Hellenistic civilization, though naturally longer delayed in foreign lands than in its own birthplace, had been sweeping and complete.

On the other hand, Plutarch's audience and the participants in the great controversies were educated men. Among the simpler and more backward folk a truer conception of what many of the rites really meant lingered long. I have given an illustration of the way in which it still lingers, under a veneer of Christianity, among some Italian peasants; we may

be sure that this was still more the case in antiquity. If there is anything which either Anthropology or the study of contemporary events teaches us, it is that the lower strata of a civilization, ancient or modern, are 'primitive' enough in thought and in feeling.

#### NOTES ON CHAPTER V

<sup>1</sup> The facts as to the Roman festivals cited in this chapter may be found in any of the larger manuals given in the General Bibliography. For the structure of the calendar, see, besides these, the classical work of L. Ideler, *Handbuch der mathematischen und technischen Chronologic*, Berlin, 1825-26; M. P. Nilsson, *ZUR Frage von dem Alter des vorcaesarischen Kalenders*, in *Strena Philologica Vpsaliensis* (Uppsala, 1922), and the articles on the subject in the various classical dictionaries; for the savage parallels, Nilsson, *Primitive Time-Reckoning* (Lund, 1920), especially chapters III and VI. The passage from Varro is *de lingua Latina*, VI, 27.

<sup>2</sup> Warde Fowler, *Essays*, p. 70 foll.; the passage of Caesar is *de bello Gallico*, I, 12, 5.

<sup>3</sup> For the African parallels, see D. Amaury Talbot, *Women's Mysteries of a Primitive People* (Cassell & Co., 1915), p. 191; the authoress also cites, p. 192, the Bornese custom from Dr. Haddon.

<sup>4</sup> Ovid, *Fasti*, IV, 634; for the ritual at Sikyon, see Pausanias, II, 11, 4.

<sup>5</sup> Skeat and Blagden, *Pagan Races of the Malay Peninsula*, U P. 352.

<sup>6</sup> Alberta Mildred Franklin, *The Lupercalia*, New York, 1921. A good account will be found in Warde Fowler, *Festivals*, p. 310 foll.

<sup>7</sup> Calpurnius, *Bucolica*, V, 24-30.

## CHAPTER VI

### TABUS, PRIESTS, AND KINGS

**P**ERHAPS nothing so sharply differentiates **the** savage from the civilized man as the circumstance that the former observes tabus, the latter does not. In making this assertion I do not forget that a vast number of people in civilized countries, or what are called such (for no country is fully civilized, or ever has been), observe tabus. Thus, numerous adherents, in name, of Christianity, which is a highly civilized religion, so feel the need of a tabu-day that they have transferred to Sunday many of the restrictions of the Sabbath, the latter being of course in origin a relic of the early days of Judaism. Others, again, are very careful to tabu the number thirteen when they invite guests to dinner; many and quaint tabus are observed under the mysterious rubric 'it isn't done'; and every 'silly season' brings a crop of proposals to tabu some custom which happens at the moment to be popular. But all these things are nothing but proofs that much of the savage still survives among us to-day; very gradually he and his ways of thought seem to be dying out, and a quite large proportion of a modern population, if they have not always a sound reason for refraining from a particular action, at least **feel** that they ought to have. Multiplicity of tabus, therefore, is a tolerably good indication of the retention of a considerable amount of savagery.

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Here again, however, we must discriminate. There is a stage intermediate between primitive irrationality and reasonable thought, in which tabus still exist, but are classified, enlarged, and commented upon; an age, that is, in which the concept of law is quite definite, but anything like a scientific or rational foundation for law has yet to be sought. The Jewish Sabbath has been mentioned; it is well known that the oddest ramifications of Sabbatarianism are not to be found in the Old Testament at all, but spring from Rabbinical attempts to definitize the general prohibition of the Law against doing 'work' on that day; hence the distinction between cooking food, which is 'work,' and putting it on the table, which is not; carrying clothes on one's body, and money in the pockets of the clothes, and so forth. But attentive observation will enable us to separate these elaborations with fair certainty from the original tabus, and thus to distinguish the work of the relatively civilized law-man \* from that of the savage elder or magician with his magical maxims.

It so happens that in addition to a number of scattered tabus governing various people at various times and places, we have a connected body of prohibitions observed, or at least supposed to be observed, by one unfortunate priest, the Flamen Dialis, or special priest of Iuppiter, at Rome. The list we owe largely, though not entirely, to an antiquarian of the time of Hadrian,

\* I mean by 'law-man,' one who in a more or less barbarous state of society busies himself with the traditional laws or customs of his people, whether written or not, perhaps codifying them, or making some rough attempt to do so, and generally elaborating them, a Hywel Da or an Appius Claudius. The term 'lawyer' I should keep for a jurist such as Gaius or Austin, who tries to make a legal *system* deduced from rational fundamental principles.

Aulus Gellius, who has left us a curious work of miscellaneous information, the *Nodes Atticae*, or 'Evenings at the University of Athens.' The fifteenth chapter of his tenth book gives a formidable list of these singular relics of ancient belief and practice. If we look through them in the order, or lack of order, in which he has arranged them, we shall find that for the most part they are such as would appeal to a 'primitive' man.

The flamen, for instance, might not ride a horse. The probability is that this simply indicates hostility to foreign or new-fangled ways. More than one kind of wild horse was native to Europe from very early days, as carvings and paintings of the Stone Age indicate; but saddle-horses and the art of riding them are comparatively late. Even Homer's heroes, although they can, at a pinch, stick on a horse's back, do not go to war or make journeys in that fashion, but drive in chariots or walk on foot. There is nothing to indicate, so far as I know, that the flamen might not drive.

He might not see a *classis procincta*, that is to say, an army drawn up, or, what amounted to the same thing, the citizens assembled in their centuries in order to vote. His god is not a war-god, and so he has nothing to do with war-magic; this seems to be the reason, but the elaboration, that he must not see anything associated with war and its proper rites, suggests the law-man.

Again, he might take no oath, and it was a recognized legal maxim that he ought not to be obliged to take one in a court of law. If we remember that an oath usually involved an imprecation, 'if I swear falsely, may such-and-such ill luck befall me,' the reason for this is obvious enough. He is highly sacred, and the

mere mention of ill-luck should be avoided. Still more must the presence of definitely harmful things, that is, of things magically harmful. He must wear no ring, unless it is cut through, and have no sort of knot in any part of his clothing, even his girdle, which he must have found it rather difficult to keep on. Knots are very bad magic, as a rule; but again, perhaps the lawman is to be credited with the elaborations, that if a bound man got into the flamen's house, his bonds must be taken off and flung out by the opening in the roof, the recognized path of uncanny things,<sup>1</sup> and that if one being led to be scourged appealed to the flamen, he might not be punished on that day (he would of course be chained or tied up to receive the scourging). The cutting of his hair and nails was, as one might expect, an elaborate business. The operator must be a free man (neither foreigner's magic nor the contact of so ill-omened a thing as slavery could be tolerated), the instrument must be of bronze. Again, probably, the foreign or new-fashioned material is avoided; there are reasons for thinking that this picturesque figure represents the Bronze Age. Once cut, his hair-parings and nail-trimmings must be buried under a lucky, that is, a fruitful tree. There, they would not only be safe from hostile magic, but exposed to good magic, a most desirable precaution. There were a number of things unlucky for one reason or another which he might not touch or even name. Naming is a kind of touching, for the name is part of the thing, to the primitive thinker.

His holiness was marked by the fact that he might neither do nor see (seeing is again a kind of touching) any sort of secular work. He was *cotidie feriatu*s, daily under the ceremonial restraints which for most

people attached to holy days only. Consequently, his person also was elaborately shielded, both from receiving harm from without and from inflicting it by very excess of sanctity. He must never lay aside his head-gear, which consisted of a cap made from the white skin of a victim with a twig of olive stuck in it—a doubly lucky garment. Not till comparatively late, and as a concession to human weakness, was he allowed to bare his head even indoors ; if he wanted to change his underclothing, that again must be done under a roof. The sky and he were too holy and too magical to be exposed to one another. It need hardly be said that he might not go near a dead body or any place of burial ; it was allowable for him to walk in a funeral procession, however. He would keep his distance, we may suppose, from the corpse and its mourners, and in the open air the danger of spiritual infection would be lessened.<sup>2</sup>

All these tabus rather suggest a Polynesian chief, and indeed it is highly likely that the flamen was more than a chief, being once a king—perhaps before the iron-users reached Latium. But, although the laity neither did nor could observe them so elaborately as he, many tabus were observed by them also, on occasion. One of the things he might not touch was beans. These were a common food enough, but they were also common in the ritual of the dead, and those who wanted to be ceremonially pure did not use them. He was every day *feriatus*; so was the rest of the world, on holydays. Quite an amount of ingenuity, indeed, was spent in rules as to exactly what 'works of necessity' might be performed at such times. The head of an ordinary man was generally bare, unless he was going a long way by road, when he commonly wore a broad-brimmed hat; but the Italians never attained to the

Greek victory over prudishness (that is, over the uneasy feeling that nakedness is magically dangerous), and traditionally wore a sort of loin-cloth or bathing-drawers for exercise in the open air. Tabus, then, were fairly rife. An exact inquiry into them would take us too far for a work of this sort, and involve some delicate distinctions between native and foreign magic which would be better in place in a book intended for specialists.

In one respect the Romans, and, for what we can see, the Italians generally, retained a primitive characteristic throughout their ancient history, in a way very advantageous to their development in civilization. In the simplest and most backward forms of culture of which we have any record, what may be described as the church has no separate priests. There may be medicine-men, as in Australia, for example, but these recognized experts are not the conductors of the great communal festivals, the *intichiuma*. Their position is rather that of professional men, healers of disease and so forth. The *intichiuma* are in the hands of the old men, who are not thereby set aside from the life of the clan or tribe nor excluded from secular activities, which indeed are not differentiated from sacred at many points where we should distinguish them. This is also true of Italy. With a few apparent exceptions here and there, the Italians had no priestly caste or tribe, no Brahmans or Levites, and hardly any individuals ever were priests and nothing else. The great *flamines* were indeed so hedged-in with tabus that active participation in public life was difficult; the flamen *Dialis*, says Gellius, is seldom elected consul, and he gives the reason, that consuls, under the republic, had to act as generals, which of course the flamen could not do.

But it never was against the law to make him consul, nor was there anything to prevent one brother leading an army while another became priest of Iuppiter. Complementary to this absence of a separate class of priests is the fact that every *paterfamilias* or head of a household (originally, perhaps, the head of a clan) is himself a priest and quite capable, without outside help of any sort, of conducting the rites of his household or clan, which often were very elaborate and complex. In historical times there was a certain amount of state supervision from the College of Pontiffs; but the College of Pontiffs, with its head the Pontifex Maximus, was composed of persons most of whom might be at the same time the holders of important secular offices. Their business was merely to see that all was done decently and in order, and that no due ceremonies were omitted. It was rather a secular than an ecclesiastical control; they preserved the *pax deorum* or good relations with the gods, as the other magistrates prevented breaches of the peace between citizen and citizen. And, since every *paterfamilias* was to a considerable extent a priest, and every magistrate had priestly functions, it followed that anyone (that is, any full citizen) might be appointed to one of the priest-hoods. In most cases, he could also be deprived of it for misconduct. The facts that some priests had to be patricians, and that the flamen Dialis had to be of a family which kept up the old form of marriage known as *confarreatio*, do not point to the existence of a sacerdotal caste, but are merely survivals of the days when none but patricians were citizens, and no legal marriages were contracted by any other rite. The one magistrate who was never a patrician, and the creation of whose office marks the first step away from the old

exclusiveness, is the tribune of the people, and he, according to some Roman jurists, was not properly a magistrate at all.<sup>8</sup> It is therefore noteworthy that he was not a priest and did not dress like one; the exclusiveness of the old days was retained longer in religious than in secular matters, for there it was of less importance.

The result of all this was that Rome, and, so far as we can tell, the other Italian states, never was subject to any form of ecclesiastical tyranny. Of course religion was freely used as a political weapon, and at first it was the weapon of the old privileged class ; but it was used for the most part in a comparatively harmless way, as, to furnish excuses for declaring a particular measure out of order because some religious rite, such as taking the auspices, had not been properly carried out in connection with it. There were not, and could not be, any men of religion whose interests were wholly separate from those of the state, or who represented a body of knowledge or power permanently inaccessible to all the rest. Since the same class of people furnished, and the same individuals often were, both magistrates and priests, the Church was and continued parts of the state, until, under Constantine and his successors, a new Church superseded it.

Indeed, so little is the priesthood removed from ordinary citizenship, that even the flamen Dialis is to a great extent simply a paterfamilias made perfect; he serves Iuppiter, not alone, but in company with his wife and with children who might be his and probably represented his own offspring if he had none, or none of the right age. This is why he must resign his office if his wife died; he could never again be a member of a perfect family, in which the father and mother are living in a first marriage. In like manner, though

with less elaborate tabus, did the father, mother and children of an ordinary household assemble around the hearth to worship the family gods, the *di penates* and the Lares.

There is, however, a group of facts, made widely familiar by their prominence in *The Golden Bough*, which seems to run counter to what has just been said. Sir J. G. Frazer has argued, very persuasively, that there existed in prehistoric Italy the same picturesque figures which, as he has abundantly demonstrated, are really to be found among savage and barbarous peoples in many lands, namely divine kings. The characteristics of these strange monarchs are well known; they are the incarnations of gods or spirits, and their essential duties are to perform the functions of these deities, particularly as regards the control of the weather. Now the flamen shows signs of royal rank, in the precedence he enjoys over other priests, except the *rex sacrorum*, or king of the sacred rites, again a patently royal figure; and also in his possession of the curule chair, the ancient seat of the Roman king, later used by senior magistrates, and in his right to be present at meetings of the Senate. Moreover, there exist more or less similar figures elsewhere in Italy, above all the famous 'King of the Grove' (*Rex nemorensis*), at Aricia, called Nemi in modern times, and occasionally Nemus in ancient, from the sacred grove (*nemus*) of Diana which stood there. It is well known that this 'king' was in historical times a runaway slave, who had won his position by killing his predecessor in single combat, to which he challenged him by breaking a bough of one of the trees. This certainly suggests the violent death which is so often the lot of divine kings; the object being to make sure that the god shall have a

strong and vigorous body to dwell in. Still, I do not think the case made out, and indeed, Frazer himself no longer lays much stress on it for Italy.

For if indeed Aricia had in ancient times a real king who was also the incarnation of a deity, and whose **term** of office was ended by his death at the hands of a new claimant, then so far as we know, it was the only place in all the peninsula which had such an institution. For Rome, in particular, about which we know far more than we do of Aricia, no such custom can be proved or made reasonably likely. The Roman historians tell us, besides obviously unhistorical legends, pretty certainly of late origin, concerning such monarchs as Romulus and Numa, that there were kings in their city for a considerable period; that they were elected by the people on the advice of the Senate (this is probably rather jurists' theory of how a supreme magistrate ought to be chosen, than tradition of how kings were really set up), and that they occupied themselves chiefly in governing their subjects and in making war upon their neighbours. Of any conception of kingship as divine, there is no trace.

But it may be argued, indeed it has been argued, in effect, that, while the Romans of historic times had no such concept, still their ancestors may have had it, and that some few traces, misinterpreted in antiquity, still linger in the traditions of these ancient dynasties. If we look at the legends of the kings of Rome and of her reputed mother-city, Alba Longa, we do find some features which tempt us to such an interpretation. A divine king is an incarnate god, chosen primarily to be the vehicle of the deity, occupied primarily in divine functions, such as controlling the weather and producing fertility, vegetable and otherwise, and finally

deposed and generally put to death because he is getting past his prime, and so is no longer a worthy avatar of the god. Or it may be, he is replaced by another king after a fixed period of years or months. If such a custom has once existed among a people, but long been forgotten, it might well leave behind tales of how this king became a god, that one was the son, or perhaps the rival, of a god, a third was a great magician or rain-maker, and so on.

Applying these principles to the legends of Alba and Rome, we find the following tales among others. Aeneas, the ancestor of the whole line, was the son of Venus, and his end was no common one, for he vanished after a battle, and was afterwards revered as a god. Romulus again, the first king of Rome, was a son of Mars, and vanished mysteriously in a thunderstorm, or, as some said, was murdered and torn in pieces by envious senators. He likewise was worshipped after his death. Yet another king, Tiberinus of Alba, was drowned in the river which afterwards bore his name, the Tiber; Aeneas also perished or vanished on the banks of a river, and we remember that immersion in running water is a process commonly performed in the case of persons or puppets representing vegetation-deities, with whom divine kings are often associated. One of Romulus' successors, Tullus Hostilius, met his death in practising the rites of Iuppiter Elicius, a deity worshipped in historical times in connection with weather-magic; he succeeded in bringing down a thunderbolt which burned up him and his house.

But unfortunately, we cannot safely build any theory of the nature of Italian kingship on these stories, for they crumble when we analyse them. The historian can often make a good deal out of tales patently

incredible, if he has reason to think them sagas, **that** is to say, accounts, embroidered by the popular imagination, of real and remembered events. It is long enough since anyone believed that Minos, King of Crete, was the child of the sky-god, or that his wife gave birth to a monster, half-bull, half-man ; but under these curious legends lurk the facts, established by modern archaeology, that there were very mighty kings in prehellenic Crete, that bulls played a large part in certain ceremonies, and even that monsters like the fabled Minotaur were often represented in their works of art, and most likely had a religious significance. But these are stories genuinely Greek, the descendants of the more or less true accounts of the Cretan empire which the earliest Greek invaders handed down to their posterity. The Italian legends have the great demerit of not being Italian at all. Aeneas is a figure borrowed from Greek tradition; Tiberinus is patently an invention of Greek or Greek-trained antiquarians to explain why the river was called Tiber, and his story is own cousin to the statement made in one or two authors that Jerusalem (Hierosolyma) was so called because the Jews were led to Palestine by a man named Hierosolymos. Tullus Hostilius is the subject of a moral tale, the content of which is a warning against undue meddling with dangerous rites; and the stories of divine parentage are ruled out by the character, already described, of the Italian deities, who are far too amorphous and vague to be conceived as having children, human or otherwise. To all this is must be added that in many cases these stories can be definitely traced to Greek writers of no very early date. Again we can cite the parallel of the extraordinary tales told by Greeks about the early history of the Jews, which

have in most cases absolutely nothing to do with the native Jewish traditions, as recorded in the Old Testament. In this case we are in the fortunate position of having the traditions preserved to us in their native dress, and so do not need to look for fragments of fact amid the fictions; but the native Italian traditions (for there probably were some) appear to have perished utterly, so far as the earliest times are concerned. A final source of confusion is the frequency of what is technically called Euhemerism in these Greek pseudo-traditions. According to the theory elaborated by Euhemeros, a writer of the days of the Macedonian empire, the gods of mythology were men deified after or before their deaths by the superstition or flattery of their admirers; this absurd hypothesis led to the forging of much pre-history by the simple process of assuming that a god was a deified man, and inventing incidents in his life to account for his legends or his ritual. An instance of this is the deification of Romulus after his disappearance, for it is said that he received the name of Quirinus, a god who had been worshipped for centuries before the story of Romulus was invented. Hence what look like incarnate gods appear on analysis to be gods pure and simple, supposed by some relatively **late** theorist, who knew far less even than we do about the oldest Italian religious ideas, once to have been men.

In this connection we must not let ourselves be influenced by the occasional bits of evidence that these tales became familiar to the common people of Rome and Italy; thus for example, quite early bronze and **other** figures were set up in Rome, representing Romulus and Remus being suckled by the she-wolf. The folk **is not critical, and will** accept a new story made by a **foreign antiquary as readily** as one which is the true

offspring of its own memory or imagination. We need look no farther than the British Isles for confirmation of this. All students of mediaeval literature know the extraordinary pseudo-saga which tells how one Brutus, or Brut, escaped from the sack of Troy and ultimately came to Britain, where he founded Troynovant, the parent of London. No one needs now to be told that it contains not one scrap of British material, but is an extension of the Tale of Troy, due to much embroidery on the accounts given in Vergil and other Latin authors, who in their turn draw on Greek sources. Yet as late as the eighteenth century, Troy was still holding its own, not only in antiquarian speculations, but in popular customs; for example, the Welsh shepherds used to call a maze, such as they sometimes amused themselves by drawing on the hillsides, Caerdroia, or Troy Town.

Nor is the popular mind in the least affected by considerations of chronology or of the history of customs and manners. Mediaeval folklore, much of which lasts into modern times, gives a good illustration of the general inability to conceive of a state of things very different from that now existing. We know how characters in mystery-plays swear by St. John, regardless of the fact that they are supposed to live many centuries before any saint of that name was born; and there has recently been published<sup>5</sup> a most charming Swiss legend of the Nativity, in which the Christ-child is born in a stable near one of the modern Valais villages, and the shepherds after their visit hasten to inform the parish priest, who has just finished saying Mass. It is not therefore to be expected that the Italian people would remember, what even the learned did not know, that there was a time when they did not conceive of any god after the Greek fashion, as having human

shape and being capable of begetting a human child.

For the early history of kingship, therefore, we are reduced so far as Italy is concerned to the performances gone through by kings, and at this point we are further handicapped by the fact that the historical Italians retained kingship only as a survival. But this handicap is largely made up for by the circumstance that nominal kings were retained for the purpose of conducting certain rites which only a king could properly perform; hence, although their political functions had vanished, we are justified in supposing that a great part of their religious activities remained untouched.

If then we look at the shadows of kingship at Rome—for elsewhere we know little or nothing about them—we find that the *fiamen Dialis*, who probably represents a king, and of whose tabus we have already spoken, had for his business the maintenance of an ideal family which could offer acceptable worship at all times to *Iuppiter*. So long as he and his wife, the *flaminica*, lived, they could continue to be priest and priestess, assisted by certain children who might, but need not, be their own. The only hint that either of them was divine seems to be a rhetorical expression of Plutarch's, that the *fiamen* was 'a living image of *Iuppiter*,' Careful reading of the passage in which this phrase occurs (the hundred and eleventh of the *Roman Questions*) will, I think, show that it means no more than this: as the statue or the shrine can represent the god, so can the priest, and all the more so, because he, like the god, is a living being, and they are not. This argument could be used of any priest of any god, and does not denote, either that the *fiamen* differed from other priests, or that his supposedly royal rank (which it is doubtful if Plutarch suspected) had anything to do

with it. In any event, the unsupported opinion of a foreigner, in quite late times, is of no very great weight.

