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3 example: the father had the right to exclude his son from the family; but he well
4 knew that if he did this the family ran a risk of becoming extinct, and the manes of
5 his ancestors of falling into eternal oblivion. He had the right to adopt a stranger; but
6 religion forbade him to do this if he had a son. He was sole proprietor of the goods;
7 but he had not, at least originally, a right to alienate them. He could repudiate his
8 wife; but to do this he had to break the religious bond which marriage had
9 established. Thus religion imposed upon the father as many obligations as it
10 conferred rights.

11 Such for a long time was the ancient family. The spiritual belief was sufficient
12 without the need of the law of force, or of the authority of a social power to constitute
13 it regularly, to give it a discipline, a government and justice, and to establish private
14 law in all its details.

15 Chapter IX: Morals of the Ancient Family.

17 History does not study material facts and institutions alone; its true object of study
18 is the human mind: it should aspire to know what this mind has believed, thought,
19 and felt in the different ages of the life of the human race.

20 We described, at the opening of this book, the ancient opinion which men held
21 concerning their destiny after death. We have shown how this creed produced
22 domestic institutions and private law. It remains to discover what its action was upon
23 morals in primitive societies. Without pretending that this old religion created moral
24 sentiments in the heart of man, we may at least believe that it was associated with
25 them to fortify them, to give them greater authority, to assure their supremacy and
26 their right of direction over the conduct of men, sometimes also to give them a false
27 bias.

28 The religion of these primitive ages was exclusively domestic; so also were morals.
29 Religion did not say to a man, showing him another man, That is thy brother. It said
30 to him, That is a stranger; he cannot participate in the religious acts of thy hearth; he
31 cannot approach the tomb of thy family; he has other gods than shine, and cannot
32 unite with thee in a common prayer; thy gods reject his adoration, and regard him as
33 their enemy; he is thy foe also.

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In this religion of the hearth man never supplicates the divinity in favor of other men; he invokes him only for himself and his. A Greek proverb has remained as a souvenir and a vestige of this ancient isolation of man in prayer. In Plutarch's time they still said to the egotist, You sacrifice to the hearth.²⁰² This signified, You separate yourself from other citizens; you have no friends; your fellow-men are nothing to you; you live solely for yourself and yours. This proverb pointed to a time when, all religion being around the hearth, the horizon of morals and of affection had not yet passed beyond the narrow circle of the family.

It is natural that moral ideas, like religious ideas, should have their commencement and progress, and the god of the primitive generations in this race was very small; by degrees men made him larger; so morals, very narrow and incomplete at first, became insensibly enlarged, until, from stage to stage, they reached the point of proclaiming the duty of love towards all mankind. The point of departure was the family, and it was under the influence of the domestic religion that duties first appeared to the eyes of man.

Let us picture to ourselves this religion of the fire and of the tomb in its flourishing period. Man sees a divinity near him. It is present, like conscience itself, to his minutest actions. This fragile being finds himself under the eye of a witness who never leaves him. He never feels himself alone. At his side in the house, in the field, he has protectors to sustain him in the toils of life, and judges to punish his guilty actions. "The Lares," said the Romans, "are formidable divinities, whose duty it is to punish mankind, and to watch over all that passes in the interior of the house." The Penates they also describe as "gods who enable us to live; they nourish our bodies and regulate our minds."²⁰³

Men loved to apply to the holy fire the epithet of chaste, and they believed that it enjoined chastity upon mortals. No act materially or morally impure could be committed in its presence.

The first ideas of wrong, of chastisement, of expiation, seem to have come from this. The man who felt guilty no longer dared to approach his own hearth; his god repelled him. He who had shed blood was no longer allowed to sacrifice, or to offer libations, or prayer, or to offer the sacred repast. The god was so severe that he

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3 admitted no excuse; he did not distinguish between an involuntary murder and a
4 premeditated crime. The hand stained with blood could no longer touch sacred
5 objects.²⁰⁴ To enable a man to renew his worship, and to regain possession of his god,
6 he was required at least to purify himself by an expiatory ceremony.²⁰⁵ This religion
7 knew pity, and had rites to efface the stains of the soul. Narrow and material as it
8 was, it still knew how to console man for his errors.

