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authority. he



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The eldest male parent—the eldest ascendant—was absolutely supreme in his household and his domination extended “ to life and death, and is as unqualified over his children and their houses as over his slaves.” Over them he possessed despotic authority. He was not only absolute owner of property, including even what his children had acquired, but he could chastise and even kill, could sell or transfer by adoption, could marry or divorce any of his children at will. With the breaking up of the single families more families emerged, but all were held together under the authority of the head of the first family. This was the beginning of the tribe.

Many members of a tribe withdrew and settled in new places. Such withdrawals led to the growth of new tribes. These tribes, still united by kinship, acted together for common purposes and ultimately formed a State. Maine, thus, outlines this process of development: “ The elementary group is the family, connected by common subjection to the highest male ascendant.

The aggregation of families forms the Gens or Houses. The aggregation of Houses makes the tribe. The aggregation of tribes constitutes the commonwealth.” The following important points may be noted in Maine’s theory:— 1. In the patriarchal family the element of paternity was the chief fact.

2. Descent was traced only through males and from the same ancestor. None of the descendants of a female was included in the primitive notion of family relationship. Kinship was, accordingly, purely agnatic. 3. Permanent marriage was the rule, whether monogamy or polygamy. 4.

The head of the family was the basis of all authority, and his power was unqualified over his children and their houses and other relations of all descendants, howsoever numerous. 5. He controlled not only the business affairs of the group which he headed, but its religion and its conduct. The family was the primal unit of political society, “ the seedbed of all larger growths of government,” as Woodrow Wilson calls it.

Over the family the patriarch ruled with autocratic power. By virtue of the patria potestas, the flocks and herds of his sons belonged to him, and his domination extended to life and death, being as unqualified over his children and their dependents as over his slaves. But with the birth of new generations, a change occurred. The family shell was broken, because there was no longer any living male ancestor, a grandfather or great-grandfather, who could claim patriarchal authority over the whole group and maintain family cohesion. The single family had developed into several families; yet all of them were fully conscious of their ultimate kinship. Bound together by ties of common blood, and worship of the common ancestors, they associated in a wider common fellowship group, the gens, owing allegiance to some elected elder—perhaps the oldest living ascendant or the most capable.

Similarly, the gens broadened into the tribe. The pastoral pursuits gave way to agriculture and settled life on a definite land became a matter of necessity; tribes united to form the State. In support of his statement, Sir Henry Maine cited the Patriarchs of the Old Testament, “ families” and “ brotherhoods” of Athens, the patria protests in Rome, and the Hindu joint-family system in India. To this may be added particularly the tribal system of the North-West Frontier of Pakistan. The Patriarchal Theory, thus, adopting <https://assignbuster.com/the-them-he-possessed-despotic-authority-he/>

the family as the unit and supposing the headship bequeathed from one chief to another, by easy stages transforms the father into the chief or the king, and the family into a civil community. The Patriarchal Theory has during recent times received the unequivocal support of Duguit, another jurist, but a French national. Duguit maintains that the father “ is the natural chief, the governor of the little state of which the members of the family are the governed.

The ancient city was merely a union of families in which political power belonged to the father.”