Of the other puppet-king, the *rex sacrorum* or king of the sacred rites, we are told that he had to perform certain ceremonies, including one very obscure one known as the *regifugium* or flight of the king, of which we know, or can guess, that it was a purificatory ceremony, but nothing more. No one calls him divine, or hints that he incarnated any god. Nor is it anywhere said that he or the flamen had control of the weather, that especial province of divine kings, or that either was connected with fertility, or was in the least liable to be deposed, with or without being put to death, at the expiration of any fixed period of time.

There remains one other function connected with royalty which may be thought to associate it with godhead, and that is the triumph. A victorious general (and of course, in the regal period, the general would be also the king) and in historical times a magistrate who was giving a show in the circus or arena (all such shows were originally religious performances, intended to please or placate a god) wore a peculiar dress, which was identical with that of the statue of Iuppiter in the great Capitoline temple, or at any rate resembled it. Juvenal,<sup>6</sup> who had every opportunity of knowing what it looked like, describes it for us; how Democritus would have laughed, he says,

Could he have seen the praetor in his car  
 Towering aloft, above the dusty circus,  
 In Jove's own coat; embroideries, purple-dyed,  
 Flap round his shoulders : then, that monstrous crown,  
 Whose ponderous round would break the stoutest **neck**.  
 The State provides a man to hold it, sweating.  
 Aye, lest the consul wax too proud, a slave  
 Must share his car. Oh, and **the** ivory sceptre,

An eagle perched atop; here trumpeters,  
 And there, before the chariot, troops of friends,  
 All Romans, all in white, leading the horses;  
 His loosened purse-strings bought their amity.

This magistrate, then, on occasion dressed like a king, who in turn was dressed like Iuppiter. The equation, at first sight, looks very satisfactory.

But if we look at it again, we notice that this good Roman monarch is dressed like a foreign god. Iuppiter of the Capitol was introduced by the Etruscan kings, according to tradition, supported by the Etruscan style of the temple itself. The oldest kings of Rome, whether they were divine or not, could not have dressed like Iuppiter, for they had no statues of him to imitate; this whole costume is foreign to Rome, and we have no proof that it was native Italian at all. Moreover, we must bear in mind the possibility that it was not the king who dressed like Iuppiter, but Iuppiter who dressed like the king, not because they were identical, but from a very natural desire to make the chief god look as royal and imposing as they could. The eagle is not even Etruscan, being a loan from the Greek Zeus.

So here again, we find no certain proof of a king who was a god, or even primarily a priest, but simply of an ordinary king who had priestly functions; and as every ancient magistrate, Greek or Roman, had such functions more or less (at least, he would on occasion have to offer sacrifice), this need not surprise us. Thus, so far as we know, the famous 'king of the grove' is an isolated figure, and if Sir James Frazer's explanation be correct, he is all the more isolated, for no certain example of a divine king can be found anywhere near him. The Greeks probably never had any such institution; the evidence for its existence among the

Etruscans is, as we have seen, unsatisfactory; the traces of it, if they are traces, among the existing peoples of Central Europe are very faint. Of the customs of the Ligurians and the Siculi in this respect we know nothing whatever. Moreover, it is not necessary to resort to this explanation in order to make anything out of the strange figure at Aricia; and if he were totally inexplicable, that need not surprise us in a land where our documents are so scanty and so many unsolved problems are to be found.

But if there was not that complete union of Church and State which we find in the person of a divine king, at least there was a very close alliance between them, which amongst a people of less good sense and less ability for government might have led to such a priestly tyranny as was the bane of ancient Egypt at some epochs of her history. I have already said that every magistrate was also a priest, and it should be noted that the most characteristic thing about the magisterial costume was the purple stripe on the toga, which decoration was also worn by boys of good family (who served their father as acolytes) until they came of age, when they assumed the ordinary plain white toga of manhood, the *toga uirilis*. This had a long history behind it, and the fact that the tribunes of the people did not wear it is one of the lasting marks left by the long and bitter 'struggle of the Orders' of which we have an eloquent, if not always very accurate, account in Livy. The Patrician body, however exactly it came into being and whatever may have been its precise composition, formed, as is well known, the highest citizen class at the beginning of the Roman republic; indeed it may well be said that only its members were full citizens. No doubt a considerable part of their

prestige was due to what we should consider secular advantages, such as wealth (especially in land) and experience in war; but these in themselves were not the chief things, nor the bones of contention; it does not seem ever to have been alleged that a plebeian ought not to be wealthy or that he had no business to be a distinguished soldier. The two possessions of the patriciate in which the plebs sought a share were knowledge of legal procedure and possession of the auspices. In other words, the patricians were the traditional guardians of the proper time-honoured methods for ascertaining the will of the gods, and the equally time-honoured ways of doing justice between man and man. The tale is familiar, how after long debate and not a little civil strife the plebeians succeeded in having first the laws themselves, then the *formulae iuris*—the rules of procedure—reduced to writing and published. The laws of augury were never published in full; as late as the time of Cicero one who was not himself an augur was supposed to know little or nothing about them; but the practical results of the methods of consulting the divine will become accessible to all, to whichever class they might belong, who were elected magistrates; in technical language, a plebeian might have the auspices. Further legislation opened most of the priesthoods to plebeians also, though some, of no political importance, were still reserved for patricians.

It would appear, then, that the patrician order had much about it that was still reminiscent of the savage council of elders (which indeed is the name of their advisory body, the *senatus*). Its members were not exactly magistrates and not exactly priests, unless formally appointed to one or other of these offices; but

they had in their possession the whole apparatus of traditional government, and they only were in a position to say whether any proceeding would or would not be *fas iusque*—in accordance with law, divine and human. In other words, they kept up the descendants of the unwritten tribal customs, which now were gradually developing into formal law, and would one day be separated into *ius ciuile* and *ius diutnum*, or law of the state and law (one might fairly translate) of the Church. What this law was like will be discussed in a later chapter. At present, I merely point out that that great people who taught the rest of Europe what codes and statutes meant had in its early days to pass through a state very like that of the savage in regard to law.

## NOTES ON CHAPTER VI

<sup>1</sup> For some account of the importance of the roof in magic, see my article *Asinus in Tegulis*, in *Folk-Lore*, xxxiii. (1922), P.34 foll.

<sup>2</sup> More discussion of the flamen Dialis will be found in *Rom. Quest.*, pp. 109, 212, and the authorities there cited.

<sup>3</sup> Compare *op. cit.*, p. 202 ; *Journ. Rom. Stud.*, 1922, p. 119.

<sup>4</sup> There is no very good modern account, in English, of the results of criticism of the pseudo-mythology of Rome. Schwegeler's *Romische Geschichte* is the first important work (after Niebuhr, with whom the attempt to write a really scientific history of Rome begins) ; the question was first seriously discussed in this country by Sir George Cornwall Lewis (*Essay on the Credibility of Early Roman History*), whose chief results, after a curious attempt of Dr. T. H. Dyer (*History of the Kings of Rome*, London, 1868) to return to the pre-scientific ways, were embodied by Prof. J. R. Seeley in the Introduction to his edition of Livy, Book I (third ed., Oxford, 1881). A good deal, however, will be found scattered through the works of W. Warde Fowler.

<sup>5</sup> See *Philologica*, II (1923-24), p. 82 foll.

<sup>6</sup> Juvenal, *Sat X*, 36 foll. See, for more details, the very full notes of J. E. B. Mayor on the passage (*Thirteen Satires of Juvenal*, Macmillan, 1900, ii, p. 77 foll.).

## CHAPTER VII

### THEIR EXITS AND THEIR ENTRANCES

**S**INCE Dr. van Gennep wrote his brilliant book, *Les Rites de Passage*, we have been accustomed to recognize the importance, to the savage, of the passages from one state of existence (such as childhood) to another (such as maturity). To civilized men it seems self-evident that John Brown, aged twenty-five, is the same person as John Brown of a dozen years ago, aged thirteen, except that he has grown taller and broader and gained knowledge and experience ; but to primitive man, it would appear, the proposition was not so axiomatic. Indeed, it might seem to him very strange that we went on calling him by the same name, and stranger still that we had let him simply grow into his new state, without so much as removing a tooth or imposing a tabu, to get him safely across the wide gulf between child and man. It is still felt to be necessary, and that not wholly or even primarily for reasons of public policy, to have more or less ceremony if the man, hitherto single, wants to become married; and later on, many consider it at least desirable that an expert, known as a priest or clergyman, should attend him when he is dying; but in the meantime he is left to pass from stage to stage unaided, except in so far as he may, of his own accord, seek advice or help at this or that crisis.

Anthropology, social anthropology at least, has a long way to go yet before it can apply mathematical prin-

ciples as physics does; but speaking very loosely, we may perhaps say that, other things being equal, the civilization of a people varies inversely as the number and importance of their *rites de passage*, or threshold-rites, as they are commonly termed in English. If, then, we find the Italian of classical times passing many 'thresholds' in the course of his or her life, with the accompanying stages of separation from the former state, protection during the intermediate state when he (or she) is as yet neither in one class nor in the other, and finally aggregation to the new state, we may say with considerable confidence that a good deal of savagery still lingered in the thought of the people. In general, if the crises of life, the exits and entrances, are centres for much magic, we may draw a similar conclusion.

To begin at the beginning; birth, in Rome, was magically a somewhat elaborate business. Not only was the expectant mother surrounded by a number of invisible protectors whose business it was to see that all went well with her physically, but when her delivery came, it is clear that the dangers awaiting her were not merely such as a modern doctor or nurse would recognize and try to avoid. It was obvious that she needed life and vigour, and these were given her by other than natural means. For it would appear from an allusion in Plautus<sup>1</sup> that at some time or other she was ceremonially beaten, no doubt with some lucky, Ufe-giving object; in various parts of the Slavonic-speaking world the implement used is either a stick which has been put to a lucky use, or her husband's belt, which no doubt is thought to contain some portion of his strength. Then, in the birth-room, there was a light, which practically everywhere is the magical equivalent of life. So important was this felt to be that a special spirit was

conceived (at least in official theology) as looking after it, Candelifera or the Light-Bearer.

But all this while she was in peril from an evil, or at least a strange, influence, that of Silvanus, the spirit of the wild, unreclaimed woodland. Against him a potent charm was necessary, and it was found in the shape of three persons who armed themselves with a broom, an axe, and a pestle, wherewith they swept, chopped and pounded on the threshold, thus effectively barring the entrance of the stranger, who like most of his kind could not bear either iron or household implements. It was felt, whether originally or not, that friendly spirits were thereby arrayed against Silvanus, and to them were given the significant names of Deverra, the Sweeper, Pilumnus, the Pestle-Wielder, and Inter-cidona, or Cut-in-two. Presently Lucina was invoked to bring the child to the light of day. Her function performed, we might suppose that the child was safely born ; but to the Roman mother, much remained to be done. The infant must be laid on the ground, thence to be formally lifted by the father (hence it is that in Latin ' to pick up a child,' *tollere*, means not to expose it, but to undertake to rear it) ; the good spirit Levana, the Uplifter, presided over this indispensable act. It is a very reasonable conjecture that the object of laying the baby down was to provide it with a soul, which, as is usual with infant souls, was to come to it from Mother Earth. For that a new-born child has no soul is a fairly common savage idea; for example, on the birth of a Gilbert Islander, it is, or was, the custom to light a bonfire near the birth-room, and to dance around it, the avowed object being to induce the child's soul to take up its abode in the new-born body. Still the Roman baby was, it would seem, but

imperfectly alive, for that very important factor of personality, the name, was wanting. This was given on the ninth day of a boy's, the eighth of a girl's life, and this was known as the Day of Purification (*dies lustricus*). The child was now fairly launched into the world, and needed only ordinary magical care. This included the proper dress of childhood, the purple-edged toga which at once served, we may suppose, as a protection against evil influences and marked him as an acolyte, *camillus* or *Camilla* according to sex, in the family worship; and the neck-ornament, the *bullæ* or locket, containing an object of magical value, a little model, it would seem, of the male reproductive organ. Such an object, to our notions indecent, was no such thing to those who first used the *bullæ* to protect their children. As has been many times pointed out, what we call indecency was very often originally no more than magically efficacious action or speech. But the boys had another means of protection, magical as well as material. From the time they were old enough to go about, they accompanied their fathers to all manner of places, including the senate-house, in the case of senators' sons, and the houses of friends where the father was dining. It cannot be doubted that this good custom was partly responsible for one of the finest traits in Roman character, that trait which is expressed by the beautiful *word pius* (perhaps 'lovingly dutiful' is a less hopelessly inadequate paraphrase than any other) and its cognate substantive *pietas*; which in their fiction gave us the picture of the mutual affection of Aeneas and his father Anchises, and in real life the homelier but no less charming story of the relations between Horace and his father, the low-born man whose origin was made a reproach to his son by the snobs of

the day, and in whose honour that son wrote one of the finest of all his works.

But in time the boy (we know less of the girls, whose life was naturally more secluded and who married very young) grew out of boyhood, and was invested formally with the *toga uirilis*, or plain white cloak worn by adult citizens who held no office, civil or religious. Of this we can say only that it possibly is the descendant of an earlier ceremony in which the lad was initiated into the tribe or the clan; if this is so, no trace of the elaborate ceremonies which we know accompany such a process among savages has come down to us, and it is likely that any preliminary process of ordeal, instruction or the like, would be mentioned somewhere had it existed. But there is one very curious detail. According to a well-informed writer whose little work, *De praenominibus*, is generally printed at the end of Valerius Maximus, it was at the time of receiving the man's toga that a boy was named. It is certain that he was not nameless before that date, and we have no evidence that he was called by a different name before and after it; but the fact remains that according to some, the proper time to name him was then, and not at the *dies lustricus*. It may well be that in very early times a young child had a temporary name which was discarded later in life. Such things are by no means unknown; we have already seen that a good deal of magic lingered in Rome in connection with names, and we have plenty of instances of a savage bearing one name in infancy, another later in life. Such a change of name is especially common at any sort of initiation, and indeed still survives in the new names assumed by entrants into a religious order, and by popes on election. It remains, however, no more than a possi-

bility that it was so in early Italy, for other explanations of the passage cited are possible, including the very obvious one that the writer has made a mistake.<sup>2</sup>

So far, then, there is not very much that is reminiscent of savagery about the life of the individual Italian, or at any rate of the individual Roman. We now come to that crisis which is so great and so important that few persons even to-day care to enter upon it without a good deal of ceremonial, namely marriage. To understand the significance of Roman marriage rites,<sup>8</sup> it is well to recollect briefly what the fundamental, *i.e.*, the most primitive features of the rite are.

In the first place, it is normally the union of two persons belonging to different clans, for, as I have said, exogamy is the normal savage rule. It is inevitably the union of two persons belonging to different sexes, and the two sexes have very different magic, and special tabus and privileges. Hence, from either point of view, it is a threshold rite. Again, as the two parties live in different communities or groups, or at any rate in different magical atmospheres, it is needful that one of them should go to the other, since they do not intend to start a new group of their own, and this generally involves an actual physical movement, from the home of one to the home of the other. Which goes to which depends largely on which is the more important; there are peoples practising mother-right among whom the bridegroom goes to the bride; under father-right, which as I shall point out later was the only Italian system, the bride normally goes to the bridegroom. Therefore it is necessary that she be detached from her old household or clan and aggregated to the new one; consequently, it is inevitable that something be done to protect her while she is a member of neither

group, be the intervening time never so short. It is commonly felt to be desirable that both parties should undergo some kind of purification and magical preparation; this, for example, was the case at Argos, where bride and bridegroom exchanged clothes (a common magical precaution), and is equally the underlying idea of a host of complicated rites in Morocco to-day, which have been fully described by Westermarck. But of this, and consequently of the rites undergone by the bridegroom, we hear but little in ancient Italy; clearly the important parts of the ceremony were the separation of the bride from her own people, and her aggregation to the clan of her husband. We shall therefore discuss chiefly what was done to the bride.

We can of course neglect the purely legal aspect of the matter, the drawing up of the *tabulae* or contract of marriage, and so forth; nor need we say much of what seems to have been a practically invariable concomitant of marriage, namely a sacrifice with accompanying prayers. This simply marked the proceedings as having a religious side; it corresponded to our church service (a late intruder into our marriage rite), and was in no way peculiar or characteristic; in any case, it was strongly infected by Greek influence, so far as we can judge. Let us assume that a Roman citizen and a Roman citizeness—a Fabius and a Claudia, say—have been betrothed and signified that fact by joining hands in the presence of witnesses. The day for the wedding must first be chosen, for a considerable part of the year was not available, at any rate for the marriage of a virgin (Romans, like other peoples, were less particular about the marriage of a widow). Not only must definitely unlucky days be

avoided, but also days on which the magical atmosphere was, so to speak, electric. On all public holidays (*feriae*), however joyous in tone and character; on all days of new and full moon (kalends and ides) and at the first quarter (nones); of course, all periods of mourning or commemoration of the dead, public or private, and certain seasons (including the first half of March, the whole of May, and the first half of June), when a good deal of important ceremonial was going on—at none of these times would any Roman virgin be married. Nor, given a lucky day\* at least one on which none of the above impediments existed, would this or any other important step be taken without consulting the gods, or, to use the technical phrase, taking the auspices; if they were unfavourable, that is, if the omen-birds or other means of divination did not answer 'yes' when questioned, the ceremony would not take place. All this certainly sounds more like the accounts given of the superstitions of modern savages, or the scruples of later Romans who regulated their lives by astrological calendars, than the behaviour of any people so rational as the Italians of classical times were. At best, a Roman of the early republic had some two hundred days of the year on which he could think of getting married at all, and the number of days cut off from such uses by festivals increased rapidly later.

However, once a lucky day was discovered, and the consent of the gods assured, the next thing was to make the bride ready. As she was usually, to our notions, a mere child, some twelve or fourteen years old, the first step was to put away her childish clothing and ornaments. The purple-edge garment which, like her brothers, she had worn hitherto was taken away and dedicated to *Fortuna Virginalis*, the Luck of Girls, in

classical times; earlier, it may be, to some other deity, so far as Rome is concerned, for Fortuna appears to be an imported goddess, though good Italian. This was significant; clothing, ornaments and the like are to the primitive mind a part of the person, nearly if not quite as much as nail-parings, hair and so forth. Therefore it is not enough to put them away; they must be put, like the nail-parings of the Flamen Dialis, in a safe place, and where could they be safer than in the shrine of a friendly deity? The bride was now dressed in a special costume, over whose details we need not linger, for we can be certain only that in historical times it was old-fashioned; but it included a head-covering, the *flammeum*, which was gaily coloured; according to the most reliable authorities, it was yellow or reddish-yellow. This served to protect the head against evil influences in some way, and it was reinforced first by combing or parting the hair with a spear-point, to drive out all bad magic (it is well known that bogies and their charms alike cannot abide iron), and arranging it in six curls, so that the magic number three should guard the bride, whichever way one looked at her, secondly by a wreath. She was now fairly well protected for her perilous journey from one set of deities (those of her father's house) to another, the ancestral gods of her bridegroom. Now came the separation; with more or less show of violence on the part of her attendants, and of tearful reluctance on hers, she was dragged away from the arms of her mother, or if her mother were dead, from the embrace of some other near kinswoman. She was given a spindle and distaff to carry—uncanny spirits have no love for household articles, as scores of customs, ancient and modern, European and foreign testify—each arm

was seized by a boy who had lost neither parent, a third boy went on ahead carrying a torch of the lucky wood of the whitehorn, which in itself would keep off witches, other torches were carried by other members of the procession, and close in attendance on the bride was the *pronuba*, a married woman, who must be the first wife of one who was her first husband, and who performed functions very like those of a bridesmaid. To make matters still safer for the bride, in her temporarily godless state, and to secure for her the positive blessing of fertility, she was assailed by the wedding-guests with a multitude of bad jokes, the more improper the better, for obscenity is good fertility-magic. Thus she made her way to the house of the bridegroom, the door-posts of which she anointed (originally with wolf's fat, for which in later times more easily obtainable forms of unguent were substituted), and was lifted over the threshold and so presented to her husband. Here it was, probably, that she greeted him with the formula, 'Where thou art Gaius, I am Gaia, i.e.,' 'From henceforth I belong to your *gens*,' She touched fire and water, as a final precaution against evil, and also, it may be, as an additional measure to make her fruitful; and thus, amid the invocation of appropriate deities, the marriage was consummated. Next morning the newly married wife made offering to her husband's deities, including the *lares* or guardian spirits of the nearest cross-road. She was now, whether she ever had children or not, the *materfamilias* or house-mother, and therefore acceptable to the household gods. And thereby she ceased to have any sort of connection with her father's family, at least in theory; she was no longer his daughter, but in a position in regard to her husband corresponding to that of a daughter, *loco*

*filiæ*. Certain other features of her new position will be discussed in a later chapter.

It is easy enough to see that these rites go back to simple and primitive conceptions; but in so conservative a region as marriage-rites, we may expect to find customs which smack decidedly of savagery lasting on as fossils in a high civilization. We certainly do not consider ourselves barbarians, but our marriages swarm with old observances, carried on 'for luck,' or because it is the custom, but with no definite purpose, because their original purpose has long been forgotten. Thus, we throw a shoe after the bride and bridegroom, a rite so old that neither its origin nor its original meaning is known; we pelt them with rice, or with paper confetti which imitate grains, without for a moment supposing that it will make them likelier to have many children; and our comic papers have long made 'copy' out of the bride's uncle and his attempts to be funny at the wedding breakfast—an attenuated survival of the ancient ribaldry which our ancestors, like the Romans, in all probability once used. But we have quite forgotten that the wedding breakfast, not the ceremony before priest or registrar, is the really essential rite. The Romans had not; in their oldest and most solemn form of marriage, called *confarreatio*, it would appear that the bride and groom solemnly ate together a cake of bread made of the old-fashioned, coarse grain called *far* or spelt. To eat of the same food is to enter into communion with one another. We still put on our brides a little of the ceremonial costume which a Roman girl wore on her wedding-day, the veil and wreath; and in many parts of the country there were till lately quite distinct traces of what the last generation of anthropologists called 'marriage by capture'; that is,

ceremonies in which a show of resistance or escape was made by the bride and her attendants; we often have <sup>1</sup> pages' attending on the bride, and in some places (Yorkshire for example) she is commonly lifted over the threshold. But these are occasional customs, found in fragments here and there in this and other countries, and not recognized by our written laws (for that matter, Roman law concerned itself chiefly with marriage-contracts and forbidden degrees). In Rome all these magical mummeries were still felt to be important and essential rites. It needs no great acquaintance with savage custom to find examples of simulated capture, of a bride covered or surrounded with all manners of charms and protections, and of her elaborate reception in the bridegroom's house; while we very commonly find also, what the Romans seem to have forgotten, an elaborate preparation of the bridegroom as well, that he may be in a fit state magically to receive his bride.