9 If it absolutely ignored the duties of charity, at any rate it traced for man with
10 admirable precision his family duties. It rendered marriage obligatory; celibacy was
11 a crime in the eyes of a religion that made the perpetuity of the family the first and
12 most holy of duties. But the union which it prescribed could be accomplished only
13 in the presence of the domestic divinities; it is the religious, sacred, indissoluble
14 union of the husband and wife. No man could omit the rites, and make of marriage
15 a simple contract by consent, as it became in the latest period of Greek and Roman
16 society. This ancient religion forbade it, and if one dared to offend in this particular,
17 it punished him for it. For the son sprung from such a union was considered a
18 bastard, that is to say, a being who had neither place nor sacred fire; he had no right
19 to perform any sacred act; he could not pray.²⁰⁶

20 This same religion watched with care over the purity of the family. In its eyes the
21 greatest of crimes was adultery. For the first rule of the worship was that the sacred
22 fire should be transmitted from father to son, and adultery disturbed the order of
23 birth. Another rule was, that the tomb should contain only members of the family; but
24 the son born of adultery was a stranger. If he was buried in the tomb, all the
25 principles of the religion were violated, the worship defiled, the sacred fire became
26 impure; every offering at the tomb became an act of impiety. Worse still, by adultery
27 the series of descendants was broken; the family, even though living men knew it not,
28 became extinct, and there was no more divine happiness for the ancestors. The Hindu
29 also says, "The son born of adultery annihilates in this world and in the next the
30 offerings made to the manes."²⁰⁷

31 Here is the reason that the laws of Greece and Rome give the father the right to
32 reject the child just born. Here, too, is the reason that they are so rigorous, so
33 inexorable, against adultery. At Athens the husband is allowed to kill the guilty one.

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3 At Rome the husband, as the wife's judge, condemns her to death. This religion was
4 so severe that a man had not even the right to pardon completely, and that he was
5 forced at least to repudiate his wife.²⁰⁸

6 These, then, are the first moral and domestic laws discovered and sanctioned. Here
7 is, besides the natural sentiment — an imperious religion, which tells the husband
8 and wife that they are united forever, and that from this union flow rigorous duties,
9 the neglect of which brings with it the gravest consequences in this life and in the
10 next. Hence came the serious and sacred character of the conjugal union among the
11 ancients, and the purity which the family long preserved.

12 This domestic morality prescribed still other duties. It taught the wife that she ought
13 to obey; the husband, that he ought to command. It instructed both to respect each
14 other. The wife had rights, for she had her place at the sacred fire; it was her duty to
15 see that it did not die out.²⁰⁹ She too, then, has her priesthood. Where she is not
16 found, the domestic worship is incomplete and insufficient.. It was a great misfortune
17 to a Greek to have a “hearth deprived of a wife.”²¹⁰ Among the Romans the presence
18 of the wife was so necessary in the sacrifices that the priest lost his office on
19 becoming a widower.²¹¹

20 It was, doubtless, to this division of the domestic priesthood that the mother of the
21 family owed the veneration with which they never ceased to surround her in Greek
22 and Roman society; hence it came that the wife had the same title in the family as the
23 husband. The Romans said *pater familias* and *mater familias*; the Greeks,
24 *omKooEcrnon1*□; and *omKooEcrnomva*; the Hindus, *grihapati* and *grehapatni*. Hence also
25 came this formula, which the wife pronounced in the Roman marriage: *ubi tu Caius,*
26 *ego Caia* — a formula which tells us that, if in the house there was not equal
27 authority, there was equal dignity.

28 As to the son, we have seen him subject to the authority of a father, who could sell
29 him or condemn him to death. But this son had also his part in the worship; he filled
30 a place in the religious ceremonies; his presence on certain days was so necessary
31 that the Roman who had no son was forced to adopt a fictitious one for those days,
32 in order that the rites might be performed.²¹² And here religion established a very
33 powerful bond between father and son. They believed in a second life in the tomb —

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3 a life happy and calm if the funeral repasts were regularly offered. Thus the father is
4 convinced that his destiny after this life will depend upon the care that his son will
5 take of his tomb, and the son, on his part, is convinced that his father will become a
6 god after death, whom he will have to invoke. We can imagine how much respect and
7 reciprocal affection this belief would establish in the family. The ancients gave to the
8 domestic virtues the name of piety — the obedience of the son to his father, the love
9 which he bore to his mother. This was piety — *pietas erga parentes*. The attachment
10 of the father for the child, the tenderness of the mother, — these, too, were piety —
11 *pietas erga liberos*. Everything in the family was divine. The sense of duty, natural
12 affection, the religious idea, — all these were confounded, were considered as one,
13 and were expressed by the same word.

14 It will, perhaps, appear strange to find love of home counted among the virtues; but
15 it was so counted among the ancients. This sentiment had a deep and powerful hold
16 upon their minds. Anchises, when he sees Troy in flames, is still unwilling to leave
17 his old home. Ulysses, when countless treasures, and immortality itself, are offered
18 him, wishes only again to see the flame of his own hearth-fire. Let us come down to
19 Cicero's time; it is no longer a poet, but a statesman, who speaks: "Here is my
20 religion, here is my race, here are the traces of my forefathers. I cannot express the
21 charm which I find here, and which penetrates my heart and my senses."²¹³ We must
22 place ourselves, in thought, in the midst of these primitive generations to understand
23 how lively and powerful were these sentiments, which were already enfeebled in
24 Cicero's day. For us the house is merely a domicile — a shelter; we leave it, and
25 forget it with little trouble; or, if we are attached to it, this is merely by the force of
26 habit and of recollections; because, for us, religion is not there; our God is the God
27 of the universe, and we find him everywhere. It was entirely different among the
28 ancients; they found their principal divinity within the house: this was their
29 providence, which protected them individually, which heard their prayers, and
30 granted their wishes. Out of the house, man no longer felt the presence of a god; the
31 god of his neighbor was a hostile god. Then a man loved his house as he now loves
32 his church.²¹⁴