On the whole, then, we may reasonably say that the more savage elements of the marriage ceremony, those for which a good magical reason can be found, were more prominent in Rome, and presumably in the rest of Italy, than with us. A few other aspects may be considered, and it will be seen that they all point in the same direction. In the first place, Roman tradition, which we have here no reason to doubt, states that no such thing as a divorce ever took place until comparatively late times. In other words, the magic which made a woman cease to be her father's virgin daughter and become a married woman was taken very seriously. Here we must avoid confusing two things superficially alike. On the so-called sacramental view of marriage, that of orthodox Christianity,<sup>4</sup> marriage

is indissoluble, because it is a sacrament in other words, because, corresponding to the visible actions and audible words of the ceremony, there has been an action, imperceptible to the senses but none the less real, on the part of the Deity, which has made the two persons concerned mystically one. This action, being superhuman, cannot be reversed by any human means, and therefore a decree of divorce pronounced by a secular court makes not the slightest difference to the position of the husband and wife. But no such complicated and developed theology existed in early Italy. So far from being outward and visible signs of anything spiritual, the ritual actions were supposed to be efficacious in themselves, at least in very large measure. They seem to have been thought of, not as we think of the motions and words of a priest officiating at a sacrament, but rather as we think or they thought of the actions of a farmer engaged in sowing. No doubt the part played by the various gods invoked during the marriage rite was more or less voluntary; a Roman of the early Republic would probably have conceded that the goddess Domiduca might, if she chose, refuse to perform her function of seeing the bride safely to her husband's house; but equally might Tellus, the earth-goddess, refuse to answer the prayers of the husbandman and give him a good crop. Despite that fact, the action of the farmer in ploughing his field and sowing corn in it was perfectly reasonable, a means to the desired end; and equally reasonable, equally likely to produce the required effect, were the actions of those who cracked indecent jokes at the bride or surrounded her with torchlight. Because these actions were efficacious, the woman could not be unmarried, any more than the field could be unsown, once the seed

had been put into it and had begun to sprout. The crop might be a failure, or be deliberately spoiled, but nothing would make the field into fallow land again; nothing, that is, except very elaborate and difficult counter-magic. So the marriage might be a failure, but if it had been carried out with the full old-fashioned rite known as *confarreatio*, it could not be made no marriage, save (and this is probably a refinement of later times) by going through what Plutarch<sup>5</sup> describes as 'numerous horrible, extraordinary and dismal rites.' The woman, then, was irrevocably married; but it might have been held that she was not irrevocably married to her husband, but might under certain circumstances change. Here, however, the fact that she was in the guardianship of her husband, or that of his clan, complicated matters; there are, as will later be shown, a few indications that she was in some sense the wife of a group of men; hence apart from the highly unlikely case of the group ceasing altogether to exist, it is hard to see how she could be effectively divorced unless she ceased to be a member of society altogether.

Now the chief difference between savage and civilized attitudes towards divorce (apart from the theological view, already touched upon) may be described as follows. To the civilized legislator, marriage is a contract of a peculiar kind, but nevertheless governed to some extent by the principles which underlie all contracts. It may therefore be annulled, either through the default of one party to it or by the consent of both. Therefore practically every civilized community allows divorce, under restrictions of various kinds; but as a rite, it is not a very common occurrence, because, apart from the fact that the majority of marriages appear to succeed at least tolerably well, the restrictions already

mentioned are enough to make it a much more complicated affair than the annulling of an ordinary contract.

But a savage apparently does one of two things. Either his marriage is a somewhat casual affair, terminable on quite trifling grounds at the will of one or both parties, or else it is practically indissoluble. Thus, the Veddas apparently do not divorce at all; the Andamanese do so very seldom, and never if a child has been born; while a long list of savage peoples from all continents, among whom the practice is almost if not wholly unknown, is to be found in Westermarck.<sup>6</sup>

It may at least be conjectured with considerable plausibility that the reason is that given above; namely, that a married woman is felt to be so utterly different from a single woman that she can never again revert to a condition of not living with some man; and the obvious man for her to live with is of course her husband, who is very often her owner as well, usually at any rate what our law would call her guardian; where this is not so, the normal reason seems to be that the people concerned practise mother-right, under which the position of the wife is superior to that of the husband; a state of things which often, though not necessarily, goes with a very loose marriage tie.

The indissoluble nature, therefore, of the early Roman marriage may very well be a survival from days of savagery; and with it goes a fact very characteristic of savage and early barbarian communities. This is, that in theory at least a woman was purely and simply a chattel. Rossbach has well pointed out<sup>7</sup> that the terminology describing the authority of the husband over the wife and that for the relation between the owner and his property, animate or inanimate, are in principle the same. Both were said

technically to be in his 'hand' (*manus*); over wife and slave alike he had the power of life and death, with no restraint whatsoever in early times save pressure of public opinion, whatever that may have amounted to, and the customary family council, which might at least exert a considerable influence against hasty action on trivial grounds.

But apart from this, which in point of fact was found to be consistent with a good deal of influence and dignity on the part of the Roman matron, there are ancient customs governing the relation of husband and wife which smack of high antiquity and of savage ways of thought. One was the prohibition against a husband visiting his wife unexpectedly. If he had been away, he must send on a messenger to say that he was coming. In other words, there were times when the married couple might not see each other, or at least, not without some kind of preliminary ceremony. Now it is well known that among some savages wives and husbands may not see each other at all, and that among many, the woman is at certain times considered so impure that no one may go near her. One or other of these notions, perhaps both, would seem, therefore, to have been prevalent in early Rome; else why should the wife need to be warned of the husband's approach? Another rule was, that the wife might not grind nor cook for her husband; a tabu which utterly puzzled the Romans themselves in historical times, when it had fallen into disuse, and led their antiquarians to suppose that it was a measure taken by Romulus to honour the Sabine women whom he and his men had captured, according to the well-known story. The truth no doubt is, that the sex-tabus were very important in early Italy, and that

therefore food prepared by a woman, his wife or another, was not regarded as fit for a man to eat, being tainted as it were with femininity and liable to impair his strength, or the like. Here it would seem that we have a relic of quite low savagery; for in the average African household, for instance, neither of these tabus exists, the culture of the people, though none of the highest, having outgrown them, if ever they were in force.<sup>8</sup>

Of the threshold rites which attend the passage from the vigour of maturity to old age, there is but little trace, if any, in Italy. As in Greece, the general tendency was to treat the aged with respect, even with awe; a tendency which, while it might be called reminiscent of the high position of the elders in an Australian clan, for instance, is far too common in much higher civilizations to be in any way a criterion of the retention of primitive ideas. It does not seem to have been felt that old people were particularly apt to be wizards, or otherwise endowed with supernatural powers, but simply that, being old and experienced, they were likely to be wise. Nothing more than this is needed to explain the title of the oldest deliberative body, *senatus* or council of old men. Of more interest is a curious proverb, *sexagenarios de ponte*, i.e., 'throw the men of sixty off the bridge,' As to what this meant, the ancients were hardly better informed than we are. One explanation was, that it referred to the ritual of the Argei, already described, and supposed by some to be a surrogate for a former human sacrifice. Others said that it meant 'exclude old men from the voting-booth,' the narrow passage to which was called a 'bridge' (*pons*). In either case, it seems to indicate that there lingered, here and there in a mixed population of Rome, a tradition that old men were a nuisance

to be got rid of; and we should remember that the aged, in some savage populations, are often either killed or cast out and left to starve.<sup>9</sup>

Coming now to consider the ritual connected with the last great change, death, we may conveniently ask what the Roman ideas concerning the soul were like in early times, before Greek doctrines invaded them. The answer, it is clear, cannot be very complete or certain; yet it seems possible to give at least a reasonable guess, if we pay attention to language and to certain curious points of ritual, for as all ritual is conservative, so that of funerals is perhaps the slowest of all to change.

If we ask what is the Latin for 'soul' or 'ghost,' we are presented with a considerable choice of words. In the first place there is *anima*, which apparently means originally 'wind' or 'breath,'<sup>1</sup> reminding us of the Greek *psyche* and the Hebrew *ruach*, both of which have that primary signification. That the soul and the breath are one and the same, or at least closely connected, is an early idea and very widespread. *Anima* also means at times the disembodied spirit, or ghost. Over its cognate *animus* we need not linger; it nowhere, outside philosophical writings, signifies any kind of vital principle, but is rather 'mental or vital activity,' 'temper,' 'spirit' (in the sense in which we talk of a spirited horse). Its nearest approach to 'soul\* is perhaps in the phrase *animo male fit*, 'I feel faint,' literally, 'my *animus* is hurt.' The word for 'shadow,' *umbra*, also not infrequently means a ghost or phantom. In addition, we have the word *manes*, which means the ghosts of the dead in general; it properly signifies 'good,' a wide-spread euphemism for 'dead,' The words *larua* and *lemures* (the latter has no singular) mean respectively 'ghost, bogey, phantom' or occas-

ionally ' mask,' now and again ' skeleton,' and ' ghosts, apparitions,' generally with the implication that they are restless and unfriendly. With *lemures* is connected the name of the May Feast of Souk, the Lemuralia; it has recently been suggested that the name of the festival is the earlier word and that *lemures* was coined from it in comparatively late times, perhaps the first century B.C. The etymology of both words is very obscure. Whatever they may originally have meant, it is nowhere said that anyone has during life or loses at death either a *larua* or one or more *lemures*. They are something which a dead man may become, not part of a living one, as is the *anima*. Another group of the dead consists of the *di parentes* or *parentum*, the ' parent gods ' or ' gods of the parents,' the name under which the family ghosts were propitiated at the Parentalia in February. The singular, *deus parens*, meaning a dead individual of the family honoured by his or her descendants, is not found earlier than Cornelius Nepos, who wrote in the first century B.C. He here purports to be quoting a letter written by Cornelia, the Mother of the Gracchi, in the last quarter of the second century; but even if this is really so, it may be no more than a Greek idea expressed in Latin, for Italians in general and the clan of the Cornelii in particular were much influenced by Greece far earlier than that.

Finally, we have the very interesting word *genius*. In discussing this word and the ideas connected with it, we must first of all rid ourselves of a number of demonstrably Greek notions which were expressed by it throughout the period covered by our literature, and fix our attention on facts of cult. In our literature, every one has a *genius*, who is pleased when he lives enjoyably, especially when he eats and drinks heartily.

and said to be cheated if he stints himself. Horace, in a passage often quoted (*Epistles*, II, 187), says that the *genius* is 'the companion who rules the birth-star, the human-natured god who dies with each of us, whose countenance changes, who is now white, now black' (*i.e.*, lucky or unlucky). But it needs no great knowledge of Greek beliefs to see that we have one here, the belief in the individual *daimon*, a sort of guardian angel. It was this *genius*, or *dairnon*, which was made the object of the popular cult wherein *the genius Augusti*, the attendant spirit or divine part of the Emperor Augustus, was worshipped during his lifetime, as a preliminary to his deification after death. There is nothing Italian here and nothing early, but a belief which comes from Greece, and did not develop there until the great age of Greek civilization and thought was over.

If we look now at the meaning of the word, we see that it signifies 'the begetter'; we learn, moreover, that a woman had not a *genius* (as she cannot beget) but a corresponding feminine spirit, a *iuno*, which probably means 'marriageable woman' or 'bride,' though this is not certain. There is evidence that these powers were conceived as taking, at least on occasion, the form of serpents. On the one hand, a pair of serpents, one represented as having a beard, to indicate that it is a male, commonly appear on family shrines, of which a number are preserved at Pompeii; on the other, there is a curious story that Tiberius Sempronius Gracchus, the husband of Cornelia, one day found two serpents, a male and a female, in his house, and was told that according as he killed the former or the latter, he or his wife would die. He chose to save his wife (though why he should not have **let both** snakes go is not very clear) and shortly after-

wards, he accordingly died. There is plenty of evidence that the dead are conceived as taking serpent form; we find instances in places as far apart as Greece, where the snake is the regular avatar alike of a 'hero' or of a god of the underworld, and South Africa where the Zulu *amatongo* or ancestral spirits take this shape. So far, then, it would seem that the *genius* or the *iuno* is the soul of man or woman, honoured in life by its possessor and worshipped after death by the household.

But now the facts of cult interfere with our theory. If every one has a *genius*, why are the dead never referred to as *genii*; why is it both late and rarely that we find a mention of anyone's *genius* on his tomb; and why does the family shrine show us but two snakes, or sometimes one only? Are the *genii* of the sons, the *iunones* of the daughters, of no account, and do the parents want no grandchildren? Why should the soul of the dead ancestor be worshipped in the house, and not at the grave, where the cult or tendance of the dead regularly went on? And, if the individual dead were worshipped in this fashion, why does Cicero deny so emphatically that official cult recognized the deification of a dead man at all, and why is there no word, corresponding to the Greek *herds*, in common and early use to signify one of the glorified dead?

Dr. M. P. Nilsson has recently reminded us, and the reminder is very pertinent, that although ghosts are often supposed to take serpent form, it by no means follows that all venerated snakes are ghosts. They are quite as likely, judging by European parallels, to represent the 'luck,' one might perhaps say the brownie, of the house. What if the sacred snakes, which appear to incarnate the *genius* and *iuno*, were of this type, rather than that represented by the *amatongo*? In

other words, does it not seem likely that the *genius* and *iuno* were the deified powers of reproduction of the family or clan, and not the souls of any members of it? Making this assumption we can explain a number of curious things. In the first place, there is a rite which the Romans, likely enough other Italians too, had, and the Greeks apparently had not. When anyone was dying, his next-of-kin bent over him and caught the last breath in his mouth. This clearly is not an attempt to catch the soul, for that is conceived of as departing to the Manes; may it not then be the *genius*, or the *iuno*, which is thus caught? Then, the death of a young, unmarried member of the household did not necessarily put the family into mourning, and the funeral of such a one might be conducted with very maimed rites. Why, unless on the supposition that such persons had no *genius*, and that therefore their life or death mattered comparatively little? But a married man or woman, custodian for the time being of the divine powers which made the line continue, was very different; the guardian of so great a trust was a person of magical importance, whose death was a serious event, if only because it needed attention to the proper ritual to get the *genius* safely transferred. It should be noted that the conception of a superhuman something, not the soul, which attends a man and is passed on to his son or other successor along with his last breath, is actually to be found in the Society Islands. There, the son and successor of a *harepo*, or recorder of their sacred traditions, puts his mouth over the mouth of his dying father, and inhales, not, I think, his soul, but his knowledge. In like manner, the *genius* may well have been inhaled by the heir of the dying *paterfamilias*.<sup>10</sup>

That this is no mere imaginative picture of what might happen, but rather a sketch of something like what really does happen in non-civilized belief, is clear if we look at the evidence of Ashanti custom gathered by Mr. R. S. Rattray (*Ashanti*, Oxford, 1923, especially p. 45 foll.). The natives of that country believe that two elements, one from each parent, are of importance for the begetting of the child. One comes from the mother ; it is known as the *mogya* or blood, and carries with it the *abusua* or clan, for this people is matrilineal. The other is contributed by the father, and apparently originates, not in him, but in the paternal grandfather, and it is important enough socially, despite the facts that descent is not reckoned on that side, to involve certain tabus. It is called the *ntoro*, or 'spirit,' and acts as a kind of unseen helper and protector. Nor is such a belief confined to the Ashanti, or to uncivilized peoples, for the Egyptian *ka*, as explained by Prof. Flinders Petrie,<sup>11</sup> is not unlike what I suppose the *genius* to have been.

If we ask what was left to be honoured after death, the answer would seem to be 'nothing very important.' And this is precisely the impression which a great many features, at least, of Roman ritual, so far as it is uninfluenced by foreign ideas, makes upon the author and on many others. They do not appear greatly to have feared their dead, on the whole; the ghost-stories which are to be found in Latin writers seem one and all to be late; and there is no such thing as hero-cult in early Rome, the supposed examples of such a practice being now generally interpreted otherwise by those best qualified to judge. The dead in general were tended; something was left at death, and that something needed to be looked after; but the individual dead

seem to have been of little account, and even collectively we scarcely hear at all of their being worshipped.

Now if we turn to what has already been said in an earlier chapter of the cemeteries of the Bronze Age, the same impression is given. There, we saw that the urns containing the ashes were huddled together so thickly that no distinction of individuals was in any way possible, and no attempt, so far as we can judge, was made to differentiate any tomb from any other, but only provision for keeping the whole burial-ground marked off from the rest of the soil. Turn now to the poorer graves of historical Rome, and the most characteristic form of burial is perhaps the *columbarium* (literally 'dove-cote,' so called from a fancied resemblance between its many niches for the urns and the little doors of a pigeon-house). Here we have a considerable and substantial building whose walls contain hundreds of recesses, each made to hold an urn or urns with the ashes of the deceased. A short inscription gives the name, age, and date of death, and that is all. Very similar are the catacombs, which, though most famous in connection with Christian burials, are not a Christian invention, but used also by both pagans and Jews. In these we have endless long corridors, their walls riddled with long narrow niches (*loculi*) each containing an uncremated body, and marked by a short inscription giving little more than a name and a date. The general impression is still the same, despite late date and frequent changes of religion; the dead in the mass are important, the individual dead man counts for little, and is not individually worshipped, even in those religions which might be expected to allow it.

Corresponding to this, though not alone sufficient to explain it, is the lack of individuality which every

historian has noted as characterizing the Romans, and the Italians in general, of early historical times. Despite the immense influence of Greece, with the Greek stress on individuals' vices and virtues, the great figures of Roman history, before the age of Cicero, are comparatively very vague and undifferentiated. Read the description, in any ancient historian, of almost any one of the great servants of the state, and with a change of name and of a few dates it would serve well enough to describe almost any other such. Now and again a man arises who incarnates in himself the typical Roman virtues of courage, sobriety, simplicity, patriotism, seriousness of purpose; he dies, and presently another replaces him. And when occasionally a man of real individuality, such as the elder Scipio Africanus, does appear, it would seem that he was regularly an object of suspicion, and considered to be rather un-Roman and a more than possible revolutionary. Here, after making allowance for the fact that the great men of Republican Rome were mostly members of a more or less exclusive aristocratic caste, and that such castes tend to breed true to type, we cannot, it seems to me, refuse to see a survival of the savage unimportance of the individual, in life and in death.

But by no means all the story has been told. Every manual of Roman customs has described the amazing splendour and elaboration of a noble Roman's funeral. Preceded by musicians, professional mourners, and, an odd feature to our ideas, buffoons, came the great procession of the man's ancestors, represented by their wax portrait-masks (*imagines*) worn by actors dressed in appropriate costumes; then followed the carriage on which the body was borne, attended by the sur-

viving members of the family. The tomb to which he was carried was often a most gorgeous and elaborate affair, and the funeral inscription might be of considerable length and enter into fairly minute biographical details; witness the epitaphs of the Scipios, which still survive to us. Nor can we say that this is a late elaboration; for if we look at the remains of Etruscan civilization, it is well known that they include tombs of the most imposing and handsome structure, among whose rich adornments are representations of splendid funeral ceremonies; and apart from this foreign culture, which, however, we know to have influenced the rest of Italy, we have only to look at Dr. Randall Mclver's work on the archaeology of the Iron Age, already often quoted, to find examples of burial only less splendid than these among those of the native population who had the characteristic Iron culture.

There are then at Rome rites which suggest that the individual dead man, and for that matter the individual while alive, was of little account; there are others which suggest the very opposite. Two explanations seem possible, and both smack of savagery. The first is, that the latter set of rites belonged properly to the aristocracy, supposing these to have been originally a people of the Iron culture who had conquered the bronze-users; and therefore, that in the local belief, the souls of great men had an entirely different lot in the next world from those of commoners. How often we meet this view among the lower cultures will be clear from the merest glance at such works as Frazer's *Belief in Immortality*. The other explanation is, **that** the Romans found no difficulty whatsoever in holding two totally inconsistent views of the nature of the life

after death, at one and the same time. This mental confusion cannot be said to be peculiar to savages, but it is particularly prominent among the lower races, for instance the Kiwai Papuans.<sup>12</sup>

There is one other point, of interest because it coincides with widely spread savage practices, and also with what we have already found to be apparently true of the prehistoric Italians. Dead children were treated differently from dead adults. Not only do they seem to have been considered less important, whether for the reason suggested above or not, but the ritual for them was different, especially if they were very young. Pliny the Elder<sup>13</sup> notes that it was nowhere the custom—*mos gentium non est*—to burn a dead baby who had not yet cut his teeth. So for the Italians and whatever other peoples he may refer to, we may claim in this respect a very old and primitive survival.

If, therefore, the Romans had several words more or less corresponding to 'soul,' and therefore presumably believed originally that a man had several souls; if they thought a dead man might become a bogey; if also they either held two contradictory views of the nature of the after-life, or else imagined that the soul of a noble would have a totally different lot from that of a commoner; if they made a sharp distinction between dead children and dead adults; it follows that their ways of thought in those matters had still a good many savage elements in them. As also we have seen traces of savage notions in their ideas concerning the other great crises of individual life, it is fair to say that in this very conservative region of human thought they were some few stages nearer than ourselves, or than the classical Greeks, to the 'primitive.'

## NOTES ON CHAPTER VII

<sup>1</sup> **Plautus, *Amphitruo*, 722.** For the Slavonic parallels, see A. Strauss, *Die Bulgaren* (Leipzig, 1898), p. 293 ; F. S. Krauss, *Slavische Volksforschungen* (Leipzig, 1908), p. 58.

<sup>2</sup> There is no important work in English dealing especially with Roman, or ancient Italian, views concerning birth and childhood. A good deal of information will, however, be found in the works named in the General Bibliography, and under the appropriate headings in any classical dictionary, such as Smith-Marindin, or Daremberg-Saglio.

<sup>3</sup> The great storehouse of information concerning Roman marriage in all its aspects is still Rossbach, *Die romische Ehe* (Stuttgart, 1853). His interpretations of many details, particularly those dealing with magico-religious matters, are of course now quite out of date. A number of points are discussed in my edition of Plutarch's *Roman Questions*.

<sup>4</sup> Especially of Catholicism, and therefore of canon law. See on this point, Westermarck, *History of Human Marriage*, third ed., vol. iii, p. 328 ; cf. *Encycl. Brit.*, eleventh ed., vol. viii, p. 3366.

<sup>5</sup> *Quaest. Rom.*, 50. For further discussion, see the notes in my edition, p. 191.