33 Thus the religion of the primitive ages was not foreign to the moral development

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3 of this part of humanity. Their gods enjoined purity, and forbade the shedding of
4 blood; the notion of justice, if it was not born of this belief, must at least have been
5 fortified by it. These gods belonged in common to all the members of the same
6 family; thus the family was united by a powerful tie, and all its members learned to
7 love and respect each other. These gods lived in the interior of each house; a man
8 loved his house, his home, fixed and durable, which he had received from his
9 ancestors, and which he transmitted to his children as a sanctuary.

10 Ancient morality, governed by this belief, knew no charity; but it taught at least the
11 domestic virtues. Among this race the isolation of the family was the commencement
12 of morals. Duties, clear, precise, and imperious, appeared, but they were restricted
13 within a narrow circle. This narrow character of primitive morals we must recollect
14 as we proceed, for civil society, founded later on these same principles, put on the
15 same character, and several singular traits of ancient politics are explained by this
16 fact.²¹⁵

17 Chapter X: The Gens at Rome and in Greece.

19 We find in the writings of Roman jurists and in Greek writers the traces of an
20 antique institution which appears to have had its flourishing period in the first ages
21 of Greek and Italian societies, but which, becoming enfeebled by degrees, left
22 vestiges that were hardly perceptible in the later portion of their history. We speak
23 of what the Romans called *gens*, and the Greeks *Evocr*.

24 As the nature and constitution of the have been much discussed, it may not be
25 amiss here to point out what has constituted the difficulty of the problem.

26 The *gens*, as we shall see presently, formed a body whose constitution was radically
27 aristocratic. It was through their internal organization that the patricians of Rome and
28 the Eupatrids of Athens were able to perpetuate their privileges for so long a time.
29 No sooner had the popular party gained the upper hand, than they attacked this old
30 institution with all their power. If they had been able completely to destroy it, they
31 would probably not have left us the slightest memorial of it. But it was singularly
32 endowed with vitality, and deeply rooted in their manners, and they could not entirely
33 blot it out. They therefore contented themselves with modifying it. They took away

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3 its essential character, and left only its external features, which were not in the way
4 of the new regime. Thus, at Rome, the plebeians undertook to form *gentes*, in
5 imitation of the patricians; at Athens they attempted to overthrow the *gentes*, to blend
6 them together, and to replace them by the *demes*, which were established in imitation
7 of them. We shall have to return to the subject when we speak of the revolutions. Let
8 it suffice here for us to remark, that this profound alteration which the democracy
9 introduced into the regime of the *gens* is of a nature to mislead those who undertake
10 to learn its primitive constitution. Indeed, almost all the information concerning it
11 that has come down to us dates from the epoch when it had been thus transformed,
12 and shows us only that part which the revolutions had allowed to subsist.

13 Let us suppose that, twenty centuries hence, all knowledge of the middle ages has
14 perished; that there remain no documents relating to what passed before the
15 revolution of 1789; and that, notwithstanding this, an historian of that time wishes
16 to form an idea of institutions of an earlier date. The only documents that he would
17 have at hand would show him the nobility of the nineteenth century — that is to say,
18 something very different from that of feudalism; but he would suspect that a great
19 revolution had taken place, and he would rightly conclude that this institution, like
20 all the others, must have been modified. This nobility, which his authorities would
21 describe to him, would no longer be for him anything but the shadow or the
22 enfeebled and altered image of another nobility, incomparably more powerful.
23 Finally, if he examined with attention the slight remains of ancient monuments, a few
24 expressions preserved in the language, a few terms escaped from the law, vague
25 souvenirs or sterile regrets, he would perhaps be able to conjecture something
26 concerning the feudal system, and would obtain an idea of the institutions of the
27 middle ages that would not be very far from the truth. The difficulty would assuredly
28 be great; nor is it less for him who to-day desires to understand the antique *gens*; for
29 he has no information regarding it except what dates from a time when it was no
30 longer anything but a shadow of itself.

31 We will commence by analyzing all that the ancient writers tell us of the *gens*; that
32 is to say, what remained of it at the epoch when it was already greatly changed. Then,
33 by the aid of these remains, we shall attempt to catch a glimpse of the veritable

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3 system of the antique gens.

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5 1. What Ancient Writers tell us of the Gens.

6 If we open a Roman history at the time of the Punic wars we meet three personages,
7 whose names are Claudius Pulcher Claudius Nero, and Claudius Centho. All three
8 belong to the same gens — the Claudian gens.