<sup>6</sup> Westermarck, *op. cit.*, vol. iii, p. 268 foll.

<sup>7</sup> Rossbach, *op. cit.*, especially p. 23.

<sup>8</sup> **Plut.**, *Quaest. Rom.*, 9, where see my notes.

<sup>9</sup> See, for the proverb, Festus, p. 450, Lindsay.

<sup>10</sup> I have discussed these questions in *Classical Quarterly*, vol. xviii (1923), pp. 57 foll., 191 foll. Cf. *Le culte des Mros et les dieux manes*, in *Actes du congrès international d'histoire des religions* (Paris, 1925), ii, p. 138. The reference to Nilsson is *Hist. of Gk. Religion*, p. 35.

<sup>11</sup> *Religious Life in Ancient Egypt* (London, 1924), p. 110,

<sup>12</sup> See above, chap. II, and compare *P.C.G.*, chap. VI and notes.

<sup>13</sup> *Nat. Hist.*, VII, 72.

CHAPTER VIII  
FAMILY AND CLAN

HAVING watched the progress of the individual through the successive stages of his life, we may now ask what the group was like to which he belonged, and what was the nature of his relations to the other members of his family. Here we are treading to a considerable extent on familiar ground enough, for, since the publication of Maine's *Ancient Law*, a type of family life much older and a good deal nearer primitive conditions than that existing to-day in Europe and America is familiar to the educated public generally. Moreover, one need not be a classical scholar to have heard of the powers of the Roman father, and the extent to which the rest of the household, wife, children and slaves, were subject to his will and governed by his authority. The Roman lawyers themselves noted this feature of their culture, the *patria potestas*, as characteristic and not exactly paralleled in any other civilization of which they had any knowledge; although if they had been better acquainted with India, they might have found something very like it there.

To review very briefly what Maine has said excellently and at adequate length, the Roman household of early days, and in all probability the household of other Italian communities, was of the type known as the undivided family. So long as the house-father

lived his sons were under his authority. They might reach maturity, marry, and have children; but they were none the less minors, so far as he was concerned. Even the State, jealous though it was of its suzerainty, could not wholly put an end to this arrangement in the persons of its own magistrates. If the father were a private citizen and the son a consul, the latter was the superior while they were together in public, for in him was incorporated the authority of the Republic itself; but under the paternal roof the relations were reversed, and it was at least theoretically possible for a father to put to death the son whose orders he must take if they were engaged together on military service, or some other piece of public business. If both were private citizens, they could never, as is possible under our laws, meet as equals. As soon as the father died, the authority passed to the son, who now became *paterfamilias* in his turn; primogeniture, however, was not a fixed Roman rule in inheritance.

The family being thus undivided, it is highly likely that in the country at least, and in early days, they all lived under one roof, like an old-fashioned Hindu or Slav household, perhaps several score persons (the head of the house and his wife, the sons and their wives, any unmarried sons and daughters that there might be, and the children of the married sons) besides the slaves belonging to the family, all forming a social unit, self-contained to a far greater degree than a family as we know it. This would of course in time become unwieldily large and split up into several families, with which the same process would be repeated.

It is therefore not a little strange to notice that Latin has no word which exactly means 'family,' for *familia* signifies a household, especially the slaves of

the household, being derived from *famulus*, a slave. The nearest approach to 'family' is perhaps *stirps*, and even that is rather 'line of descent' than what we generally mean by a family. It properly signifies the trunk of a tree. The word which occupies in Latin a place corresponding to 'family' in English is *gens*.

This we may translate 'clan,' and the word is especially appropriate, as the nomenclature of ancient Italy was very like that of the Highlands of Scotland. As the characteristic Highland name is of the form Ian MacTavish, so in ancient Italy the characteristic name was of the form Marcus Tullius—Marcus the descendant of Tullus, the termination *-ius* having the same force as the Gaelic *mac*. The sister or daughter of Marcus would be called simply Tullia, the feminine form of the clan-name, though she might be given, in her own home, some personal name also, such as Tertia ('Number Three'). The clan would be the *gens Tullia*, and, like the clan MacTavish, it would include many families, in our sense of the word. In time many of these came to be distinguished by an additional name, originally the individual nickname of some prominent member. Thus, some time early in Roman history, a member of the *gens Licinia* got the nickname of Crassus ('the Fat'), and this passed on to his descendants, exactly as the surname of Magnus or Great was borne by the descendants of the famous Pompeius who in the first century B.C. won that honourable title. Such an additional name, or *cognomen*, was by no means always borne, and therefore the 'three names' so characteristic of Roman nomenclature were not always to be found in any particular individual; on the other hand, *cognomina* sometimes in their turn rose almost to the dignity of clan-names; witness the importance of the

Claudii Marcelli, the descendants of a Marcellus who was, to begin with, a retainer or client of the great *gens Claudia*. It is as if the sons of a particular Ian MacTavish whose dark complexion had got him the nickname of Dhu, or the Black, were to add that epithet to their clan-name as a handy way of distinguishing themselves from other groups of MacTavishes.

So far we have clans in Rome reminiscent of the Highlands of Scotland, and 'undivided families' for which parallels can be found in India; and so far, we have met with nothing which is savage, or even barbarous, or inconsistent with a high civilization; for even if one shares the views of John Pinkerton with regard to the mental and moral level of the Gaels, it will hardly be contended that the Hindus are other than a civilized people, albeit of a civilization in many ways unlike our own. But it is generally (not universally) supposed that the family, whether or not it forms part of a group of families known as a clan, is not the earliest form of human society. Apart from all questions as to the absolute beginnings of the communal life of man, whether in a horde, a small group like the 'family' of some of the higher apes, or what not, the type of clan which is not divided into families, but into age-classes, has serious claims to antedate the family. I have very briefly described it in the opening chapter of this book, and a little more will be found in *Primitive Culture in Greece*.<sup>1</sup> The essentials may be summed up as follows. The members of such a clan are all related to one another, but do not count relationship as we do. In the ideally perfect form of such an organization, supposing it to count descent, as we do, through the male, all the men of the senior age-class would be 'fathers' to the whole of the age-class below them; all the

women (imported from another clan) to whom they were married would be equally the wives of all of them ; all the age-classes below them would be their sons and daughters, and would be brothers and sisters to one another. The fact that the actual parents of a member of this lower class were known to be two individuals of the higher one would make no difference in their official relationships to one another; the younger clansman would be just as much the ' son ' of any other member of the senior class as of his own physical father.

Complicating this would be a number of grades, amounting to less than the difference of a generation, the members of each grade being perhaps a few years, perhaps only a year or two, above or below that of the next. These and the grade below them, or above them, would call each other by terms more or less equivalent to ' elder brother (sister) ' and ' younger brother (sister). ' All these names would be unconnected with actual blood-relationship, as we understand it, though some blood-relationship would no doubt exist between most members of the clan. The really important thing about the terminology would be that it indicated the precise point occupied by each member relative to the degrees (often numerous and complicatedly arranged) within which marriage was possible or impossible, permissible, compulsory, or preferable. Hence it is that often the names used are reciprocal, as is natural enough when the elder addressing the younger, or the younger addressing the elder, is really saying, ' Man not of my age-class whose sister I may (or may not) marry, ' or the like.

Whether this perfect group-organization exists anywhere, or ever did exist in this unmixed form, is a matter which need not be discussed; what is important is, that

approximations to it are quite well-established facts,\* and that it is admittedly a very old institution. If therefore we find any reasons for supposing that it once existed in Italy, we are justified in saying that a very old, 'primitive,' social organization existed there not so long ago, but that something of it survived into historical times, at least as a dim memory.

Latin—of the other Italian languages we know but little in this connection—possesses a full set of words signifying relationship, and another signifying connection by marriage. In their classical use, they are as definitely connected with blood-kin as our own words are, *frater* corresponding to *brother*, *pater* to *father*, *filius* to *son*, and so forth; indeed, many of the Latin words are etymologically the same as their English equivalents. But even among the words already mentioned, there is one which sometimes has a wider meaning than with us. *Frater* does indeed generally signify a brother in our sense; but (in classical usage, with the addition of the adjective *patruelis*) it also means a cousin on the father's side. Now supposing group-relationship to have once existed, this is exactly what we should expect to find, for under that system, as already mentioned, all the men of the same age-class would be clan-brothers.

But can 'father' in Latin be stretched to mean 'male of a higher age-class'? Not quite; but it is noteworthy that the word for the paternal uncle, *patruus*, is simply *pater* with a different suffix. It is also perhaps worth noting that the paternal uncle was proverbially strict—'to play the uncle' means 'to scold,'

\* For an admirable description of one, see Rattray, *Ashanti* (Oxford, 1923), Chapter I.

suggesting that he had traditionally a good deal to do with the bringing up of the younger generation.

Another very curious fact concerns two pairs of relationship-terms. 'Grandfather' and 'grandchild' are practically the same words as 'uncle' (maternal) and 'nephew' or 'niece,' viz., *auus* and *nepos* in the one case, *auunculus* and *nepos* in the other. The exact meaning of *auunculus* is perhaps 'little grandfather,' but it is by no means certain that the suffix *-ulo* had the sense of 'little' at the early date when the word was formed. The paternal uncle's wife has only a baby name, *atnita*, which is one of a world-wide series of nursery words represented in English by 'mammy' and 'nannie'; the maternal aunt is practically called 'mother' (*matertera*).

Side by side with these confusions, more or less complete, of relations whom we distinguish, go some distinctions between relations whom we hardly distinguish at all, in English at least. A cousin, the child of a father's brother, is as we have seen called *frater (patrueelis)*; but if he is the child of the father's sister, he is *amitinus*; so also if he is the child of the mother's brother. The general name for cousins on the mother's side, the children of her sisters, is *sobrini* or *consobrini*, words connected with the name for \*sister' (*soror*) itself.

What all this means it is hard to say, unless we assume that group-relationship once existed. If that was so, then a man would have good reason to differentiate between the children, especially the daughters, of his father's brother (own or clan) and of his father's sister. The former, if the succession was in the male line, would be his own clan-sisters, whom he might not marry; but the latter, since their father, the maternal aunt's husband, was of the intennarrying

clan, were themselves members of that clan, and therefore suitable mates. A woman would have no particular need, on the other hand, to differentiate between her mother's father and her mother's brother. If her mother was, let us say, a Fabia who had married a Iulius, then her daughter was a Iulia, and her brother and father alike were Fabii. But under the simplest form of exogamy, any Fabius might marry any Iulia; therefore either the *anus* or the *auunculus* might marry the granddaughter of one, the niece of the other. Therefore both indifferently might address her as *nepos* (the feminine, *neptis*, is a comparatively late word).

Another thing which can be explained by the assumption of group-relationships in early Italy is the name given to what we colloquially call the 'in-laws.' They are termed *adfines*, which properly means 'those at the boundary,' and it is a legal maxim that there are no grades of affinity; in other words, if A marries B, he is just as much connected by marriage with her second cousin as he is with her brother or sister. If the *adfines* were originally a clan not one's own, from which wives were regularly, or always, obtained, this is understandable enough; they were just a group of people whose existence was welcomed, or at least tolerated, because wives must be had, and one's own women-folk must be given in marriage; but what grades of kinship they might recognize among themselves was purely their affair, and no one's else.

Finally, the words for 'aunt' fit in very well with this assumption. It is very common to use the same word for 'mother' and 'mother's sister' under a group-system; for instance, the people of Central New Ireland, who once had group-relationship, use the word

*makai* for both ; the Maras of Australia, who still have it, usft *katjirri* for both. The first stage in changing to a system of nomenclature like our own would be to institute some difference in this term, and just such a difference we have in the simple form *mater* and the more complicated *matertera*. Under group relationship, if only two clans were concerned, the paternal uncle's wife and the mother's sister would be one and the same. But when blood-relationship came to be recognized, it might very well be that they would no longer be the same. A group of clan-sisters marry a group of clan-brothers; they are all equally sisters to one another, hence all equally *materterae* of the children of any one of them ; moreover, their husbands all being brothers, each woman occupies the position of paternal uncle's wife to any child not her own. But when the group system breaks down, this is no longer the case; even if, say, all the Fabiae continue to marry Iulii, a particular woman may very well have a sister married to the blood-brother of her husband, and therefore the wife of her children's paternal uncle, while another sister was married to a more distant relation, and so is merely *matertera* to her children. Later still, the second sister may have married into a third clan, and thus stand in no relation, save that of affinity, to her sister's husband. In such cases it was convenient to have a different name for an aunt by marriage, who might now be no blood-relation of her husband's brother's wife, and the baby-name, as it seems to have been, *amita*, was pressed into service.

I have assumed throughout that exogamy existed, that is, that originally a Roman, and probably any Italian, did not marry in his own clan, and quite possibly must marry from some one other clan. The latter

is pure hypothesis, and of no importance; of the **former** there are fairly clear traces left. Firstly, the history of Roman legislation has been well summed up by Rossbach,<sup>3</sup> who says that its tendency was to lessen the restriction on marriage between blood-kin (originally, as I would understand it, between clansmen) and to increase the restrictions on marriage with *adfines*. It is, therefore, not unlikely that the prohibited degrees, which in early historical times extended to second cousins on the father's side, once included all who had the same clan-name ; so that no Claudius, for instance, could marry a Claudia. Next, there is the wedding formula, 'Where thou art Gaius, I am Gaia.' It has been pointed out by Mommsen that this means 'I am now of your clan,' Gaius (in later times Gaius) being here not an individual name, but a clan-name or *nomen*. If the woman was of the same clan as the man to start with, or might be so, why should she use any such formula? Thirdly, we have the fact that a widow could not, without special leave, marry again outside the clan of her deceased husband. This is proved by a rather curious case. In the year 186 B.C. a freed-woman of anything but unblemished reputation rendered a great service to Rome by revealing a dangerous conspiracy, or what was represented as such, the immoral and murderous orgies of a sect of worshippers of Bacchus. The grateful Senate gave this woman, among other rewards, the highest position which a woman could have under the then existing laws.<sup>4</sup> Besides removing all the disabilities resulting from her servile origin, they granted her 'leave to marry out of the clan and to choose her own guardian, as if her husband had left her permission by will.' She **had** never had a husband, but was now given **the** status of

a widow; and lest that should carry with it the obligation to marry, if at all, within the clan of her former owner, she was granted the freedom which a widow might be granted if her husband, or presumably her husband's clansmen after his death, saw fit. Now this certainly does not mean that a clan was not exogamous; what it seems to signify is that a married woman was the property, not simply of her husband, but of all his *gens*. The bride-price was originally paid, we may suppose, with money or other valuables belonging to the clan, as probably all property did originally, or the bulk of it at least; hence very naturally, if a widow wanted to re-marry, she must do so in a way which would not alienate the clan's property, without its permission. It is noticeable that there is a special name for a husband's brother, *leuir*, and that marriage between the *leuir* and his brother's widow seems to have been not uncommon; it may very well be that the custom which we now know as levirate existed, under which the widow became automatically the *leuir's* wife; and that earlier still she was, at least in theory, the wife of a whole group of clan-brothers, not of an individual.<sup>5</sup>

I have further assumed that descent was throughout traced in the male line, that is, that the Italians always had father-right, as we have. This may seem at first glance a somewhat bold assumption, since we know that the Etruscans had mother-right, and it has been more than once suggested, or assumed, that the Italians, and in particular the Romans, had it also. There is no space to go into the question here, for it is somewhat complicated and technical; but it may be said briefly that Roman law, so far as it can be traced back, involves father-right in a developed and rigid form, and

that none of the arguments brought forward to prove the existence of the other system in any section of the Roman population proves satisfactory when critically examined. What of course did exist in historical times was the recognition, for social if not for legal purposes, that there was such a thing as relationship through women; that if two persons had, for instance, the same mother but different fathers, they were akin, whatever the law of inheritance might say. Just as in England, so in Rome, the fact that such people are related to one another led in time to a certain modification of the law itself. But this topic is unconnected with our present subject.<sup>6</sup>

Our evidence therefore indicates, I will not say proves, that there existed in Italy, not down to historical times but late enough for the historical speech to preserve some traces of it, this very old-fashioned organization which we may perhaps call the undivided clan, as opposed to the ordinary clan, familiar from historical Rome or Greece, or from Scotland in modern times, which subdivides into a number of families. Be that as it may, *the gentes*, though shorn of any political power which they may once have had, continued to survive for a very long time as corporations, having a legal and, so to speak, an ecclesiastical existence. That organization is certainly not yet a mere survival which has gods of its own and a common chest, even if it no longer worships none but its own gods, or has ceased to have all property in common. And that clan-cults (*sacra gentilicia* as they are technically called) and common clan property did survive is made clear not only by general statements, but by definite instances of late enough date for us to hear of them in considerable detail.

First, as to the common cults. How much importance was attached to them is clearly shown by a well-known passage in Livy,<sup>7</sup> to the following effect. When the Gauls, in 387 B.C., had occupied the most of Rome and were besieging the Capitol, the time for a certain sacrifice which the *gens Fabia* used to celebrate on the Quirinal came round.

'Gaius Fabius Dorsuo,' says the historian, 'girt himself in Sabine fashion' (the method of wearing the toga which was usual in most Roman ritual), 'took the holy things in his hands, and climbed down from the Capitol. Passing through the midst of the enemy's outposts, unmoved by their shouts and unafraid, he made his way to the Hill of Quirinus, and having there duly accomplished all the ritual, he returned the same way, still with unmoved countenance and unhurried step, being well convinced that the gods, from whose service not even the fear of death could stay him, were on his side. So he came back to his friends on the Capitol, the Gauls being either lost in wonder at his daring, or perhaps also influenced by religious scruples, for they are a race by no means impious.'

Livy does not vouch for the accuracy of this part of his history, nor does it matter for our purposes whether the story is true or not. If it is not, then whoever invented it regarded it as quite reasonable that a man of proper feeling should be ready to risk even death in order to fulfil the religious obligations of his clan. Livy himself clearly regards the act as brave, but not as foolhardy nor a wanton risk of a valuable life.

That the importance of these clan ceremonies lasted far into the fully historical epoch is evident from the circumstances attending the adoption of Cicero's bitter political antagonist, Publius Clodius. This man, one of the most unscrupulous politicians of the day, desired to stand for the office of Tribune of the Plebs, a post which could be held only by a plebeian. Now he was

of patrician birth, a member of the ancient *gens Claudia*. He therefore, in a manner which Cicero declares to have been most irregular and indecently hurried, became the adopted son of a plebeian, a member of the *gens Fonteia*. The irregularity which Cicero denounces consisted in this, that proper precautions were not taken to ensure that some one should be left to carry on the clan-rites of the patrician Claudii.<sup>8</sup> It was for this reason, the importance attached to the continuance of *sacra gentilicia*, that adoption was so formal and so public an affair. The State priesthood supervised it, making certain that the natural kin of the person to be adopted had some one to replace him, and also that the clan into which he was passing really needed him, or, in later times at least, that at all events the particular family which he was to enter would otherwise be likely to die out for lack of heirs male. Then the adoption had to be authorized by a formal decree of the people, assembled in the very ancient folk-moot known as the *comitia curiata*, a body which in historical times had long ceased to perform any but purely ceremonial and formal business, but which was once, no doubt, the regular machinery for legislative affairs.

This twofold insistence on the continuance of a clan or family, coupled with the circumstance that an heir regularly took charge of the religious duties of the man from whom he inherited (an 'inheritance without religious obligations,' *hereditas sine sacris*, was proverbial for unadulterated good luck), produces the impression that the *sacra* consisted of the cult or tendance of the dead of the clan; and indeed there is no reasonable cause to doubt that this was an important part of them. It should, however, be noticed that

this was not the whole content of the rites, for we often hear of *a gens* taking charge, not seldom at the instance of the State, of rites which certainly had nothing to do with deceased ancestors, their own or anyone else's. Thus, the ritual of Hercules at the ancient altar, the Ara Maxima, in the Forum Boarium or cattle-market, near the Palatine, according to tradition was originally in the hands of two clans, the Pinarii and the Potitii; and it was said that when the latter clan was induced, by the famous radical Appius Claudius the Censor, in 310 B.C., to reveal the secrets of their ritual to agents of the State, they all died out within a month, to the number of twelve families; 'which,<sup>1</sup> says Livy,<sup>9</sup> ' might give pause to attempts to tamper with sacred rites.' Almost as famous was the relation of the *gens Iulia*, the clan of the Caesars, to the Hellenized cult of Venus, whose worship, for she was not originally a Roman goddess, they seem to have been largely instrumental in importing from the famous shrine of Aphrodite at Eryx in Sicily. To such an extent was she regarded as their own peculiar goddess that the legend, immortalized by Vergil, that she was their ancestress, appears to have grown up out of it.

It is worth mentioning, though it is really no more a primitive custom than many of the traditional ways of our own older families, that some of the Roman houses had tabus and ' mascots ' of their own. Thus, the Serrani,<sup>10</sup> a good old family which clearly retained old-fashioned ways, would not allow their women to wear linen—the same tabu is found elsewhere, and seems to rest on the fact that the cultivation of flax, although fairly early in Italy, is not native, and was introduced from abroad late enough to leave a prejudice against it on the part of the more old-fashioned

gods and their worshippers. A better-known house, the *gens Servilia*, had a most curious rite of their own, concerning which Pliny the Elder, a man of vast learning and considerable power of believing the incredible, has some curious information.

' The clan of the Servilii,' he says, ' which is famous in our annals, feeds a bronze *triens* ' (a copper or bronze piece of small value) ' with gold and silver, and it consumes both. I can learn nothing of its origin or nature, but will quote the very words of Messalla the Elder. " The house of the Servilii has a sacred *triens* in whose honour they annually perform elaborate and splendid rites, and they say that it has appeared now larger, now smaller, and that thereby the exaltation or humiliation of the house is portended." '

One question may be asked in passing, whether these *gentes* show any signs of having been totemic in their origin. There are signs of the worship of, or at least of reverence paid to, various beasts and birds in Italy, and some might be inclined to associate this with the names of sundry houses, which clearly derive from those of animals or plants. Thus we have the Porcii, or Pig-men, the clan to which both Marcus Porcius Cato, the famous Stoic and his greater ancestor, Cato the Censor, belonged; the Bubulci, or Neat-herds; the Lentuli, which apparently means the Lentil-men; the great clan of the Fabii, who clearly have something to do with the ordinary word for a bean, *faba* ; while the great orator Cicero shows in his *cognomen* some connection with the chick-pea (*cicer*). To this may be added the fact that many of the standards borne by Roman armies were of animal form. The eagle is the most famous; but we know<sup>11</sup> that in former times other creatures, such for instance as the wild boar, likewise found their way to the heads of Roman battalions.