9 Demosthenes in one of his orations produces seven witnesses, who certify that they
10 belong to the same $\gamma\epsilon\nu\omicron$, that of the Brytidae. What is remarkable in this example
11 is, that the seven persons cited as members of the same $\gamma\epsilon\nu\omicron$ are inscribed in six
12 different demes. This shows that the $\gamma\epsilon\nu\omicron$ did not correspond exactly with the deme,
13 and was not, like it, a simple administrative division.²¹⁶

14 Here is one fact established: there were gentes at Rome and at Athens. We might
15 cite examples relative to many other cities of Greece and Italy, and conclude from
16 them that, in all probability, this institution was universal among these ancient
17 nations.

18 Every gens had a special worship; in Greece the members of the same gens were
19 recognized “by the fact that they had performed sacrifices in common from a very
20 early period.”²¹⁷ Plutarch speaks of the place where the Lycomedae, and AEschines
21 speaks of the altar of the of the Butadae.²¹⁸

22 At Rome, too, each had religious ceremonies to perform; the day, the place, and
23 the rites were fixed by its particular religion.²¹⁹ When the capital is besieged by the
24 Gauls, one of the Fabii, clothed in religious robes, and carrying sacred objects in his
25 hands, is seen to go out and cross the enemy's lines; he goes to offer sacrifice on the
26 altar of his gens, which is situated on the Quirinal. In the second Punic war, another
27 Fabius, whom they called the Shield of Rome, is making head against Hannibal.
28 Certainly it is of the first importance to the republic that he remains with his army;
29 and yet he leaves it in the hands of the imprudent Minucius: this is because the
30 anniversary of the sacrifice of his gens has arrived, and he must be at Rome to
31 perform the sacred act.²²⁰

32 It was a duty to perpetuate this worship from generation to generation, and every
33 man was required to leave sons after him to continue it. Claudius, a personal enemy

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3 of Cicero, abandoned his to enter a plebeian family, and Cicero says to him, “Why
4 do you expose the religion of the Claudian to the risk of becoming extinct through
5 your fault?”

6 The gods of the gens — *Dii gentiles* — protected no other gens, and did not desire
7 to be invoked by another. No stranger could be admitted to the religious ceremonies.
8 It was believed that if a stranger had a part of the victim, or even if he merely assisted
9 at the sacrifice, the gods of the gens were offended. and all the members were guilty
10 of grave impiety.

11 Just as every gens had its worship and its religious festivals, so also it had its
12 common tomb. We read in an oration of Demosthenes, “This man, having lost his
13 children, buried them in the tomb of his fathers, in that tomb that is common to all
14 those of his gens.” The rest of the oration shows that no stranger could be buried in
15 this tomb. In another discourse, the same orator speaks of the tomb where the gens
16 of the Buselidae buried its members, and where every year it performed its funeral
17 sacrifices: “this burial-place is a large field, surrounded with an enclosure, according
18 to the ancient custom.”²²¹

19 The same was the case among the Romans. Velleius Paterculus speaks of the tomb
20 of the Quintilian gens, and Suetonius informs us that the Claudian had one on the
21 slope of the Capitoline Hill.

22 The ancient law of Rome permits the members of a gens to inherit from each other.
23 The Twelve Tables declare that, in default of sons and of agnates, the *gentilis* is the
24 natural heir. According to this code, therefore, the gentiles are nearer akin than the
25 cognates; that is to say, nearer than those related through females.

26 Nothing is more closely united than the members of a gens. United in the
27 celebration of the same sacred ceremonies, they mutually aid each other in all the
28 needs of life. The entire gens is responsible for the debt of one of its members; it
29 redeems the prisoner and pays the fine of one condemned. If one of its members
30 becomes a magistrate, it unites to pay the expenses incident to the magistracy.²²²

31 The accused was accompanied to the tribunal by all the members of his gens; this
32 marks the close relation which the law established between a man and the body of
33 which he formed a part. For a man to plead or bear witness against one of his own

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3 gens was an act contrary to religion. A certain Claudius, a man of some rank, was a
4 personal enemy of Appius Claudius the Decemvir; yet when the latter was placed on
5 trial, and was menaced with death, this Claudius appeared in his defence, and
6 implored the people in his favor, but not without giving them notice that he took this
7 step “not on account of any affection which he bore the accused, but as a duty.”

8 If a member of a gens could not accuse another member before a tribunal of the
9 city, this was because there was a tribunal in the gens itself. Each gens had its chief,
10 who was at the same time its judge, its priest, and its military commander.²²³ Every
11 one knows that when the Sabine family of the Claudii established itself at Rome, the
12 three thousand persons who composed it obeyed a single chief. Later, when the Fabii
13 took upon themselves the whole war against the Veientes, we see that this gens had
14 its chief, who spoke in its name before the senate, and who led it against the
15 enemy.²²⁴

16 In Greece, too, each gens had its chief; the inscriptions confirm this, and they show
17 us that this chief generally bore the title of archon.²²⁵ Finally, in Rome, as in Greece,
18 the gens had its assemblies; it passed laws which its members were bound to obey,
19 and which the city itself respected.²²⁶

20 Such are the usages and laws which we find still in force at an epoch when the gens
21 was already enfeebled and almost destroyed. Such are the remains of this ancient
22 institution.