Add to this the fact that numerous birds were observed in order to take omens from them, and that some at least, although not, like the woodpecker, connected with any particular god, were still revered and not molested. For instance, we have good authority for stating that vultures were favoured in this way. Now totem-animals do on occasion give omens, and so there would seem to be some reason for suggesting that these creatures were once totems.

But on the other hand, it must be remembered, first that the most careful and learned students of totemism have failed to find so far anything like convincing proof of its existence anywhere in ancient civilization, whether Greek or Roman ; secondly, that to reverence a creature of supposedly supernatural powers is not necessarily connected in any way with supposing it to be a clansman of one's own or of anybody else; thirdly, that we do not find, in connection with the names borne by Roman families, the slightest indication that they were subject to any of the tabus characteristic of totemic clans. Thus, we have not an atom of proof that the Fabii would not eat beans, or that they were supposed to have any magical influence over their growth ; it is not said that the Porcii had any scruples against pork, or the Bubulci the least hesitation in sacrificing cattle or feeding on beef. In an agricultural community, such names are very natural, and some at least were explained by the ancients themselves as indicating that the people in question possessed many cattle, or were diligent in cultivating some particular food-plant. Names such as Shepherd are common enough among ourselves, and I see no great reason to suspect the ancients' accuracy when they assure us that some of their names were of the same type. It

may, however, be urged that the etymologies I have assumed are far from certain; W. Schultze, for instance, in his great work on proper names, *Zur Geschichte lateinischer Eigennamen*, is inclined to refer many of them to Etruscan origins, in which case their meaning is unknown. The case for Italian totemism seems to me on the whole to be even weaker than that for the occurrence of the same System in early Greece.<sup>18</sup> As to the animal standards, we find legions under the Empire adopting such badges as a boar or a winged horse often enough, and the reasons for supposing that any recollection of totemism had survived so late as that are non-existent. Perhaps some future anthropologist with more zeal than discretion, will discover that the Welsh Fusiliers practised totemism, on the strength of their famous mascot, the goat.

It remains to say a word about the possession by the *gens* of common property. Without anticipating what will be said in a later chapter about Roman law, it may be mentioned here that a good deal of evidence points to the non-existence in early Italy of personal property, at least in many important forms. Land especially was not for the individual to deal with as he chose, and probably slaves, household furniture and the like were owned to a great extent in common. But the commonalty which owned these things was not the State, but rather the *gens*; and hence no doubt comes the characteristic Roman disapprobation of spendthrift ways; the man who wasted his substance was not simply behaving like a fool and injuring himself and his children, but rather like a dishonest trustee, ruining the estate which was not his to dispose of. Hence, no doubt, that excellent provision of Jheir law which put such a man under a guardian to manage the

property for him; we may guess that in the old days his clan simply met, declared his management of their common property unsatisfactory, and put another in his place. We may also reasonably conjecture that the institution of wills was a comparatively new thing in Italy. In Rome at any rate they required the same formal sanction, by the *comitia curiata*, or assembly of the *curiae*—old local divisions of the people—which was given to adoptions to make them valid, although in course of time other and less cumbrous testamentary procedures were invented. But it remained the rule that the property at least of some of the humbler members of a *gens*, the freemen, escheated to the *gens* at their death, in default of near kin to inherit. In connection with this we may remember a famous lawsuit, of which Cicero gives us an account, tantalizingly brief and fragmentary, doubtless because every lawyer and every educated Roman of his day knew it well, and needed but a mere allusion to make him understand what was referred to. An estate, that of a freedman, had in this way fallen in to the clan; the question was, which clan was to have it. No one doubted that the man's patron, *i.e.*, his father's former master, was a certain Claudius Marcellus, and therefore the Claudii Marcelli, who were an important group of plebeians, claimed the property. But objections and a counterclaim were at once raised by the main clan of the Claudii, who were a still more important group, and of patrician origin. Again, no one doubted that the Claudii Marcelli were historically an offshoot of the clan, probably originally a group of retainers or perhaps even of ex-slaves of some of its members. The question was, in the technical language of that day, whether the inheritance should go *stirpe* or *gente*. The former

is what modern treatises on Roman law call agnatic succession; according to it, certain property belongs to an individual, and when he dies, the natural person to take it is his son, or failing him, other kinsmen in a definite order of succession, beginning with those nearest him in the male line of ascent or descent. The latter is founded on an entirely different idea. The property never belonged to the individual at all, although he had the use of it during life ; now that he is dead, it returns once more to its real owner, the clan—the whole clan, not simply those members who were (to our ideas, or those of Rome in the days of the great lawyers of the *Digest*) nearest to him in blood. The Claudii Marcelli stood at once for something like the modern conception of the family, for they claimed, although not a clan, to be recognized as a legal corporation with the right to possess property, and for the modern methods of reckoning kinship, as a thing of degrees, not a matter of classes and groups. We do not even know how the court decided between old and new ; it is a thousand pities that the pleadings and the text of the decision are lost to us.<sup>13</sup>

Thus we see that the clan or *gens* shows signs of being, in Italy, a very ancient, rather primitive institution, and that it continued to exhibit no little vitality. If we compare this with the state of affairs in Greece, we shall find that the traces of old group-relationships are much more numerous, and come nearer an actual proof of the former existence of that system ; that the common rights of the clan and the importance of belonging to it remained realities, and not mere formal survivals, much later, as is shown alike by nomenclature and law; and we may add, that the linguistic confusion between the words for 'clan' and

for 'family' comes in Latin at a date long after they had become so confounded in Greece that probably none but a few antiquarians realized that they were different. The Romans in this respect, and in all probability the other Italians also, were a step nearer the primitive than the Greeks, and two or three steps nearer it than we are.

## NOTES ON CHAPTER VIII

<sup>1</sup> Pp. 15, 167 foll.

<sup>2</sup> I have discussed this more fully in an article, *Patricians and Plebeians at Rome*, in the *Journal of Roman Studies*, vol. xii (1922). So far as I am aware, it had not previously been handled by anyone else, at least in English.

<sup>3</sup> *Die romische Ehe*, p. 438.

<sup>4</sup> Livy, Bk. XXXIX, chap. 19.

<sup>5</sup> See the references, in the last chapter, to authorities for the ceremonies of Roman marriage. Mommsen's interpretation of the formula 'where thou art Gaius,<sup>1</sup> etc., will be found in his *Romische Forschungen*, I, p. 11 foll.

<sup>6</sup> See, for a full discussion of the matter, *Roman Questions of Plutarch*, p. 93 foll., and *Folk-Lore*, 1920, p. 93 foll.

<sup>7</sup> I, 46, 2.

<sup>8</sup> See Cicero, *de domo sua* (that this speech is really by Cicero is no longer doubted by the best authorities), 35 and 116, and for the sacredness of domestic worship in general, *ibid.*, 109.

<sup>9</sup> X, 29, 9.

<sup>10</sup> See Varro, quoted in Pliny's *Natural History*, XIX, 8; for the Servilii, see XXXIV, 137, of the same work.

<sup>11</sup> Pliny, *op. cit.*, X, 16.

<sup>12</sup> See *P.C.G.*, p. 47 foll.

<sup>13</sup> See Cicero, *de oratore*, I, 176, and the commentators there. I have briefly discussed it, *Journ. Rom. Stud.*, *loc. cit.*, pp. 124, 133.

## CHAPTER IX

### THE LAW. I. CRIMES AND TORTS

**I**N no field of Sociology, save that of Religion, has the application of the Comparative Method been so fruitful as in the study of the early history of Law. If we open a manual of the last generation, even so excellent a one as Austin's *Jurisprudence*, we find in it much the same theoretical account of how laws may be supposed originally to have sprung up as we find in Cicero, for example, or Aristotle, or writers earlier yet. These authors deduce it, that is, from such thoughts and feelings as they themselves have, supposing that primitive man must have had the same. Thus, as they hold human life to be a thing of great value, if not actually sacred, they suppose that the sight of one whom he had himself slain must have filled the savage with terror and remorse, and thus set afoot so strong a detestation of homicide, except within certain very narrow limits, that the evolution of a custom, and so in time a definite law against it, was a matter of course. To Austin, Cicero, and the rest, it is self-evident that a man who has tilled a field or tamed a beast has a right to the result of his labours ; therefore they suppose that the law of individual property has its roots in primary instincts. At most, the older writers picturesquely suppose that a man of more advanced intelligence and keener moral feelings than his fellows, a Numa Pompilius or an **Orpheus**, pointed

out to the rest that violent actions were inconsistent with what they must see, on a moment's reflection, to be their own best sentiments and most obvious principles, and so with but little trouble induced all but a few rascals to join with him in creating a law-abiding community—a community, that is, which obeyed substantially the same laws as those governing a modern one. Lucretius, still more vividly, pictures primitive savages meeting each other and laying the foundations, if not of international law, at least of justice and mercy in individual dealings, by 'setting forth, with stammering words and with gestures, that it was right for all to have pity on the weak.'<sup>1</sup> Those who did not hold such a theory, but denied that such sentiments as a desire to deal justly were natural to man, introduced the more complex theory of a social contract, by which early man, seeing clearly that anarchy was more likely to hurt than help him, struck a bargain with his fellows on the basis of mutual abstinence from injury.

As a theoretical basis for a system of law, this old idea doubtless has its merits, which this is not the place to discuss; but historically it is far from the facts. The savage has indeed ideas of what we might call right and wrong; but they often differ very widely from our ideas. He is generally very moral, in the sense that he makes his practice coincide to a large extent with the half-articulate notions which he holds; but his morality is not ours. So, if we look, for example, at his attitude towards homicide, we shall find it almost the reverse of that which inspires the modern jurist.

To any modern system of law, the individual, so long as he is not guilty of serious crime, has a **right to**

be left unmolested by the rest of his community, and also by members of any other community among whom he may find himself. To kill or injure anyone, native or foreign, save in self-defence, in the abnormal circumstances caused by a state of war, or in the lawful execution of a sentence passed by competent authority, is an action which is *prima facie* unlawful, and can go unpunished only if the perpetrator of it can show that for some reason, such as accident, the responsibility does not really rest on his shoulders. Even then, he may be called upon to pay the penalty for undue negligence in the matter, in other words, for not bestirring himself to save his fellow-creature from hurt. But to the savage, a very large class of homicides which we should regard as culpable are, not only no murder, but no crimes at all. Others, again, which we should regard as pardonable, because resulting from some cause over which the killer had no sort of control, or from a mistake which he could not have avoided, the savage, like many generations of men who had passed savagery, looks upon as the blackest of offences.

Moreover, when we find a man guilty of murder, in most modern States, we generally proceed to put an end to him, by the gallows or the guillotine; this is done deliberately, by an official appointed for the purpose, and by direct command of the proper authority. The savage in such a case is confronted with a grave difficulty. If the culprit is stained with the horrible pollution of slaying, he is too dangerous to be allowed to live among other men; but who will make himself equally impure and dangerous by shedding his blood? He must, as a rule, be got rid of without killing him, although, if he is so accommodating as to die of his own accord, that is the handiest

solution of the whole difficulty. Now the slayer is dangerous and polluted only, or principally, if he has killed one of the community, especially one of the clan. The clan, therefore, or in somewhat later days the larger unit, tribe or village, of which the clan forms a part, takes means to cut him off from itself. In other words, the savage, as a rule, does not execute anyone by way of punishment, but gets rid of him in self-defence. So we rid ourselves, as humanely as may be, of one suffering from a dangerous and contagious disease, lest he infect others. If he recovers, he is received back again into ordinary life; and so, if purification be possible (as it generally comes to be for many kinds of slaying), the savage and the half-civilized man receive the slayer back again.

Let us now look at a vestige of the older law which survived into Roman practice at a time when that majestic body of statutes on which much of our modern jurisprudence rests was already in being. In the days of Cicero, and for long after him, a man guilty of slaying his father, *diparicida*, was not treated like other murderers. The name by which he was called was supposed, though wrongly, to mean *patricida*, father-slayer. On being found guilty, he was not, like the ordinary criminal condemned on a capital charge, allowed to slip away into voluntary exile while the jury were recording their votes, nor was his head struck off by the lictor's axe—the doom which theoretically awaited those condemned, for instance, for ordinary murder. He was first of all shod with a sort of wooden clogs, his head wrapped in a wolf-skin, and a bladder tied over his mouth; next, he was beaten with rods of a special kind, probably of cornel-wood, which had certain magical properties. Then a leather sack

was prepared, into which he was sewn; in historical times at least certain ill-famed beasts, a viper, a dog, and a monkey, were sewn up with him. It is clear that the monkey at any rate cannot be original, none being found nearer than Africa. Now he was dragged by black oxen to the Tiber, and the sack flung in, to be carried down to the sea; or, sometimes, to the sea itself. There he was left, to live, as Cicero says, while he might, but not in contact with the air, and to die, but without his dead body touching the water, or the rocks upon which it might be cast.<sup>2</sup>

Before considering this horrible mode of death, let us look at two other victims of early Roman law, sacred or secular—the difference, for early times, of course did not exist. Livy<sup>3</sup> and several others tell the story of how the valiant warrior Horatius killed his sister, was arrested and condemned by a pair of judges chosen by the king, appealed from their sentence to the people, and was by them set free from all secular penalties. Had the defendant in this prototype of all trials before the people been left to his fate, he would according to the terms of his sentence have been 'hung by a rope from an unlucky tree' (that is, one which bore no fruit, or none of any use to man), 'and scourged, either within or without the *pomerium*'—the sacred boundary of the city. During the carrying out of this sentence, his head would have been covered. That he was to be 'hanged by the neck till he was dead,' or that any fatal injury was to be inflicted upon him, we are not told. Of the length or severity of the scourging, nothing is said, but it may be that he was to be beaten to death. In the case of an unchaste Vestal, the ritual was more ghastly still. An underground room was prepared, and into it she was lowered,

**with a lamp and a little food and drink; then all was covered** over, and certain rites intended **to avert evil** performed above the ill-omened place.<sup>4</sup>

A good deal of confusion has been introduced into the subject by speaking of all three of the above ceremonies as executions. Of the three, only the treatment to which Horatius was sentenced has any right to the name. He had been found guilty of *perduellio*, or treason, in that he had killed a member of the community, namely, his sister, thus putting himself in the position of an enemy who kills Roman citizens. Of the sacral side of his offence, nothing is said in the traditional accounts, except that after his acquittal he was obliged to go through certain purificatory rites. But it is noteworthy, even so, that his head was veiled, like that of the *paricida*. To Livy and the other authorities, there is not doubt that the sentence was supposed to be a sentence to execution; we shall see reason presently for doubting if this be really true.

As to the *paricida*, the case is perfectly plain. If we consult modern philology concerning the real meaning of the word, we find that it means, not 'slayer of a father' but 'slayer of a kinsman,' the first syllable representing the root of a very ancient word, older than the Latin language itself, *pdsos*, which by regular phonetic changes would become *paros* or *parus* in Latin, *pds* or *peos* in Greek; the last two words are actually found in Greek as we know it, and mean, not indeed a kinsman in general, but a kinsman by marriage, while a compound formed from the latter of them, *peotes*, signifies a blood-relation. The 'parricide,' then, is a member of the clan, of whose early organization and **solidarity** we have already spoken, and he has shed the

blood of that clan. What is to be done with him? To kill him will only make matters worse; to let him live is clearly out of the question; to let him run away (a solution adopted certainly in pretty early times, how early we do not know, for less heinous offenders) is only a shade less dangerous, for he is shedding most horrible pollution at every step he takes and every breath he draws. What then is there to do? First, while the arrangements are making for his final disposal, cut him off from the ground lest his feet blight it, put a lucky thing (the hide of a sacred beast, the wolf) between his head and the sun and air, and especially, cover up his mouth. As a further precaution, to neutralize some part at least of the evil *mana* which still streams from him, let him be beaten with lucky rods, in hopes of knocking a little good magic into him. So we, if compelled to let a smallpox patient stay for a while in a room which other people are going to use, employ disinfectants, not in any hope of curing his disease thereby, but to prevent the rest from catching it.

As to his final disposition, it has been already pointed out by more than one author that it closely resembles that resorted to in the case of a monstrous birth or similar portentous and magically evil thing. The *monstrum* was commonly thrown into the sea or a river; sometimes we are definitely told that it was enclosed in something, a box or other receptacle. The object is clearly to get the horror away, not only from the community most nearly concerned, but from the world of living men. The stream may carry him where it will; that is the affair of the river-god, who is clearly skilled in purifications, and may be trusted to deal with the matter adequately. At least, his sacred waters

have not been polluted by the touch of the unspeakable thing.

If now we look at the secular trial and proposed execution of Horatius, we see that some remnants of a similar feeling are left. His case is of course wholly unhistorical, and the elaborate accounts of it which we have are due to the desire of jurists to have a model case of a particular kind of trial, the appeal to the people from the sentence of a magistrate, stated fully. This, however, makes it all the more trustworthy from the point of view of our present study, for we are dealing with an ideal instance in which all the laws concerned have full play, uninterrupted and unimpeded by accidental circumstances, such as often make their application in real cases hard to determine. Leaving out much that does not now concern us, let us again look at the method of carrying out the sentence. He is to be covered up, at least his head is to be veiled—why, unless because he is a polluted and polluting creature, a *homo sacer*, or man under tabu? He is to be hung up on an unlucky tree; this presumably takes his feet off the ground, and leaves him touching nothing except what is already useless. Then and there he is beaten; and beating is, as we know, very often not a punishment but a piece of magic, intended either to knock good magic in or bad magic out. If he dies, either sooner as the result of the beating, or later from sheer exhaustion and hunger, it cannot be said that anyone has exactly killed him; he simply has died. So he is got rid of, with the minimum of pollution for all concerned.

As to the Vestal, Dr. Wissowa has added to his great services to science by pointing out in a recent article<sup>5</sup> what her treatment really means. She is

already *sacra*, or tabu, being dedicated to Vesta. Her unchastity is a thing to be classed with monstrous births and other portents ; only the gods can deal with it adequately, and after all, perhaps the witnesses against her have lied. She is therefore put to an ordeal. If now Vesta or another deity likes to work a miracle, as Vesta was said to have done occasionally when one of her servants was suspected falsely, let her do so, and convince all the world of the priestess' innocence. If not, the woman is already in the underworld, safely out of the way of human affairs, and the *infern*—the gods and spirits below—may be left to do as they see fit. No man has incurred the pollution of harming one who does not belong to Rome at all, but to a goddess.

Both the Vestal and the *paricida* come under a class which our ancient documents recognize, although their authors often give very vague explanations, being themselves no longer able to interpret such archaic ideas. They are *homines sacri*.<sup>6</sup> Of these we are told that, in general, they were not exactly condemned to death, but if anyone killed them he could not be prosecuted for murder. The same rule applied to outlaws, or, as the Romans phrased it, men forbidden fire and water (*aqua et igni interdicti*). If to this we add the clear statement of Festus that *paricida* originally meant simply 'murderer,' we can form a fairly clear idea of what the Italians in early days did with their undesirables if for any reason they did not see fit to subject them to any such treatment as the 'punishment of the sack,' as later jurists called it. They simply cast them out from the clan. This being done, these unfortunates would find every man's hand against them. If a member of another clan killed them, no

blood-feud was incurred; their own clansmen would give them neither protection nor access to the commonest necessities of life, for the ties between them and the outcasts were broken. When the clans united to form a community, the embryo of the Roman or another State, outcasts fared no better, probably indeed they fared still worse; for their misconduct would no doubt bring general reprobation upon them, and willing executioners (as they would perhaps feel themselves to be) would soon be found. The only resource was to run away; and it is noteworthy that throughout the period of the Republic this remained the resource of those against whom the just anger of their fellow-citizens was excited. Republican law never, strictly speaking, punished any man with exile. What happened, not once or twice but normally, was that a person tried on a capital charge was not arrested, but left at liberty until the last vote of the jury was cast, or even longer, and might and did avail himself of this opportunity of retiring to some place (a neighbouring Italian town, in earlier times, later some independent community outside Italy, such as Rhodes or Massilia) where Roman law did not run.

It would appear, however, that there were others besides the *paricida* whose pollution was too great to allow them to be merely left for anyone who chose to kill, or for them to rid the community of their undesired presence by flight. We find that certain persons were not only *sacri*, but *sacri* to some definite god or group of gods. Often we are not told exactly what this involved; indeed, the ancients themselves were puzzled by these survivals of their own past, for to them *sacer* usually meant 'holy,' 'consecrated,' and thus a gift or sacrifice to a deity; and they were naturally perplexed as

to what a god wanted with anything so undesirable as a criminal. So, for example, we do not know precisely what happened to the undutiful child who struck his father. The old law ascribed to good King Servius Tullius ordained that he be *sacer* to the *Diui parentum*, who as we have seen were the ancestral spirits; but whether or not he was put to death in some way or other is not definitely stated. In the case of a corn-thief we have clear information; *suspensum Cereri necari*, says Pliny the Elder on the authority of the Twelve Tables; he is to be hung up, that is, to Ceres. It is to be supposed that his fate was something like that which would have befallen Horatius. Removed from the earth, in the most literal and physical manner, by being fastened to a tree, he is left for the angry goddess whose gifts he has misused to deal with as she pleases. This is in no sense a sacrifice, nor yet an execution; it is the formal handing over of a guilty person, closely parallel to the *noxae deditio* of public and private law, by which a slave, domestic animal, or other live chattel which had done damage could be handed over by its master to the aggrieved party, or a Roman who had violated international law was surrendered to the State against which he had offended.

It should be noted in passing that these practices resulted in some horribly cruel punishments, or what were in effect such. To the hideous death of the unchaste Vestal it is hard to find a parallel even among the legal cruelties which disgraced the Middle Ages. The oft-quoted 'walling up' of nuns is not parallel, as Dr. Wissowa has shown in the article already mentioned, because it never existed; the punishment of 'immuration' consisted simply in confinement to a convent prison, technically known in the law-Latin of

the time as *murus*. Greek legend does, however, furnish one, in the ordeal of entombment to which Antigone, in Sophokles' play, is subjected. The 'hanging up' is a form of crucifixion, one of the most abominable tortures known. The death decreed to the parricide shocked the Romans of the late Republic and early Empire, who were not squeamish, to such an extent that it almost went out of use; it is known that the Emperor Augustus would, inflict it only on the direct confession of the culprit, which he took great pains *not* to secure. Yet it is a misuse of words to call such cruelty savage, for the savage is not particularly cruel, save as children sometimes are, from lack of imagination. These horrors are a by-product of a magic-religious idea, the necessity of separating the unclean from the clean, the tabued from the normal. The intention was not to hurt the culprit, but to protect the community, and that powerful motive overrode any feelings of mercy, which, when dealing with their own countrymen, were generally not wanting in Italians of the historical period, although as regards foreigners their record is far from unblemished. *Tantum religio potuit suadere malontm*, says Lucretius<sup>7</sup> of a cruelty less appalling; 'so much ill could belief in the supernatural bring about.'