23
24 2. An Examination of certain Opinions that have been put forth to explain the
25 Roman Gens.

26 On this subject, which has long been the theme of learned controversy, several
27 theories have been offered. Some say that the gens was nothing more than a similarity
28 in name;²²⁷ others, that the word gens designated a sort of factitious relationship. Still
29 others hold that the gens was merely the expression of a relation between a family
30 which acted as patrons and other families that were clients. But none of these
31 explanations answer to the whole series of facts, laws, and usages which we have just
32 enumerated.

33 Another opinion, more plausible, is, that the gens was a political association of

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3 several families who were originally strangers to each other; and that in default of ties
4 of blood, the city established among them an imaginary union and a sort of religious
5 relationship.

6 But a first objection presents itself: If the gens is only a factitious association, how
7 are we to explain the fact that its members inherited from each other? Why is the
8 gentilis preferred to the cognate? It has been seen above what the rules of succession
9 were, and we have pointed out the close and necessary relation which religion had
10 established between the right of inheritance and masculine kinship. Can we suppose
11 that ancient law deviated so far from this principle as to accord the right of
12 succession to the gentiles if they had been strangers to each other?

13 The best established and most prominent characteristic of the gens is, that, like the
14 family, it had a worship. Now, if we inquire what god each adores, we find almost
15 always that it is a deified ancestor, and that the altar where the sacrifice is offered is
16 a tomb. At Athens the Eumolpidae worshipped Eumolpus, the author of their race;
17 the Phytalidae adored the hero Phytalus; the Butadae, Butes; the Buselidae, Buselus;
18 the Lakiadae, Lakios; the Amynandridae, Cecrops.²²⁸ At Rome the Claudii are
19 descended from a Clausus; the Caeculii honored as chief of their race the hero
20 Caeculus; the Calpurnii, a Calpus; the Julii, a Julius, the Cloelii, a Cloelus.²²⁹

21 We may easily suppose, it is true, that many of these genealogies were an
22 afterthought; but we must admit that this sort of imposture would have had no motive
23 if it had not been a constant usage among the real gentes to recognize and to worship
24 a common ancestor. Falsehood always seeks to imitate the truth. Besides, the
25 imposture was not so easy as it might seem to us. This worship was not a vain
26 formality for parade. One of the most rigorous rules of the religion was, that no one
27 should honor as an ancestor any except those from whom he was really descended
28 to offer this worship to a stranger was a grave impiety. If, then, the members of a
29 gens adored a common ancestor, it was because they really believed they were
30 descended from him. To counterfeit a tomb, to establish anniversaries and an annual
31 worship, would have been to carry falsehood into what they held most dear, and to
32 trifle with religion.

33 Such a fiction was possible in the time of Caesar, when the old family religion was

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3 cherished by nobody. But if we go back to the time when this creed was in its vigor,
4 we cannot imagine that several families, taking part in the same imposture, could say
5 to each other, We will pretend to have a common ancestor; we will erect him a tomb;
6 we will offer him funeral repasts; and our descendants shall adore him in all future
7 time. Such a thought could not have presented itself to their minds, or it would have
8 been scouted as an impiety.

9 In the difficult problems often found in history, it is well to seek from the terms of
10 language all the instruction which they can afford. An institution is sometimes
11 explained by the word that designates it. Now, the word *gens* means exactly the same
12 as the word *genus*; so completely alike are they that we can take the one for the other,
13 and say, indifferently, *gens Fabia* and *genus Fabium*; both correspond to the verb
14 *gignere* and to the substantive *genitor*, precisely as $\gamma\epsilon\nu\omicron$ corresponds to $\gamma\epsilon\nu\nu\alpha\nu$ and
15 to $\gamma\omicron\nu\epsilon\omega$. All these words convey the same idea of filiation. The Greeks also
16 designated the members of a $\gamma\epsilon\nu\omicron$ by the word $\omicron\mu\omicron\gamma\alpha\text{AaK}\eta\epsilon$, which signifies
17 nourished by the same milk.. Let these words be compared with those which we are
18 accustomed to translate by family — the Latin *familia*, the Greek $\omicron\mu\text{K}\omicron$. Neither of
19 these last has the sense of generation or of kinship. The true signification of *familia*
20 is property; it designates the field, the house, money, and slaves; and it is for this
21 reason that the Twelve Tables say, in speaking of the heir, *familiam nancitor* — let
22 him take the succession. As to $\omicron\mu\text{K}\omicron$, it is clear that this word presents to the mind no
23 other idea than that of property or of domicile. And yet these are the words that we
24 habitually translate by family. Now, is it admissible that terms whose intrinsic
25 meaning is that of domicile or property were often used to designate a family, and
26 that other words whose primary sense is filiation, birth, paternity, have never
27 designated anything but an artificial association? Certainly this would not be in
28 conformity with the logic, so direct and clear, of the ancient languages. It is
29 unquestionable that the Greeks and the Romans attached to the words *gens* and $\gamma\epsilon\nu\omicron$
30 the idea of a common origin. This idea might have become obscured after the *gens*
31 was modified, but the word has remained to bear witness of it.

32 The theory that presents the *gens* as a factitious association has against it, therefore,
33 Ist, the old legislation, which gives the *gentiles* the right of inheritance; 2d, the old

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3 religion, which allowed a common worship only where there was a common
4 parentage; 3d, the terms of language, which attest in the gens a common origin. The
5 theory has also this other defect, that it supposes human societies to have commenced
6 by a convention and an artifice — a position which historical science cannot admit
7 as true.

8
9 3. The Gens is the Family still holding its primitive Organization and its Unity.

10 All the evidence presents us the gens as united by the tie of birth. Let us again
11 consult language: the names of the gentes, in Greece as well as in Rome, all have the
12 form which was used in the two languages for patronymics. Claudius signifies the
13 son of Clausus, and Butadae, the sons of Butes.

14 Those who think they see in the gens an artificial association, set out from a false
15 assumption. They suppose that a gens always consisted of several families having
16 different names, and they cite the Cornelian gens, which did indeed include Scipios,
17 Lentuli, Cossi, and Syllae. But this is very far from having been a general rule. The
18 Marcian gens appears never to have had more than a single line. We also find but one
19 in the Lucretian gens, and but one in the Quintilian gens, for a long time. It would
20 certainly be very difficult to tell what families composed the Fabian gens, for all the
21 Fabii known in history belong manifestly to the same stock. At first they all bear the
22 same surname of Vibulanus; they all change it afterwards for that of Ambustus,
23 which they replace still later by Maximus or Dorso.

24 We know that it was customary at Rome for all patricians to have three names. One
25 was called, for example, Publius Cornelius Scipio. It may be worth the while to
26 inquire which of these three names was considered as the true name. Publius was
27 merely a name placed before — praenomen; Scipio was a name added — agnomen.
28 The true name was Cornelius, and this name was at the same time that of the whole
29 gens. Had we only this single indication regarding the ancient gens, it would justify
30 us in affirming that there were Cornelii before there were Scipios, and not, as it is
31 often said, that the family of the Scipios associated with others to form the Cornelian
32 gens.

33 History teaches us, in fact, that the Cornelian gens was for a long time undivided,

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3 and that all the members alike bore the surname of Maluginensis, and that of Cossus.
4 It was not till the time of the dictator Camillus that one of its branches adopted the
5 surname of Scipio. A little later another branch took the surname of Rufus, which it
6 replaced afterwards by that of Sylla. The Lentuli do not appear till the time of the
7 Samnite wars, the Cethegi not until the second Punic war. It is the same with the
8 Claudian gens. The Claudii remained a long time united in a single family, and all
9 bore the surname of Sabinus or of Regillensis, a sign of their origin. We follow them
10 for seven generations without seeing any branches formed in this family, although it
11 had become very numerous. It was only in the eighth, that is to say, in the time of the
12 first Punic war, that we see three branches separate, and adopt three surnames which
13 became hereditary with them. These were the Pulchri, who continued during two
14 centuries; the Centhos, who soon became extinct, and the Neros, who continued to
15 the time of the empire.

16 From all this it is clear that the gens was not an association of families, but that it
17 was the family itself. It might either comprise only a single line, or produce several
18 branches; it was always but one family.

19 Besides, it is easy to account for the formation of the antique gens and for its
20 nature, if we but refer to the old belief and to the old institutions that we have already
21 described. We shall see, even, that the gens is derived very naturally from the
22 domestic religion and from the private law of the ancient ages. Indeed, what did this
23 primitive religion prescribe? That the ancestor, that is to say, the man who was first
24 buried in the tomb, should be perpetually honored as a god, and that his descendants,
25 assembled every year near the sacred place where he reposed, should offer him the
26 funeral repast.

27 This fire always kept burning, this tomb always honored with a worship, were the
28 centre around which all later generations came to live, and by which all the branches
29 of the family, however numerous they might be, remained grouped in a single body.
30 What more does private law tell us of those ancient ages? While studying the nature
31 of authority in the ancient family, we saw that the son did not separate from the
32 father; while studying the rules for the transmission of the patrimony, we saw that,
33 on account of the right of primogeniture, the younger brothers did not separate from

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3 the oldest. Hearth, tomb, patrimony, all these, in the beginning, were indivisible. The
4 family, consequently, was also indivisible. Time did not dismember it. This
5 indivisible family, which developed through ages, perpetuating its worship and its
6 name from century to century, was really the antique gens. The gens was the family,
7 but the family having preserved the unity which its religion enjoined, and having
8 attained all the development which ancient private law permitted it to attain.²³⁰