But the particular *religio* shown in these dealings with the magically undesirable has plenty of savage equivalents. Sir J. G. Frazer instances several in *Psyche's Task*; <sup>8</sup> thus, the people of Bali put those guilty of incest into a sack and throw it into the sea—a method very like the Roman treatment of the *paricida*, and dictated in all probability by the same feelings. They, like the Romans, are humane enough in their ordinary executions, for they stab the guilty

person to the heart with a kris; the use of the sack would seem to indicate that the important thing is in this case not the death of the outcasts but their effective separation from the community. In Semendo, part of Sumatra, burial alive is the method of dealing with both incest and murder, or was till the Dutch took most vigorous means to stop it. In another part of the same island, among the Pasemhers, the grave is furnished with bamboo tubes through which the guilty persons may breathe, and if they are still alive after seven days, they are let go. This recalls the ordeal of the Vestal. And the widespread practice of hanging (which is, for example, the special punishment reserved for incest with a daughter, or between brother and sister, in New Ireland) is probably to be connected with the idea of separating the polluted person from the rest of mankind.

It has been stated that the punishment of the Vestal was in its intention a form of ordeal. This savage method of determining the guilt or innocence of one accused has left other traces in Rome, whereof the most noteworthy is the famous practice of casting criminals from the Tarpeian Rock. While it is often interpreted as a kind of legalized lynching, there is a clear indication that it was not really so, in the express statement of Cassius Dio<sup>9</sup>—a somewhat late and somewhat puzzle-headed, but well-informed writer—that those who survived the fall were allowed to live. To survive a fall from a steep hill about 120 feet high is no impossibility, especially if the ground at the bottom happened to be soft after rain or the like ; hence we need not take the historian's statement as purely hypothetical. Moreover, we have a curious performance preserved by the elder Seneca,<sup>10</sup> a

rhetorical exercise in which he supposes a similar fall and a similar survival to have been the lot of an allegedly unchaste woman in some imaginary city; it is argued by one party that Vesta, on whom she had called, has declared her innocence, and she ought to be allowed to live. Dr. Eitrem has collected a number of other such proceedings from the classical areas, which he supposes to be forms of purification; that this should be combined with ordeal is in no way impossible. But there is no doubt that the Romans of Cicero's day regarded the Tarpeian rock as an instrument of execution, pure and simple, though one that was rarely used.

Alongside of these instances of savage survivals it should be noticed that there were things characteristic of savages which did not survive, or hardly survived, in Rome at least, whatever the rest of Italy may have done. I have mentioned the various forms of killing which avoid actively taking the life of the victim; these appear not to have been the only ones, even in early times. Traditionally, a father might, if he saw fit, kill his son or daughter with impunity, and there are plenty of historical instances of women being tried and found guilty by a public court and then handed over to their legal guardians for execution, probably to save them the additional ignominy of dying by the public executioner's hand. It is therefore clear that the dread of shedding kindred blood was not so acute in Italy, at any time of which we have direct information, as in many other countries. Possibly the immense importance of the head of the family or clan, who, as has been already suggested,<sup>11</sup> was probably the incarnation for the time being of the *genius*, caused the ghosts of the other members to be thought of as feeble creatures, little to be dreaded; and as the late W.

It is clear that this gives us a fragment of what we get at full length in various mediaeval codes, with their meticulous lists of the amount to be paid for all manner of injuries to the person, ranging from the slaying of a king or other potentate to a slight wound inflicted on a slave. We need not doubt that the State from early times brought its influence to bear in favour of accepting the penalty in money, which for early days was considerable, although in later times the value of the original pound of bronze, the *as*, shrank to a mere trifle, and we hear of a bully going about the streets assaulting respectable passers-by and then ordering his purse-bearer to pay them the statutory compensation. The stages by which the regular substitution of the fine for the *talio* or retribution in kind was brought about we do not know, from lack of really early documents of any sort; but it may be that even while the State was in its infancy there was a certain tendency in that direction among the members of the clans themselves. I have elsewhere sketched the stages by which the blood-feud disappeared in Greece; it is not unlikely, indeed it is highly probable, that much the same stages were gone through in Italy. There grew up, we may suppose, the idea that everything, or at least many things, had their price; like the Achaian noble, the Villanovan or *terramara* chieftain may have consented 'to receive wergelt of the slayer of his son or of his brother,' The question then would be, whether a given case allowed of the acceptance of the price, consistently with the dictates of honour. If we had recorded the decisions of some Italian Snorri Sturlason, as we have for Iceland, thanks to the survival of its sagas and other early literature, we might find among them many subtle distinctions between the

homicides or other injuries which ought to be compounded for a payment, and those for which the avenger must be allowed his way. Or an Italian Homer, if there were one, or even the ancient ballads whose loss Cicero regrets, might show us such a scene as that in the eighteenth Book of the *Iliad*}<sup>2</sup> in which two litigants appear, one of them asking to be allowed to pay the blood-price, the other refusing to accept it. That the nascent State would try to enlarge the category of offences which might be compounded is past a doubt, for it succeeded in including all offences either in it or among those crimes for which the State itself must take vengeance; this last being a new category, brought into existence, it may be supposed, by extending to all citizens the sanctity which originally belonged only to the clansman. Thus on the one hand, we can comprehend why *paricida* came to mean, before it narrowed down to 'parricide' in our sense, the slayer of a free man, clansman or not; on the other, it is easy to perceive why *talio* became little more than a memory in quite early times; for I cannot recall that there is a single instance on record of anyone ever claiming the right to it.

But the Twelve Tables, if we may judge from their present fragmentary text, were still a long way from the modern (or the later Roman) laws concerning injuries to the person. The passages above quoted say nothing about motive, but barely lay down that anyone who breaks a limb of another is liable to a penalty. We notice the omission of the familiar phrase *sciens dolo malo*, 'wittingly and of malice aforethought,' which comes in nearly every clause of later penal statutes, Roman and Oscan alike. How early Italian courts began to take account of motive **and**

other extenuating circumstances we cannot tell; in purely religious matters no notice was ever taken of such things. This is clear from the innumerable accounts of disasters which fell upon individuals or the State as a result of wholly inadvertent offences against the gods. The famous story of the *Ludi Romani* in 489 B.C., which is told in Livy<sup>13</sup> and several other authors, is an excellent example of this. A slave is taken to execution across the ground on which, later in the day, the games are to be held; Iuppiter appears in a dream to one Titus Atinius, and tells him that 'he does not like the man who led the dancing,' and that therefore the State must, at its peril, repeat the celebration. Atinius, hesitating to go with such a message as this to the magistrates, one disaster after another befalls him till he carries out the orders of the god. The story, of course, is utterly unhistorical, but for our purposes it is all the better for that, since it tells us, not what a god was supposed on one occasion to have done, but the manner in which a Roman of no very early date believed that a god naturally would act. Neither Iuppiter nor anyone else alleges that any intentional impiety had been committed; it is the fact of the slave having been led to execution across the ground afterwards used for the ceremony which alone matters; the sky-god and the rites celebrated in his honour must not in any way be brought into contact with anything that suggests death.

Moreover, in the case of the games just mentioned the responsibility is collective. One man has been guilty, in sacral law, of a technical impiety, namely the person who had sent his slave to be punished at the wrong time and place. But the vengeance of the god threatens, not him, but the whole State. The rule will

work both ways, and guilt incurred by or harm threatened to the whole community, or an evil of any sort which menaces them, can be expiated by one individual. When battle is to be joined with a powerful enemy, it is clear that the infernal gods will take one or the other of the contending armies; danger of disaster to the Roman force can be averted by the practice, which it would seem was not uncommon in early times, of 'devoting' either the general himself or a substitute nominated by him. This done, the Roman troops are safe, and it is the other army that will fall a victim; but the vow must be duly performed, preferably by the general doing as did both the elder and the younger Decius Mus and contriving to be killed by the enemy as soon as possible in the battle. At the very least, an image of the 'devoted' person must be buried, if he himself escapes alive out of the combat.

Now Roman civil law (*ius ciuile*) and canon law (*ius diunum*) run very closely parallel. For instance, if a person has made a vow, that is, has promised some gift or sacrifice conditionally on a prayer being answered, as soon as the gods have done what he asks he is technically in the position of one who has been cast in a suit; he is said to be *uoti damnatus*, cast in damages to the amount of his vow; hitherto he has been merely *uoti reus*, sued for the amount in question. When he has fulfilled his part of the contract, he is said to be *uoti solutus*—to have settled the claim against him. It need not, therefore, surprise us to find, even in the developed law which existed under the Empire, traces of the idea of collective responsibility, no longer, it is true, applying to all classes of society, but to the lowest of all, namely slaves. In the year A.D. 61, a high official, Pedianus Secundus,<sup>14</sup> the city-prefect, was

murdered by one of his slaves. After a hot debate in the Senate, and in face of much popular opposition, the entire household was put to death, although it was not alleged that the rest had been directly concerned. Nor was this the last instance of such cruelty, for we learn from a long discussion<sup>15</sup> of the subject by Ulpian and other jurists of much later date than the principate of Nero that it was still good law in their day. There is no room for doubt that this law was of ancient origin, although the particular statutes cited by the jurists are comparatively recent; it certainly was not due to any whim of Nero, who when not impelled by fright or wounded vanity was not cruel, his reputation to the contrary notwithstanding; and for one comparatively merciful interpretation of the law, Commodus, one of the worst scoundrels who ever disgraced the purple, was nominally responsible, wholly or in part. Needless to say the arguments adduced in favour of it by such enlightened men as C. Cassius Longinus, who pressed for the execution of the slaves in 61, or by Ulpian and the other famous jurists of the later Empire, are not in the least savage; rather do they allege the necessity for extreme severity towards slaves who attack their masters on the ground that the former so outnumber the latter that they must be given very strong inducements indeed to see to their owners<sup>1</sup> safety. But it is well known that a custom often lingers on, and new reasons are found for it, long after its original meaning is forgotten; thus a great many of our decencies are defended on sanitary grounds, but the tendency to observe them, which is almost an instinct among civilized men, owed its origin to magical ideas connected with them. So here we may reasonably, indeed with some approach to cer-

**tainty, hold** that neither cruelty nor panic started this **evil** custom going, **but** simply the savage idea of collective responsibility. Now and again in the fever of civil war there occurred what might be taken for a recrudescence of the old idea, and the condemnation of a political opponent involved that of his children also; while in the dark days towards the end of Tiberius' principate, the execution of Seianus was followed by the butchery, with some observance of legal form, of his little son and daughter; a horror which moves Tacitus<sup>16</sup> to cold and restrained anger, more effective than even his impassioned rhetoric. But it is hardly correct to call such things survivals; they are part of ordinary psychology, a part usually more or less kept in check by reason in adults, but showing itself in the outrages of mobs and on other occasions when decent feeling and thinking are abandoned. It is natural to feel more or less dislike of those connected in any way with persons or things that arouse our hate; this we do not only inherit from savage ways of thinking, but also share with the savage because he and we are human.

## NOTES ON CHAPTER IX

<sup>1</sup> Lucretius, V, 1022.

<sup>2</sup> See Strachan-Davidson, i, p. 21 ; add to his references Max Radin in *Journ. Rom. Stud.*, x (1920), p. 119 foll.

<sup>3</sup> Livy, I, 26.

<sup>4</sup> See, for instance, Plutarch, *Quaest. Roman.* 96, with my note, *Roman Quest.*, p. 208, to which add the article of Wissowa mentioned in note 5 below.

<sup>5</sup> *Archiv fur Religionswissenschaft*, 1924, p. 201 foll.

<sup>6</sup> See Strachan-Davidson, i, p. 3 foll., for material; it will be seen that I do not always agree with his interpretation. The passage of Festus is p. 424 Lindsay ; that of Pliny, *Nat. Hist.* XVIII, 12. See Bruns<sup>6</sup>, p. 30.

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<sup>7</sup> I, 101.

<sup>8</sup> The instances are all taken from chap. IV of *Psyche's Task*.

<sup>9</sup> Fragment 17, 8.

<sup>10</sup> *Controversiae*, I, 3.

<sup>11</sup> *Supra*, chap. VII, p. 155.

<sup>12</sup> Lines 497 foll. I now see reasons for rejecting the interpretation of this difficult passage which I adopted in *P.C.G.*, p. 204.

<sup>13</sup> II, 36.

<sup>14</sup> See Tacitus, *Annates*, XIV, 42.

<sup>15</sup> In the *Digest*, XXIX, 5.

<sup>16</sup> *Annates*, V, 9.

## CHAPTER X

### THE LAW. II. PROPERTY; PUBLIC OPINION; STATUS, ETC.

**A**NCIENT law, whether Greek or Roman, did not, as ours does, divide cases into criminal and civil. Nevertheless, it is convenient for our purposes to make this distinction, and after the brief examination in the last chapter of Italian methods of dealing with crimes and torts, to consider the principles which, in the earliest times of which we have any record, governed the holding, transfer, and safeguarding of property. We shall then be in a position to inquire whether these principles resembled those upon which savage, or at any rate barbarian, law may be assumed to act.

It is of course obvious that no Italian system of which we know anything resembled that of the lowest savages, the inhabitants, for example, of Tierra del Fuego. For these are communists,<sup>1</sup> having little or no conception of individual rights in anything; so much so, that they are said, when one of them was presented by a traveller with a piece of cloth, to have torn it into small rags, one for each member of their community. But this communism sooner or later develops, among the more progressive of mankind, into the conception of something like trusteeship. The property indeed belongs to all (in the case of land it would be more accurate, perhaps, to say that the

people belong to the land), but an individual, or a small group—the elders of the clan for example—can hold and administer it for the common benefit. Much depends upon this idea for the future development of rights of property in any fruitful shape; for merely to leave communism behind and pass to the notion of strictly individual property is apt to lead to such wasteful, though logical, proceedings as are reported of the Patagonians, to confine ourselves to South American examples for the moment. Here, with the idea of individual rights to property combined with a lively belief in the continued existence of the dead, the individual must take his property with him, for he continues to be its owner; hence it is all destroyed when he dies, and accumulation, whether for the benefit of his own family or of the community at large, ceases at the end of each generation, to be recommenced afresh. Generally, a little of both ideas is to be found, and a distinction arises something like that between real and personal estate in English law. Some kinds of material possessions (tools, for example, a house, wives, children, slaves and other dependents) are or may be individual property, and generally some of these are sent into the other world at the owner's death, or at least a pretence is made of sending them; but other things are rather communal, particularly those possessions which, like land, are too bulky and substantial to be destroyed or removed. A nomadic or semi-nomadic people who practise a little agriculture may leave the field of a dead clansman waste and un-tilled; but as a general rule a sedentary people will be forced by sheer land-hunger, if nothing else, to continue to cultivate it, although the original tiller is gone to join the ancestral ghosts.

If now we look at the Italian archaeological evidence for the earliest times, the graves of the Stone and Bronze Ages, we generally find very little indeed in the way of funeral offerings buried with the dead. The inhumed or cremated remains are there, perhaps enclosed in a rude pottery vessel, perhaps surrounded by a still rougher coffin made of slabs of stone; the method varies with the date, race, and locality. In the receptacle, whatever it is, we generally find a few small objects, such as fragments of pottery, bones and other remnants of food, or it may be, pins, brooches and the like, presumably part of the dead person's garments, or perhaps one or two weapons, not infrequently showing signs of having been deliberately broken or damaged before they were put into the grave, quite possibly in order to 'kill' them and so make them more appropriate for the use of the dead. If we turn to the more advanced civilization of the Iron Age, and to that of Etruria, we get a very different state of things. The tombs are much more elaborate; those of Etruria often really impressive pieces of architecture, magnificently decorated inside, and the contents far richer and more varied. Even here, however, there is no reason to suppose that all the property of the great nobles and princes to whom these sepulchres seem in most cases to have belonged was buried with them. The Patagonian system, so to call it, if ever it existed among the ancestors of the inhabitants of Italy, has been left behind.

What traces, then, if any, are left of a communal system? As far back as we can go, we have found evidence that such a thing as private property may be supposed to have existed, although in the earlier strata the scantiness of the funeral offerings suggest

that its amount may not have been great. Have we definite evidence that, for instance, the Bronze Age people of the *terremare* had communal ownership of something? The character of their settlements certainly is consistent with such an idea, for a people who apparently neither lived in separate houses nor buried their dead in scattered graves, but remained, in death as in life, in a sort of town, may well have held that at least their immovable property belonged to every one, not to any particular person. But there is, I think, more positive evidence than this.

In the first place, we have seen reason to suppose that the Italian clan, the *gens*, was in its origin a group of persons having group-relationship to one another, and not merely an assemblage of families claiming some kind of common descent, like a modern Highland clan on its native soil. But it has often been pointed out that the names of many of the *gentes* reappear as place-names. For instance, there was a *gens Oppia*, or clan of the Oppii, and Mons Oppius was once the name of part of the Esquiline Hill at Rome. The Cornelii were a great and a powerful clan, which in historical times had developed the two great branches of the Cornelii Scipiones, the group to which belonged the two Africani, to whom was due the successful termination of the Second and Third Punic Wars, and the Cornelii Sullae, from which house sprang the great dictator, Lucius Cornelius Sulla Felix. But Cornelia is also the name of one of the tribes into which the Roman people were divided, and it is fairly certain that these were originally, both at Rome and elsewhere, local divisions. Hence it has ere now been asked whether the *gens* was not simply the people who lived in one particular part of the country, and their names

purely territorial, much as, in English nomenclature, one man is called Shaw ultimately because some ancestor of his lived in or near a shaw or wood, and another Johnston because he is descended from some one resident on the town, or farm, of a particular John. But it seems doubtful whether mere residence in one neighbourhood would account for a bond so close as that of *gentilitas*, or membership in the same clan, seems originally to have been. If we assume that, to early Italian ideas, the land and those who lived on it were in some sense one, as there is reason to believe was the case in at least some parts of classical Greece,<sup>2</sup> we can explain many things in connection with the *gens* which might otherwise be obscure.

It will perhaps make things clearer if we first look at a mediaeval parallel. To the Normans, as to ourselves who inherit many of their ideas, a parcel of land is a thing which may pass from owner to owner, and if the former owner for any reason parts with it, he has now no right or title in it; if he owns no land elsewhere, he is no longer a landholder at all. But to the mediaeval Welsh—and how much older this idea may be than the Middle Ages we cannot say, for lack of documents—every member of a *gwely* or clan (literally, 'blood') was, *ipso facto*, the rightful possessor of a certain fraction of the land of the *gwely*; how large the fraction was depended upon the individual's relationship to the original man, the Morgan or Rhys or whoever it might be, after whom the *gwely* was named, and also on certain other factors which need not now be gone into. If the *gwely* happened to move to the other end of Wales, this made not the slightest difference; each was, as before, the born owner of a certain proportion of a fairly accurately defined amount of land, the

property of the *gwely*. It was not identically the same land as before, but that did not matter. From this totally different outlook on the relation between land and land holder arose much misunderstanding and puzzlement between Norman baron and Welsh farmer.

Keeping these facts in mind, we may possibly succeed in interpreting an interesting passage of the great Roman lawyer Gaius, who lived and wrote<sup>3</sup> 'at the threshold of that brilliant period . . . (which) extends from the reign of Marcus Aurelius to that of Severus Alexander.' He is discussing those persons known technically as 'own heirs' (*sui heredes*), that is to say, the nearest descendants of the deceased, if they had not been freed from his *potestas* or guardianship. They are, he says, called 'own heirs' because

'they are heirs from a man's own household, and even in the father's lifetime are held to have a kind of ownership; hence even if a man dies intestate, the first right of succession belongs to his children. They are called necessary heirs, because of necessity, whether they will or not, they become heirs, equally whether the father has or has not made a will,'

A later jurist, Paulus, still further refines on Gaius.

'In the matter of own heirs,' he says, 'it is still clearer that the unbroken succession of ownership goes so far as to make it seem that there has been no inheritance at all, as if these heirs had been owners, seeing that in the father's lifetime they are deemed a kind of owners. . . . Consequently, after the father's death it appears that they do not receive an inheritance, but rather enter upon the free management of their own property. Hence they are not appointed heirs of the property, because they are its owners; they may indeed be disinherited by their father, but that does not affect my interpretation; for they may also be killed by him,'

I quite agree with those modern commentators, such as the late Master of Balliol, who find Paulus and

Gaius over-subtle. It is mere special pleading to say that the sons of a Roman property-holder had any sort of ownership in the father's lifetime. It is also not quite accurate to say that he could freely disinherit them, as Paulus implies. He was obliged specifically to name them in his will, in the form 'let my son X be disinherited'; and even if he did, the will might be upset, in later times, by the son bringing the action known as the *querela inofficiosi testamenti*, or allegation that the will was unnatural; while even in earlier days there are not wanting instances of a will of this kind being upset by the courts. We may, not without probability, conjecture that in the early days of wills, when bringing them before the assembly of the *curiae* was not a mere form, any such clause would be sharply scanned by those present, and not approved unless the disinherited son was notoriously a rascal. If then the father might legally kill his son, even for no reason at all, until quite late times (at least in theory; in practice, no doubt, public opinion restrained even the most unnatural parents to some extent), and yet, apparently at all dates, had difficulty in disinheriting him, it would surely appear that the son was more truly his property than the estate. And therefore I do not count it too fanciful to assume, not exactly that the *dominium* or ownership of the estate belonged to father and sons in common, or even to all the clansmen in common, but rather that it belonged to no one. The estate and the clan were one.

The property in question doubtless consisted, for the earliest times, mostly of cattle, land, and the few things necessary to even the simplest agriculture or ranching; among these necessities would of course be included slaves, but tradition and common sense alike suggest

that in early times these would not be numerous, either in Rome or elsewhere in Italy. For slaves were normally prisoners of war, and the petty warfare of the small early communities would yield no very great number. When Juvenal pictures the children on a farm in the good old days<sup>4</sup> as consisting of one slave-child and three young masters (*unus uernula, ires domini*) he probably is not very far wrong; the gigantic households of later times were an unpleasant by-product of the spread of Roman conquests.