9 This truth admitted, all that the ancient writers have told us of the gens becomes
10 clear. The close unity which we have remarked among its members is no longer
11 surprising; they are related by birth, and the worship which they practice in common
12 is not a fiction; it comes to them from their ancestors. As they are a single family,
13 they have a common tomb. For the same reason the law of the Twelve Tables
14 declares them qualified to inherit each other's property. For the same reason, too, they
15 bear the same name. As all had, in the beginning, a single undivided patrimony, it
16 was a custom, and even a necessity, that the entire gens should be answerable for the
17 debt of one of its members, and that they should pay the ransom of the prisoner and
18 the fine of the convict. All these rules became established of themselves while the
19 gens still retained its unity; when it was dismembered they could not disappear
20 entirely. Of the ancient and sacred unity of this family there remain persistent traces
21 in the annual sacrifices which assembled the scattered members; in the name that
22 remained common to them; in the legislation which recognized the right of gentiles
23 to inherit; in their customs which enjoined them to aid each other.²³¹

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25 **4. The Family (Gens) was at first the only Form of Society.**

26 What we have seen of the family, its domestic religion, the gods which it had
27 created for itself, the laws that it had established, the right of primogeniture on which
28 it had been founded, its unity, its development from age to age until the formation of
29 the gens, its justice, its priesthood, its internal government, — carries us forcibly, in
30 thought, towards a primitive epoch, when the family was independent of all superior
31 power, and when the city did not yet exist.

32 When we examine the domestic religion, those gods who belonged only to one
33 family and exercised their providence only within the walls of one house, this

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3 worship which was secret, this religion which would not be propagated, this antique
4 morality which prescribed the isolation of families, — it is clear that beliefs of this
5 nature could not have taken root in the minds of men, except in an age when larger
6 societies were not yet formed. If the religious sentiment was satisfied with so narrow
7 a conception of the divine, it was because human associations were then narrow in
8 proportion. The time when men believed only in the domestic gods was the time
9 when there existed only families. It is quite true that this belief might have subsisted
10 afterwards, and even for a long time, when cities and nations existed. Man does not
11 easily free himself from opinions that have once exercised a strong influence over
12 him. This belief might endure, therefore, even when it was in disaccord with the
13 social state. What is there, indeed, more contradictory than to live in civil society and
14 to have particular gods in each family? But it is clear that this contradiction did not
15 always exist, and that at the epoch when this belief was established in the mind, and
16 became powerful enough to form a religion, it corresponded exactly with the social
17 state of man. Now, the only social state that is in accord with such a belief is that in
18 which the family lives independent and isolated.

19 In such a state the whole Aryan race appears to have lived for a long time. The
20 hymns of the Vedas confirm this for the branch from which the Hindus are
21 descended, and the old beliefs and the old private laws attest it for those who finally
22 became Greeks and Romans.

23 If we compare the political institutions of the Aryas of the East with those of the
24 Aryas of the West, we find hardly any analogy between them. If, on the contrary, we
25 compare the domestic institutions of these various nations, we perceive that the
26 family was constituted upon the same principles in Greece and in India; besides,
27 these principles were, as we have already shown, of so singular a nature that we
28 cannot suppose this resemblance to have been the work of chance. Finally, not only
29 do these institutions offer an evident analogy, but even the words that designate them
30 are often the same in the different languages, which this race has spoken from the
31 Ganges to the Tiber. From this fact we may draw a double conclusion one is, that the
32 origin of domestic institutions among the nations of this race is anterior to the period
33 when its different branches separated; the other is, that the origin of political

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3 institutions is, on the contrary, later than this separation. The first were fixed from
4 the time when the race still lived in its ancient cradle of Central Asia. The second
5 were formed by degrees in the different countries to which its migrations conducted.
6 We can catch a glimpse therefore of a long period, during which men knew no other
7 form of society than the family. Then arose the domestic religion, which could not
8 have taken root in a society otherwise constituted, and which must long have been
9 an obstacle to social development. Then also was established ancient private law,
10 which was found later to be in disaccord with the interests of a more extended social
11 organization, but which was in perfect harmony with the state of society in which it
12 arose.

13 Let us place ourselves, in thought, therefore, in the midst of those ancient
14 generations whose traces have not been entirely effaced, and who delegated their
15 beliefs and their laws to subsequent ages. Each family has its religion, its gods, its
16 priesthood. Religious isolation is a law with it; its ceremonies are secret. In death
17 even, or in the existence that follows it, families do not mingle; each one continues
18 to live apart in the tomb, from which the stranger is excluded. Every family has also
19 its property, that is to say, its lot of land, which is inseparably attached to it by its
20 religion; its gods — *Termini* — guard the enclosure, and its Manes keep it in their
21 care. Isolation of property is so obligatory that two domains cannot be contiguous,
22 but a band of soil must be left between them, which must be neutral ground, and
23 must remain inviolable. Finally, every family has its chief, as a nation would have its
24 king. It has its laws, which, doubtless, are unwritten, but which religious faith
25 engraves in the heart of every man. It has its court of justice, above which there is no
26 other that one can appeal to. Whatever man really needs for his material or moral life
27 the family possesses within itself. It needs nothing from without; it is an organized
28 state, a society that suffices for itself.