Now as to land, the ancients pretty consistently give us the following account. Romulus, and following him various other early conquerors, divided the land they had won among their men in the proportion of two *iugera* apiece. This was called a *heredium*, because it passed to the heir or *heres* on the death of the original owner; *i.e.*, it was individual property. On this scrap of ground, numerous moralists of later times would have us believe, the simple early Roman farmer (and presumably, the Italian peasant generally) contrived to live and bring up a large family, if not in any great plenty, at least adequately. 'Nowadays,' Juvenal complains bitterly, 'such a measure of land is not enough for one of our gardens.' Considering that two *iugera* are rather less than one English acre and a third, this last remark is not very surprising. It seems not unnatural to suppose that the *heredium* was simply a large garden, or small holding, by no means the entire extent of land available for the individual family. This impression is strengthened when we recollect that the Italians, from quite early times, were cattle-breeders and shepherds, as well as tillers of the soil. The question whether this applies to all the various races, or whether some were chiefly pastoral and others agri-

cultural, while not without interest, need not be discussed here. Cattle and sheep imply pasture-land of some sort; and it may be conjectured that from the earliest times the pasture was common land, as much of it was under the Roman Republic.

We may suppose, therefore, without doing violence to our evidence, that the Italian, or at any rate the Roman, system of land tenure in early times was, that the land was for the most part held in common by a community large or small; or rather, as already explained, that the land and the community, originally in all probability the clan, formed a whole, like the Welsh *gwely*, or still more like the Cretan *klaros*. Only a little of this land was assigned to individuals or to single households; this little either was from the start, or, more likely, later came to be, the permanent property of the household, but not of any individual within it. It was managed, rather than owned, by the housefather, and in due course passed to the sons. Later still would come the idea that it was the housefather's absolute property. As for the rest of the land, we may suppose that such of it as was not pasture was worked by the whole community. It is noteworthy that Latin contains a word, *ager*, which means indifferently a field and the whole extent of territory belonging to a single State. As to pasture, the climate of Italy, at any rate in the south and centre, make it highly desirable that the familiar arrangement (known to have existed in early Greece, for example) should be resorted to of moving the flocks and herds in the winter to lower and in the summer to higher levels. Hence access to a considerable territory of this kind was plainly desirable from the first.

But be the earliest system of land tenure what it

may, a time came when it was possible for an individual to have complete ownership (*dominium*) over a piece of land, as over several other kinds of property, and consequently for him to part with his possessions, whether for value received or as a gift. The method by which he parted with them is worth a moment's consideration, for it contains, not exactly traces of savagery, but certainly remnants and survivals of a simpler, more concrete way of thinking than that of our lawyers, or Justinian's experts. Among us, if John o' Stiles is the owner of Blackacre, and John o' Noaks buys it of him, it is enough if the title-deeds are handed over with some few formalities. The title—an abstract thing—has passed, and with it the whole list (less elaborate now than in the Middle Ages) of the various things which the new owner of Blackacre may do with and on it. But if Titius sold an Italian Blackacre to Seius, this was not enough. An estate in Italy was a *res mancipi*, in the legal jargon, that is to say, a thing capable of being taken with the hand. Our surviving authorities do not exactly describe how the transfer was carried out in the earliest time, for they are not historians of law or archaeologists, but practical jurists, anxious only to set forth clearly how it was done in their own day, with some indication of why it should be done so. But we may reconstruct the process as follows. Titius meets Seius in the presence of six adult Roman citizens, one of whom holds a balance. Seius, the buyer, has brought with him the price of the estate in lumps of bronze, *aes rude*. This he proceeds to fling into the scale, and when it is all weighed, Titius hands him a turf from the estate, which Seius now formally declares that he has bought.

This is, as I have said, a reconstruction.<sup>6</sup> In his-

toxic times the sale was fictitious, only one piece of bronze being thrown into the scale and the real payment being made elsewhere and in less clumsy fashion ; for in those times for which our documents are fullest and most explicit, the Romans had long learned to coin money, instead of simply weighing metal, and the scale was a mere formality, to satisfy the letter of the Twelve Tables, which did not recognize a sale unless the price were actually handed over or surety given on the spot ; and we are nowhere told in so many words of the handing over of the clod, or turf, indeed Gaius says that landed estate could be handed over 'when absent.' But that such an action took place originally is made tolerably certain by the facts, firstly, that if suit were brought to recover an estate, a clod of it had to be produced in court, and secondly, that one or two folk-tales represent a person as being given some fragment of earth, in respect of which he afterwards became the owner in one way or another of the land to which that earth belonged. If we now consider the details, we shall find that they are good magic, and consequently likely to be an inheritance from fairly early times, when magic, ceremonial, and law were more closely connected than a civilized man would have them.

For instance, just as with us the mystic formula ' I deliver this as my act and deed ' still remains an essential part of some transactions, so in Roman law, however much documents multiplied, certain verbal formulae were essential. The venerable Twelve Tables are very explicit upon this point; *uti lingua nuncupassit*, they say, *ita ius esto* ; that is held to be legally the intention of the person concerned which he has verbally specified. Our imprudent people sign their names on

stamped paper without reading the document through; Horace<sup>6</sup> fears lest he be induced out of weak good nature to say in an audible voice something which may do him harm—not to back his friend's bill in writing, but to say in the hearing of the proper legal witnesses that he guarantees that he will meet his obligations. I need hardly insist that this importance of the spoken word is of the very essence of magic. As the formulae of Roman worship might not be varied by a syllable, so even in the final redaction of the Roman code of Justinian, it was still necessary to insist on the exact phraseology to be employed, and to indicate the limits, still quite narrow, within which it might be varied. Of course, the great lawyers of the times of the late Republic or the early Empire did not imagine that any magical efficacy lay in their traditional forms of words, any more than our lawyers do; nor, probably, had their predecessors, for many generations. The same applies to the various actions and gestures which were prescribed; for example, the elaborate and dramatic performance with which every suit concerning property began in a Roman court. The property, the litigants, and the presiding judge, or *praetor*, being present, the plaintiff touches the object in question and declares that it is lawfully his; the defendant does the same; they make as if to assault each other, the praetor bids them both let go; each formally bets that he is in the right; the praetor takes surety for the bets (*sacramenta*), and the case now proceeds. As Maine<sup>7</sup> rightly explains, this is nothing else than a pretence of a quarrel, stopped by a formal intervention; and it must all be gone through before a witness can be heard **or a juror** appointed. But similar venerable mummeries are performed in our courts, albeit **with** less

elaboration. Doubtless the spirit which prompted their retention, in Italy or in England, was originally very close akin to that which dictates the minutest gestures of a magician, or, in many religions, of a priest; but doubtless also it was not felt to be the same at any date of which we have certain records.

More to the point is the way in which certain offences against property and other things are dealt with in early Italic statutes. We have seen in the last chapter that various punishments, some of a sufficiently grisly nature, were provided for by the oldest laws. It is, however, well known that for quite a number of cases there was originally no punishment at all. Numerous Roman statutes of which we have the text more or less complete contain clauses to the following effect: if anyone does this, or fails to do that, let him be considered to have acted villainously, *improbe factum esto* ; and the famous Oscan inscription of Bantium has a clause to the same effect in a like context, *izic atnprmfid facus estud*. Not a little rhetoric has been poured out on the theme of the marvellous virtue and sensitive conscience of the early Roman, who considered disapprobation a sufficient deterrent against all manner of misconduct; and not a few more sober writers have wondered why such a bar ever stopped anyone who had a mind to break the law. It needs but little acquaintance with the daily newspapers of any modern country to learn that such a penalty, or absence of penalty, would open the door for a multitude of most disgusting offences against law and common decency alike, anywhere in Europe or America. But we may be certain that the strong Italic common sense would not have continued to use it for so many centuries if its efficacy had not been considerable. Nor need we

assume any superhuman virtue. The whole matter arose out of the survival of a characteristically savage state of mind.

I have already mentioned that savage law or custom is upheld, not so much by force, as by pressure of public opinion in the community. This fact is well illustrated by the excellent article of Dr. Malinowski, quoted in Note i. There are a number of obligations of an economic nature which, among the natives of the Triobriand archipelago, are enforced in just this way, without any of our elaborate machinery of sureties, debt-collectors, distraints and so forth. For example, it is the recognized duty of a brother to send periodical contributions of food from his own garden to his married sister; while the sister's husband has the reciprocal duty of making certain presents at intervals to his brother-in-law. These obligations are seldom if ever evaded, because 'failure to comply places a man in an intolerable position, while slackness in fulfilment covers him with approbrium.' The Triobrianders are not a particularly energetic race, and Dr. Malinowski, speaking from his own experience and that of others, describes the typical savage, there and elsewhere, as 'keen on evading his duties, swaggering and boastful when he has fulfilled them,' Yet these people and many others like them who are no more automata moved hither and thither by a mysterious thing known as 'group-sentiment' than is the average Cockney or New Yorker, and no nearer than they to being angels in human shape, perform quite complicated and burdensome duties, whether they like them or not, through the force of the general feeling that such things ought to be done. Here we have alike the ancestor of our own sentiments of honour, the savage equivalent of the modern

schoolboy's desire to be like his schoolfellows, and the origin of the force which made the Italic *improbe factum esto* so real a deterrent. That it ceased to be a sufficient barrier to wrong-doing of various sorts was due to the same circumstances that are operative with us, namely, the growth in size and complexity of the social group. A man who is not particularly prominent and has broken no definite law may, in modern London or in the Rome of Cicero's time, escape the frowns of his neighbours by the simple expedient of moving half a mile or so into another street and quarter and making new acquaintances among the hundreds of thousands of his fellow-citizens; a schoolboy or a Triobriander, whose world consists of a few score or hundred individuals, has no such resource, and the early Italic communities were small.

To this same source we may safely refer a most curious provision of the Twelve Tables.<sup>8</sup> A suitor who could not bring witnesses to prove a debt had the privilege of going every other day to his alleged debtor's door and 'howling' at him (*obaagulatam ito*). Ancient authority explains that the 'howling' might include abuse. It is obvious that the efficacy of this, and also its preservation from abuse by a mere noisy brawler, depends entirely on the existence of a state of public opinion, even in the comparatively advanced times which saw the reduction of this ancient code to writing, very like that of a savage community. It assumes, that is, that a considerable portion of the population would know the rights of the matter fairly well, even if they had not such exact knowledge as the then existing laws of evidence (which seem to have developed early into pretty definite rules) would require. We will suppose that Seius has sold his estate, or some part

thereof, to Titius, and that by some series of misfortunes none of his witnesses is available. Titius refuses to pay the price for which he has given surety; the man who went surety for him is dead or otherwise unable to appear. Seius cannot prove his case before the praetor; but probably a score of Roman citizens have heard of the transaction, and Seius' 'howling' will stir their recollections. Soon such pressure will be brought to bear upon Titius as will put him, like the defaulting Triobriander, 'in an intolerable position.' On the other hand, Seius, if he is slandering him, will find himself the object of bluntly-expressed criticism, and his 'howling' will not be often repeated.

On one very important point, Roman (and so far as we know, all other Italian) law differed from the developed modern codes. So far as Roman citizens were concerned, in their relations to each other, no such thing as equality before the law existed, until with the coming of the Empire the distinctions between citizen and citizen were in large measure effaced. In early Republican times (how matters stood under the kings is a question too complicated and difficult to be discussed here) we find the great distinction between patricians, who had full civic rights, and plebeians, who laboured under a great number of disabilities, such as exclusion from all magistracies and from the State priesthoods. When, after generations of civil commotion, this distinction was for practical purposes abolished, there remained still a large number of differences, totally unaffected by the revolution. Apart from the many distinctions between male and female (of whom the former was, or might become, an independent and fully responsible person, *sui iuris*, while the latter never could) and between bond and free, there

was the great cleavage between the head of a household (*paterfamilias*) and all its other members. He was responsible for his actions only to the State; they, directly to him, and to him only. Also, between the full citizen and the foreigner, there were several intermediate classes, such as the possessors of the so-called Latin right (*ius Latinum*), who had some of the privileges of citizenship, but lacked others.

However, it is not necessary to lay very much stress on this. Undoubtedly, difference of status is likelier to connote difference of privilege the lower we descend in the evolution of law; but the establishment of all-round equality is so very new an achievement (if indeed it can yet be said to have been fully achieved) that it can cause no surprise that the Romans had not got so far. It certainly cannot in fairness be called a survival of savagery in their law that all men were not equal before it.

There are, however, one or two points in regard to the law of evidence as understood by them, which have a flavour of rather primitive ideas. Like ourselves, they compelled no man to bear witness against himself; but they extended, so to speak, the circle of his personality more widely than we do. With us, a wife cannot bear witness against her husband; but the directions to Roman magistrates ran thus, in document after document:<sup>9</sup>

'Nor shall he force anyone against his will to give evidence, if he is the son-in-law, father-in-law, step-father, step-son, patron, freedman, second cousin, or more nearly related or connected than these with the person who is being tried,'

A circle extending to second cousins, and including people who were not blood-relations or connections by marriage at all, but bound to the man on trial by the

tie which connected ex-slave to former master, and their respective descendants to each other, is surely not an immeasurable distance from the undivided clan, whose members, of course, would if they appeared in a suit at all appear all on the same side, and, if blood-feud existed, would all alike be responsible. It is not without significance that the most distant relation who cannot be obliged to bear evidence in a suit affecting his kinsman is also the most distant whose sister, by the older laws, could not marry that kinsman. As to the freedman, he of course was a client or retainer of the *gens*; and readers of Vergil will recollect that he places together in Hell those who have assaulted father or mother and those who have defrauded their clients.

But there was another class of persons also who were not compelled to give evidence, at least not under oath. These were certain priests—the *flamen Dialis* or priest of Iuppiter at Rome, and similar functionaries elsewhere, and also certain women of especial holiness, such as the wives of flamens or, in Rome at any rate, the Vestals. Here the reason is different, for there is no question of relationship. These persons are closely connected with the service of the gods, and it is clearly desirable that they should move in an atmosphere of good luck. Now an oath, in antiquity, regularly contains a formula of conditional self-imprecation; it runs, 'If I speak truly (or, if I perform what I have undertaken), may all manner of good fortune attend me; but if not, may the gods inflict on me such and such penalties.' Therefore we may safely accept the explanation of Plutarch, who discusses the matter in the forty-fourth of his *Roman Questions*, that it is the ill-luck of a curse, even a conditional one, which the priest is to avoid.

**Another** characteristic of their law of evidence was one shared with the Greeks. This was, that a slave's evidence might be taken only under torture. As I have mentioned<sup>10</sup> while discussing the same phenomenon in Greece, this may signify, in the opinion of more than one scholar, that the torture was an ordeal, supposed originally not to hurt a truthful witness. We have already seen that ordeal did exist in Italy, in the shape of the entombment of the Vestals and the throwing of certain condemned persons from the Tarpeian Rock. It may therefore be argued that slave-torture was in its original intention another example of the same practice. It is to be noted, however, that by no means all students of ancient custom accept this explanation of judicial torture for either Greece or Italy.

It remains to ask to what extent anything like international law existed among the Italians. In later times, as is well known, they developed, or at least the Romans did, something from which international law might spring, in the shape of the *ius gentium*—a code of laws belonging to no State, supposed to be directly due to the principles implanted in every one by nature. This code owed its origin, not to any aspirations after world-peace, but to a practical, every-day problem with which the magistrates of a large cosmopolitan city were bound to be faced, namely, how to judge a case in which a foreigner, not subject to any Roman statute, was a party. Interesting though it is, the whole matter lies completely outside the scope of this work, and has in any case been adequately dealt with by writers on Roman Law in its developed state. But it is to be noted how far removed from savagery those people must have been who, even in early times, conceived the idea that a resident foreigner ought to have

access to some sort of court to redress his wrongs, or to try him fairly if he was alleged to have wronged anyone, and attached such importance to the conduct of these cases that a *status dies cum hoste*, or law-suit with a foreigner, was allowed as a valid excuse for absence from important civic duties.

But to return to international law proper, we find, on the one hand, that the earliest Italians of whose customs we know anything very definite were willing to allow certain rights to the foreigner, even the potentially hostile foreigner, and by no means regarded war as a normal state. There existed, apparently throughout Italy, an institution so old that the ancient Italians could give no reasonable account of its origin, the *ius fetiale* or law concerning heralds. The *fetiales*<sup>11</sup> were functionaries of a distinctly priestly character, whose activities, which were surrounded with a halo of sanctity and magic, were concerned with the making of war and peace. If one State held that it had been wronged by another (the normal *casus belli* was a raid by one side on the territories of the other and the taking therefrom of property), it sent a deputation of *fetiales*, one of whom carried certain sacred herbs, plucked from the citadel of his native town. These crossed the frontier, and solemnly and repeatedly demanded the return of the stolen property. If restitution was made, and especially if this were coupled with the assurance that the action of the plunderers was unauthorized by competent authority, the matter need go no further; but if it was refused, the spokesman of the deputation called the gods to witness the fact, and declared that hostilities would begin on the thirty-third day. Thus, and only thus, was it felt that a regular war, in accordance with due respect for the gods (*iustum piumpque*

*bellum*) could be waged. Of the proceedings of these *fetiales* in concluding a treaty I have already spoken (*supra*, chapter III, p. 45).

While giving the early Italians, however, credit for their recognition of the rights of foreigners, we must recollect that to have some kind of rudimentary international law is not in itself a peculiarity of civilized man, or even of barbarians as opposed to savages. There are some members of a strange pack which even beasts will not injure, namely the females; it is well known that a he-wolf, for instance, will not fight a she-wolf. It may be due to a survival of this pre-human instinct that we find, in parts of Australia, regular deputations sent from tribe to tribe, consisting of women. If we leave savagery behind and consult the records of such advanced barbarians as the islanders of the Pacific, we often find a quite elaborate *ius fetiale*. What is noteworthy in Italy is that this ceremonial and the accompanying feeling that not all foreigners were always to be treated as having no rights whatever, proved capable of development. It is here that we find the germ of what was to become a civilized outlook on the world at large and the relations between people and people.

We have thus found, on the one hand, that in the earlier forms, and even to some extent the later ones, of Italic law, there lingered not a few reminiscences of savage ways. On the other hand, however, we have seen that these survivals were for the most part harmless fossils, and we know that others (such as the quaint custom of 'howling' at a defaulting debtor) died out as the community grew larger; and furthermore, we are faced with the important facts that the Romans at any rate succeeded in retaining what was good in the

old ways, such as respect for the expressed will of the community, while enormously improving and developing their code. They took hints and suggestions from the Greeks and from anyone else who had anything to teach them, for they were great free traders in ideas; but they combined their material to better effect than anyone else, even a Semite or a Dorian, was ever able to do. Moreover, when Greek diplomacy and international etiquette were brought to their notice, they learned indeed much concerning the best methods of procedure, for as their own poet had it, they were mighty in war rather than in wisdom, *bellipotentēs magis quant sapientipotentēs*; but they did not need to be taught that such a thing as righteousness in the dealings between nation and nation ought to exist, for their own immemorial *tus fetiale* insisted on that. In a soil everywhere fruitful, this was the choicest plot for the precious seed of civilization to grow and put forth new and rare blooms.

#### NOTES ON CHAPTER X

<sup>1</sup> Dr. B. Malinowski, in an admirable article whereof I have made use for this chapter (*Nature*, Supplement, Feb. 6, 1926), protests against calling savages communists, as the word refers to a modern social doctrine, and savages do have individual ownership. I see, however, little harm in using the term of such people as the Tierra del Fuegians; Dr. Malinowski's examples are chosen from a much higher people, the Triobrianders. See also the same author's *Argonauts of the Western Pacific* (Routledge, 1922).

<sup>2</sup> See *P.C.G.*, p. 174 foll.; cf. F. Seebohm, *Tribal System in Wales*, chap. II.

<sup>3</sup> See *Gai Institutiones*, edited by E. Poste, fourth edition, revised by E. A. Whittuck, Oxford, 1904, Introd. (by A. H. J. Greenidge), p. lv. The other citations in this paragraph

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and the next are Gaius, II, 157 ; Paulus, in the *Digest*, XXVIII, 2, 11 ; Strachan-Davidson, i, p. 87.

<sup>4</sup> Juvenal, *Sat.* XIV, 168 ; for the two *iugera*, see *ibid.* 168 foll., with Mayor's note. My colleague, Prof. J. J. Griffiths, kindly informs me that according to the latest investigations one acre of arable land properly farmed will produce in a year 367 days' rations for an average man, or possibly, with modern intensive farming such as is practised in Belgium, twice that amount. The owner of two *iugera*, therefore, might conceivably have fed himself, his wife, and one small child from his land, if he was as good as the best and most scientific modern farmers.

<sup>5</sup> See Gaius, I, 121. Compare M. P. Nilsson, 'Die " *traditio per terram* " im griechischen Rechtsbrauch,' *Archiv für Religionswissenschaft*, xx (1920), p. 232 foll. The folk-tales in question are : Suetonius, *Vespasian*, 5 ; when Vespasian was an aedile he did not have the streets properly swept, and Caligula had the breast-fold of his tunic filled with mud in consequence, thus unconsciously signifying that he should be lord of Rome. S. Augustine, *de sermone in monte*, I, 50 ; a woman, to save her husband from death, yields to a rich lover, who however gives her a bag of earth instead of the money he has promised. She complains to the governor of her province, who decides that the lover has given her the estate from which the earth was taken.

<sup>6</sup> Horace, *Satires*, II, 6, 27.

<sup>7</sup> *Ancient Law*, chap. X.

<sup>8</sup> Twelve Tables, II, 3 Bruns.

<sup>9</sup> For instance, in the *Lex Vrsonensis* (*Corp. Inscript. Lat.* II, 5439, Bruns 27), 95. The reference to Vergil is *Aeneid* VI, 609. For the references in the next paragraph, see also Gellius, X, 15, 31, and the *Lex ciuitatis Narbonensis* (Bruns 28, *C.I.L.* XII, 864, n. 6038), line 7.

<sup>10</sup> *P.C.G.*, p. 209 foll.

<sup>11</sup> For the *fetiales* the *locus classicus* is Livy, I, 24 and 32.

## CHAPTER XI

### SOME NEGATIVE CONSIDERATIONS. CONCLUSION

**H**ITHERTO we have been considering certain positive phenomena whose appearance in early Italy makes it reasonable to say that various characteristics of savagery survived there late enough for us to catch a glimpse of them. But the savage does not differ from the civilized man merely in having some ways of thought or action which the latter has not; he also lacks, or has only in a very rudimentary form, many things which civilized man has. Of any really civilized race it may safely be predicted, firstly, that they will possess some tolerably convenient method of writing, either invented by themselves or long ago assimilated from some other race. Further, they will have a literature of their own, different from that of other peoples in obvious ways (for example, despite the many imitations and borrowings on both sides, who cannot detect the difference between a typical French and a typical modern Italian work of the imagination?). They will likewise have an art of their own, using that word to include the many activities, as painting, sculpture, music and so on, in which the creative instinct expresses itself apart from literature. Also, they will have made some progress in philosophy and in some at least of the sciences, both pure and applied; and on the material side, they

will have developed industry and trade along lines more or less their own. Government and legislation they will certainly have in an advanced form, possessing a written code, a responsible magistracy of some kind (not an absolute despotism nor a theocracy), law-courts acting on some intelligible and reasonable principle, and machinery for dealing, more or less adequately, with new situations as they arise, whether at home or abroad. As regards other peoples, they will have on the one hand some sort of international law, and on the other, some organized machinery for hostilities, if peaceful methods fail. A people which lacks any of these things must be regarded as to that extent uncivilized; and the more individual it is in its method of solving any of these problems (provided the method adopted is in itself not unreasonable), the more original its civilization is. If most or all of these characteristics have been acquired, wholly or chiefly, from without, we may indeed call the people a civilized one, but not self-civilized.

Beginning with writing, if we look at ancient Italy we must conclude that that art was acquired wholly from without, and rather slowly. In the first place, there is no such thing as an Italian alphabet, but only sundry Italian adaptations of the various Greek alphabets. The adaptations do not seem to have been made with any remarkable skill; thus, to take the language of whose pronunciation we can be fairly sure, we know that for a long time Latin did not differentiate in writing, although it must have done so in speaking, between *k* (*c*) and the hard *g*, and that both it and other dialects were for some time uncertain how best to represent the sound of *'*, which happens not to exist in Greek. Even when the alphabet was acquired, it

would seem that it was not very much used **for a long** while. On the one hand, inscriptions of early date in any Italic dialect are remarkably few and short, and ancient writers, many of whom were curious in such matters, do not mention any great number of documents as surviving in their day, apart, that is, from Etruscan writings; and it would appear that the Etruscans had already learned to write when they entered Italy. On the other hand, we have already seen that a considerable amount of Roman legal procedure was carried on by word of mouth, and that the ancient method of making a binding contract was not to write it, but to speak it; again suggesting that literacy was not a thing to be assumed among citizens of the early Republic. If from the mere mechanics of writing we pass to its higher uses, we are met with the singular fact that Italy (again excepting Etruria and of course the numerous Greek cities) appears to have had next to no literature of its own. At least, if it had, it is very extraordinary that it has so completely disappeared that we can point to but one or two metres which we know to be Italian, and cannot name a single book, apart from legal writings and jejune annals, which can be proved to have existed before Greek influence became dominant.<sup>1</sup> The few fragments which have survived from fairly early times (laws and a few scraps of hymns) are written in a style which suggests that the loss to literature of the bulk of early Italian composition is not great. The sentences are short, artless, and obscure; and as to the subject-matter, we cannot rate highly the poetical capabilities of a race whose religious emotions found vent in such very plain and straightforward supplications as 'Help us, ye Lares!' thrice repeated, followed by 'Be satisfied,

fierce Mars,' repeated the same number of times. It is hardly too much to say that the art of writing a complex sentence and the power to compose verses tolerably poetical in form and content came alike from Greece.

Indeed, even in the plainest of prose and in that department where one most looks for clarity and absence of any ambiguity, the law, we find in our older records such instances of inadequate phraseology and clumsy drafting as force us to conclude that the framers of the older statutes meant what they wrote to be little more than helps to the memory, not the full text of their decrees. It is very common for the verbs to have, without warning, two different subjects within half a dozen words, as thus : *si caluitur pedemue struit, manum endo iacito*, ' if he resists or flies, let him then arrest,' and in the same law, *si in ins uocat, ito ; ni it, antestamino ; igitur em capito*, ' if he summon to court, let him go ; if he does not go, let him call to witness ; then let him seize,' It needs fairly close attention to see which of the ' he's ' is the plaintiff and which the defendant. The reasonable conclusion seems to be that the writer of this law was thinking of oral communication, in which gestures would eke out his very defective pronouns. In a much later age, there were in common use, as we can see, for instance, from the arguments in Cicero's speech *pro Caecina*, many such ambiguous statutes. The way was long to the clear, if rather verbose, legal vocabulary of the later codes.<sup>2</sup>

So far, then, we have, in the absence of anything which can be fairly called either a literature or a language in which a literature could be expressed, a good argument for saying that the early Italians were not a civilized people. If it be objected that there may have

been some early Niebelungenlied or Beowulf, now lost, we may safely answer that in that case it is incredible, considering the amount of lively antiquarian research which went on from the last century of the Republic, that neither Vergil or Livy, neither Cicero nor Varro, all interested for one reason or another in the past of Italy, should ever give us the faintest hint of its existence, the nearest approach thereto being the oft-cited passage in which Cicero, on the authority of the elder Cato, remarks that there once existed some kind of ballads.<sup>3</sup>

Passing now to art of other kinds, I am aware that I run counter to a view often and eloquently expressed of late, but I hold that I am stating plain fact when I say that so far as Rome was concerned there never was any, and as regards the rest of Italy, outside the Etruscan and Greek cities, very little. It is of course true that many priceless treasures of sculpture have been discovered in Italy, as well as a great deal of inferior, but still good or at least tolerable work; that the famous wall-paintings surviving at Pompeii and other places, notably Herculaneum, give us a high opinion of the capability of the artists of antiquity, since most of them are at least respectable performances, and yet they belong, not to anything in the nature of an art-gallery, but to the decorations of houses of the better class, a sort of superior wall-paper; and that the number of pieces of jewellers' work and other small objects which show skill and artistic sense in their designers is very great. But in all this we look in vain for anything characteristically Italian, they being for the most part the products of that international art, Greek in origin and continuing to be largely the work of Greek artists, which was spread

over the whole civilized world in the early centuries of our era, and was naturally to be found in the greatest abundance in that land which had conquered the rest, stolen all manner of treasures shamelessly, for both public and private use, and was willing, at least in later times, to pay the best prices to artists who would make new works, or copy the old ones. Even when Greek works were pouring in thick and fast from all manner of sources, trade, conquest, or plunder, art was felt to be a foreign thing. Cicero was, or considered himself to be, a tolerable connoisseur; yet when he is addressing the general public, in the famous Impeachment of Verres, he feigns to be ignorant of the very names of the artists whose works that egregious rascal had stolen from their lawful owners, and to accept wholly at second hand the statement that they are supposed to be good of their kind by those who understand such things.

This is of course a pose; but that such a pose was considered respectable is surely evidence enough that we are dealing with a people devoid of artistic sensibility; it reminds us of the similar inheritance from our own barbarian past which for a long time made it fashionable to consider anyone who took an interest in art or knew anything about it as effeminate and 'Frenchified.' It is to be noted that the prejudice is not against Greek art because it is Greek, but rather against Greeks because they waste their time over such things as art. And if we look at the native products of those times and places which had not felt Greek influence, directly or indirectly, this opinion of the inartistic nature of the native Italians in antiquity is strengthened. A great number of objects intended for ornament has come to light in the many excavations

carried out on Italian soil; for there seems to be no human being who has not more or less impulse to deck his house or himself, even apart from the very common use of all manner of trinkets as magical amulets. Thus, our museums possess thousands of the objects known technically as *fibulae*, a sort of brooches on the principle of a safety-pin. The bow of the pin is usually decorated more or less, and often the way in which the material (gold, bronze, or other metal) is wrought into the desired shape shows no inconsiderable skill. But the shapes themselves are almost unrelievedly ugly, recalling and outdoing the very worst excesses of Victorian jewellery. Of pottery, again, we possess very many specimens, some clearly meant to be more or less ornamental. Broadly speaking, the shapes either show foreign influence or else are thoroughly bad in outline, although frequently the workmanship is good, and shows that the makers, however unblessed with taste, knew how to mould clay into such forms as they deemed best.

But perhaps the strongest illustration of the lack of all artistic taste is the extraordinary modifications to which Greek art in Roman hands was subjected; and the rest of Italy seems mostly to have followed Roman influence in this as in other things. By the time of Trajan, the West had had long enough, one would imagine, to become acquainted with the principles of decorative architecture. Yet the famous Column of Trajan is, in one important respect, one of the hugest solecisms ever perpetrated in stone. Considered simply as a column, it is indeed handsome and imposing; but from the standpoint of pictorial art it is merely ridiculous. For what could be more absurd, or show more utter lack of imagination, than to place a number of

bas-reliefs, interesting in subject and tolerable as works of art, at such a height from the ground that it is a physical impossibility to see the greater part of them at all? Around and around the great shaft coils a pictorial record of Trajan's Dacian campaigns; reproduced by modern methods and displayed in an album, it is at once the main document and the greatest puzzle of the historian who tries to recover the story of the great emperor's exploits; but for the spectator, then or now, standing before the column itself, all but the lowest sections might as well contain pictures of still-life, or geometrical diagrams.

Roman and Italian architecture indeed have deservedly won the respect alike of antiquarians and of practical modern architects; but here again it is the craftsman rather than the artist who is worthy of our approval. The practical problems of putting their available materials together into buildings which would stand time, weather, and the manifold strains of daily use, were indeed solved to admiration, and this feat gives to those buildings, however plain, the dignity which comes from the successful adaptation, on a large scale, of means to end. But it is somewhat pitiful, even so, to see the builders who were capable of conceiving the Colosseum or the Baths of Caracalla deeming it necessary to mask their performances behind a gimcrack outer coating of marble or stucco, containing architectural members which have no function at all and which, if they were real, would entirely change the character of the building, putting columns and architraves for barrel-vaults and piers.<sup>4</sup>

As regards music, we know nothing of what the Italians, apart from Greek influence, had accomplished in antiquity; in historical times their music was Greek,

so far as we know. It is noteworthy that there does not seem to be any name for an instrument peculiarly Italian, their *tibia* for instance (a sort of oboe) being apparently the same as the Greek *aulos*, and their stringed instruments differing in no way from the Greek ones, and often being called by names borrowed from Greek, as *cithara*.

Of philosophy it is enough to say that the Romans never had any and never modified (save by omission of its less practical features) that which they learned from Greece. As to the sciences, it cannot be that they were wholly ignorant of those connected with the practical activities of building, for instance; a Roman aqueduct cannot be put up by mere guess and trial or 'rule of thumb'; but beyond such a tincture of applied science as this, they seem to have had neither the desire nor the ability to go. The elder Pliny is if anything a favourable specimen of their attitude. Himself unscientific and credulous, he passes in review the results, so far as he can understand them, of Greek science; his own contribution consists of misunderstandings and mistranslations, and the addition he can make from Italian sources consists of a few scraps of superstitions about thunderbolts and the like. When Julius Caesar,<sup>5</sup> during his British campaigns, found time to measure the length of the summer nights by means of a waterclock and thus prove that they were shorter than on the Continent, he was using a Greek instrument and showing, not for the first time, his curiously non-Roman attitude. The average Roman would have meekly copied down what some Greek had said about it.

As to trade, it cannot be denied that the Italians, from fairly early days, showed some aptitude for it and

recognized its value. If we take a map of Italy, we easily perceive that the chief towns are situated on favourable sites for commerce; apart from Greek cities, we may cite Genua, the modern Genoa, Luca, and Pisae, all situated on or near the West coast, convenient for the trade with Gaul and Spain; Capua, so placed as to form the natural trading centre for the rich district of Campania; and above all, Rome, near enough to the sea to be easily reached from Ostia, its old port at the mouth of the Tiber (a navigable river for the small craft generally used in antiquity), yet far enough inland to be out of the way of sudden raids from pirates; its old rival Veii, on a site only slightly less good, making, with the help of its bridge-head Fidenae, a strong bid for control of the Tiber, the great natural highway of the trade from the interior of Northern and Central Italy. It may also be noted that even of these sites, by no means all are native Italian, Veii, Fidenae, Luca, Pisae, and possibly Rome being all Etruscan at one date or another of their history. In later times, when the artificial advantages enjoyed by the citizens of a conquering state which has a mind to exploit its conquests were removed by the equal rule of the Emperors, the Italians vanished rapidly from the commercial world—they are no longer to be found in the East after the first century A. D.—and their place was taken by the Syrians. It is noteworthy that, although they learned from their Greek neighbours the advantages of coined money, and in time, of an elaborate banking system, their methods of counting showed how deeply ingrained in their habits was the old way of trading with weights of one metal, bronze, cast into ingots of standard size (*aes rude*). However large the sums might be which they had to

compute, they reckoned by the old-fashioned *nummus sestertius*, which was worth two and one-half times the *as*, the latter being the result of a lightening of the old unit-coin which represented a pound (Troy) of bronze. It was somewhat as if the Americans were to reckon in nickels instead of dollars, or the English in three-penny bits. But the very word for money, *pecunia*, reminds us, as the ancients themselves noticed, that the old unit of value was, as in Homeric Greece or in Northern Europe, a head of cattle, *pecus*.

As to industry, it existed certainly, although in a much less organized and more wasteful form than ours, owing to the use of slave labour, economically as well as ethically the worst possible kind, and the comparative absence of machines. But it was, for the most part, a late product even so. The earlier excavations tell the tale of an increasing import of foreign manufactured goods; the corresponding exports were presumably raw materials. The upshot of this brief survey of the economic side of Italian history is that the Italians were not specially gifted in this matter; they were simply not so backward or incapable as to leave their fruitful land wholly unexploited, or so dull and prejudiced as to drive the foreign trader away.

Even so, there are indications that trade was a somewhat hazardous affair, to be girt about with magical or religious sanctions. Nothing is more characteristic of early Rome than its religious exclusiveness; none but native gods were allowed within the sacred enclosure of the *pomerium* or city boundary. Yet there is one exception to this rule. Almost under the shadow of the Palatine, the site of the oldest settlement, lay the Forum Boarium, or cattle-market, where, we may suppose, cattle were brought from inland and they,

or their hides, meat, and tallow, traded to foreigners who came up the Tiber by ship. In this enclosure stood the Great Altar (*Ara Maxima*), which was dedicated to no Roman or even Italian deity, but to Hercules, who is none other than the Greek Herakles, a little modified in his functions, for in Greece he is by no means always a god, nor is it his chief business to protect traders, that being rather the department of Hermes. It would seem, therefore, that trade could hardly go on unless beneath the shadow of some deity well-known by all who were likely to come thither to buy or to sell; and further, that the desire to attract trade was so strong in early Rome as to impel its inhabitants to admit a foreign god, since none of their own was connected with trading or widely known.<sup>6</sup>

There is, then, in antiquity nothing corresponding to the manifold activities of mediaeval and modern Italy in the domains of science, art, and literature. There is no ancient Galileo, no Volta or Marconi; no Titian or Raphael; no name to add to the list of philosophers from Giordano Bruno to Bernardetto Croce. Nay, until the Greeks had taught them how to write, there was no one who could be counted a worthy predecessor of Dante or of Guicciardini. On the practical side, the great Lombard bankers could indeed have pointed to ancient predecessors, but they were largely men of other than Italian stock.

Thus we have seen that the ancient Italians were, not indeed savages, but people among whom not a few traces of savage custom and savage mentality continued to linger down into historical times. We have seen moreover that these survivals, though in many cases fossilized into harmlessness, were not compensated for by any great advances towards civilization in other

directions. It remains to ask: how did this somewhat backward folk become the second centre of civilization for all Europe ?

In the first place, while retaining some of the follies and stupidities of the savage, the Italians appear to have kept not a little of his virtues; for the ridicule which justly overwhelmed the fiction of the ' noble savage ' has perhaps unduly obscured the fact that there are virtues characteristic of that state. The savage is of necessity simple in his methods of satisfying his natural wants; however improvident or greedy he may be, he cannot indulge to any great extent in the luxuries of the table, for instance, for he knows too little of cooking and has access to too few "and not sufficiently varied supplies of food. He is capable, not merely of following brute instinct and preferring to live with his herd, but of showing real devotion in furthering, to the best of his knowledge and ability, the interests of his community. One cannot refuse to admire the man or woman who, however mistaken as to the facts involved, unflinchingly faces death in battle or the more painful end often awaiting the victim of a human sacrifice, at the bidding of tribal custom or the fiat of a sacred chief; and there is surely good in one who, being no fonder of work or material sacrifice than other human beings, will toil to produce that which custom bids him give ungrudgingly to another. That is not a bestial way of life which makes those who live it, on occasion, brave, unselfish, and patriotic, and lack of refinement is in part compensated by lack of over-elaborate desires and contentment (for most savages, in the natural state, do appear tolerably content) with little. Now the traditional ancient Italian counted among the public and private virtues just

such qualities as these. Their books of history and anecdote, amid much rhetoric and not a little that is absurd and insincere, agree in holding up to our admiration such men, real or imaginary, as Curtius, voluntarily offering up his life when a human sacrifice was called for to appease the wrath of the gods shown by the opening of a mysterious chasm in the Forum; Scaevola, risking death and facing excruciating pain in an attempt to rid his country of a formidable enemy; Regulus, serving the state with clean hands and supporting himself and his family on the produce of a small farm; Fabius Dorsuo, calmly walking through a hostile army to serve his gods. These virtues are not too dearly bought at the cost of a certain lack of the good things of civilization, if at the same time the people who have such qualities are not incapable of assimilating the discoveries and appreciating the quicker wits of others.

This brings us to the second point, perhaps the more important of the two. Never in the history of the world have there been such apt pupils as the Italians of antiquity, and especially the Romans. I would not even except the Japanese; for that very remarkable people, when they came in contact with Western civilization, were very far indeed from being barbarians, having been long in possession of a culture (to what extent native, or how far influenced by the civilization of China, is a question for specialists in those branches of learning) different from that of Europe, but in many respects fully equal to it. What they accomplished was to assimilate certain results of pure and applied sciences more advanced and following a better method than their own, and in so doing to overcome an ancient prejudice against anything

foreign. This was a sufficiently great feat; but I doubt if it was so great as that accomplished by ancient Rome in absorbing what other nations could give her. It was never the Romans' habit to deny that they owed an immense deal to foreign races. From Etruria, for instance, they claimed to have imported much of their religion and methods of government—they tended, perhaps, rather to exaggerate than to minimize this debt. From Greece they had their art, their literature, their philosophy, and their science, together with the fundamental principles of theoretical jurisprudence which rendered possible the orderly codification of that great body of law which is one of their noblest legacies and perhaps the most permanent. From many races less gifted than the Greeks and farther off than the Etruscans they adopted whatever seemed good to them : here a sword of Spanish fashion, there a Carthaginian system of rural economy, or again a Gaulish vehicle or an Oriental food-plant. Yet in all these borrowings they did not simply hang their new acquisitions upon their old attainments, but so ingrafted them that their stock, like the tree in Vergil, 'marvelled at new leaves and fruits not its own.' Their speech was rude and uncouth ; there came Greek rhetoric and Greek taste, and Cicero stood forth to rival Demosthenes and Isokrates; Vergil and Lucretius outdid all but the greatest of their teachers in epic and didactic poems; Horace showed that lyric poetry was yet possible, the satirists that new developments might still be looked for. The Greeks and the Etruscans taught them architecture, and the result was a new school, more grandiose than anything Europe had hitherto known. Where they could not improve, they at least preserved, and our modern

scientific and philosophical vocabulary owes more to Latin than to any other single source.

Joined to these two qualities, the power to retain what was good in the old ways and the faculty of assimilating that which was serviceable in the new, was an extraordinary practical genius. It was a long while before any Roman learned to express himself lucidly on the art of war, and the stories of Julius Caesar learning tactics hastily from Greek manuals may not be historical, but at least accord with the practice of some officers of less genius. But, doggedly and with many trials and failures, they somehow learned a method of fighting, offensive and defensive, incomparably better than any of those in use among their opponents. To this and to their native stubborn courage was added a piece of common sense rare among warlike nations of any age or clime; for after many conquests and many rebellions they saw that it is well not to press too hard on the vanquished. The saying is attributed to Scipio Africanus<sup>7</sup> that one should not only give the enemy a road to retreat by, but pave it for them; and in like manner, the public policy of Rome was generally against driving the conquered to desperation by too severe repression or too much sabrerattling. Rather was it the general rule to admit them gradually to at least some share in the privileges of the conquerors. Hence on the whole, Roman rule showed an absence of cruelty and a well-calculated mildness, which in many cases succeeded in converting former foes into willing and useful allies. But the price of such lenient treatment was adoption of Roman ways, which, for the West, meant becoming civilized.

Finally, they possessed that rare gift, the instinct for law and order, which led to there always being, save

in the very worst times, a strong body of public opinion in favour of doing things by some intelligible rule, more or less fair to all concerned. As in the individual Roman household (and the same seems to have been true of Italy generally) the inferior members, theoretically in the absolute power of the head of the house, were practically much more apt than not to be tolerably well treated, so in larger matters the general tendency was to be just and to civilize rather than crush. Rome conquered, and to the vanquished she gave the tradition of the Roman peace, and the example of a world kept in peace and not intolerably oppressed, for a longer space of time than has ever been reached by any other system. 'It advantaged men, though sore unwilling,' says a late poet,<sup>8</sup> reviewing the work of Rome, 'to be subdued under thy governance; in that thou hast granted to the vanquished a share in thine own rights, thou hast made a City of that which aforetime was a World,'

Profuit inuitis, te dominante, capi;  
dumque offers uictis proprii consortia iuris  
urbem fecisti quod prius or bis erat.

#### NOTES ON CHAPTER XI

<sup>1</sup> For the opposite view, E. Cocchia, *La letteratura latina anteriore all' influenza ellenica* (Naples, 1924-5), may be consulted.

<sup>2</sup> The citations of laws are from the Twelve Tables, I, I Bruns. The hymn referred to will be found in Henzen, *Acta fratrum Arualium* (Berlin, 1874), p. 26.

<sup>3</sup> See chapter II, note 9.

<sup>4</sup> For a sketch of Roman art, architecture, etc., see the chapters on those subjects in *The Legacy of Rome* (Oxford, 1923). For the view that such a thing as distinctively Roman

**art** existed **and** possessed merit, see the works of Mrs. E. Strong.

<sup>5</sup> *de bello Gallico*, V, 13, 4.

<sup>6</sup> I have argued for this interpretation of the facts in *J.R.S.*, xii (1922), pp. 131-2.

<sup>7</sup> Frontinus, *de strategem.*, IV, 7, 16.

<sup>8</sup> Rutilius Namatianus, *de reditu suo*, 64-6.

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