29 But this family of the ancient ages is not reduced to the proportions of the modern
30 family. In larger societies the family separates and decreases. But in the absence of
31 every other social organization, it extends, develops, and ramifies without becoming
32 divided. Several younger branches remain grouped around an older one, near the one
33 sacred fire and the common tomb.

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Still another element entered into the composition of this antique family. The reciprocal need which the poor has of the rich, and the rich has of the poor, makes servants. But in this sort of patriarchal regime servant and slave were one. We can see, indeed, that the principle of a free and voluntary service, ceasing at the will of the servant, would ill accord with a social state in which a family lived isolated. Besides, the domestic religion did not permit strangers to be admitted into a family. By some means, then, the servant must become a member and an integrant part of the family. This was effected by a sort of initiation of the new comer into the domestic worship.

A curious usage, that subsisted for a long time in Athenian houses, shows us how the slave entered the family. They made him approach the fire, placed him in the presence of the domestic divinity, and poured lustral water upon his head. He then shared with the family some cakes and fruit.²³² This ceremony bore a certain analogy to those of marriage and adoption. It doubtless signified that the new comer, a stranger the day before, should henceforth be a member of the family, and share in its religion. And thus the slave joined in the prayers, and took part in the festivals.²³³ The fire protected him; the religion of the Lares belonged to him as well as to his master. This is why the slave was buried in the burial-place of the family.²³⁴

But by the very act of acquiring this worship, and the right to pray, he lost his liberty. Religion was a chain that held him. He was bound to the family for his whole life and after his death.

His master could raise him from his base servitude, and treat him as a free man. But the servant did not on this account quit the family. As he was bound to it by his worship, he could not, without impiety, separate from it. Under the name of freedman, or that of client, he continued to recognize the authority of the chief or patron, to be under obligations to him. He did not marry without the consent of the master, and his children continued to obey this master.

There was thus formed in the midst of the great family a certain number of small families of clients and subordinates. The Romans attributed the establishment of clientship to Romulus, as if an institution of this nature could have been the work of a man. Clientship is older than Romulus. Besides, it has existed in other countries,

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3 in Greece as well as in all Italy. It was not the cities that established and regulated it;
4 they, on the contrary, as we shall presently see, weakened and destroyed it by
5 degrees. Clientship is an institution of the domestic law, and existed in families
6 before there were cities.

7 We are not to judge of the clientship of earlier ages from the clients that we see in
8 Horace's time. The client, it is clear, was for a long time a servant attached to a
9 patron. But there was then something to give him dignity; he had a part in the
10 worship, and was associated in the religion of the family. He had the same sacred
11 fire, the same festivals, the same *sacra* as his patron. At Rome, in sign of this
12 religious community, he took the name of the family. He was considered as a
13 member of it by adoption. Hence the close bond and reciprocity of duties between the
14 patron and the client. Listen to the old Roman law: "If a patron has done his client
15 wrong, let him be accursed, *sacer esto*, — let him die." The patron was obliged to
16 protect his client by all the means and with all the power of which he was master; by
17 his prayers as a priest, by his lance as a warrior, by his law as a judge. Later, when
18 the client was called before the city tribunal, it was the patron's duty to defend him.
19 It was his duty even to reveal to him the mysterious formulas of the law that would
20 enable him to gain his cause. One might testify in court against a cognate, but not
21 against a client; and men continued long to consider their duties towards clients as
22 far above those towards cognates.²³⁵ Why? Because a cognate, connected solely
23 through women, was not a relative, and had no part in the family religion. The client,
24 on the contrary, had a community of worship; he had, inferior though he was, a real
25 relationship, which consisted, according to the expression of Plato, in adoring the
26 same domestic gods.

27 Clientship was a sacred bond which religion had formed, and which nothing could
28 break. Once the client of a family, one could never be separated from it. Clientship
29 was even hereditary.

30 From all this we see that the family, in the earliest times, with its oldest branch and
31 its younger branches, its servants and its clients, might comprise a very numerous
32 body of men. A family that by its religion maintained its unity, by its private law
33 rendered itself indivisible, and through the laws of clientship retained its servants,

Numa Denis Fustel de Coulanges, *The Ancient City*, 95

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came to form, in the course of time, a very extensive organization, having its hereditary chief. The Aryan race appears to have been composed of an indefinite number of societies of this nature, during a long succession of ages. These thousands of little groups lived isolated, having little to do with each other, having no need of one another, united by no bond religious or political, having each its domain, each its internal government, each its gods.