It is characteristic that even in the strict law of paternal power formulated by the Romans an unemancipated son was protected in his rights in regard to things acquired in the camp (*peculium castrense)* and later on this protection spread to other chattels (*peculium quasi-castrense).* The personal character of this kind of property has a decisive influence on the modes of succession to it. This part of the inheritance is widely considered in early law as still in the power of the dead even after demise. We find that many savage tribes simply destroy the personal belongings of the dead: this is done by several Australian and Negro tribes (Post, *Grundriss der ethnologischen Jurisprudenz,* pp. 174-5). Sometimes this rule is modified in the sense that the goods remaining after deceased persons have to be taken away by strangers, which leads to curious customs of looting the house of the deceased. Such customs were prevalent, for example, among the North American Indians of the Delaware and Iro­quois tribes. Evidently the nearer relations dare not take over such things on account of a *tabu* rule, while strangers may appropriate them, as it were, by right of conquest.

Thc continuance of the relation of the deceased to his own things gives rise in most cases to provisions made for the dead out of his personal succession. The habit of putting arms, victuals, clothes and ornaments in the grave seems almost universal, and there can be no doubt that the idea underlying such usages consists in the wish to provide the deceased with all matters necessary to his existence after death. A very char­acteristic illustration of this conception may be given from the customs of the ancient Russians, as described about 921 by the Arabian traveller Ibn Fadhlan. The whole of the personal property was divided into three parts: one-third went to the family, the second third was used for making clothes and other ornaments for the dead, while the third was spent in carousing on the day when the corpse was cremated. The ceremony itself consisted in the following: the corpse was put into a boat and was dressed up in the most gorgeous attire. Intoxicating drinks, fruit, bread and meat were put by its side; a dog was cut into two parts, which were thrown into the boat. Then, all the weapons of the dead man were brought in, as well as the flesh of two horses, a cock and a chicken. The concubine of the de­ceased was also sacrificed, and ultimately all these objects were burned in a huge pile, and a mound thrown up over the ashes. This description is the more interesting because it starts from a division of the goods of the deceased, one part of them being affected, as it were, to his personal usage. This rule continues to be observed in Germanic law in later times and became the starting point of the doctrine of succession to personal property in English law. According to Glanville (vii. 5, 4) the chattels of the deceased have to be divided into three equal parts, of which one goes to his heir, one to his wife and one is reserved to the deceased himself. The same reser­vation of the third to the deceased himself is observed in Magna Charta (c. 26) and in Bracton’s statement of Common Law (fol. 60), but in Christian surroundings the reservation of “ the dead man’s part ” was taken to apply to the property which had to be spent for his soul and of which, accordingly, the Church had to take care. This lies at the root of the com­mon law doctrine observed until the passing of the Court of Probate Act 1857. On the strength of this doctrine the bishop was the natural administrator of this part of the personalty of the deceased.

The succession to real property, if we may use the English legal expression, is not governed by such considerations or the needs of the dead. Roughly speaking, three different views may be taken as to the proper readjustment in such cases. Taking the principal types in a logical sequence, which differs from the historical one, we may say that the aggregate of things and claims relinquished by a deceased person may: (1) pass to relatives or other persons who stood near him in a way deter­mined by law. Should several persons of the kind stand equally near in the eye of the law the consequence would be a division of the inheritance. The personal aspect of succession rules in such systems of inheritance. (2) The deceased may be considered as a subordinate member of a higher organism— a kindred, a village, a state, &c. In such a case there can be no succession proper as there has been no individual property to begin with. The cases of succession will be a relapse of certain goods used by the member of a community to that community and a consequent rearrangement of rights of usage. The law of succession will again be constructed on a personal basis, but this basis wall be supplied not by the single individual whose death has had to be recorded but by some community or union to which this individual belonged. (3) The aggregate of goods and claims constituting what is commonly called an inheritance may be considered as a unit having an existence and an object of its own. The circumstance of the death of an individual owner will, as in case 2, be treated as an accidental fact. The unity of the inheritance and the social part played by it will con­stitute the ruling considerations in the arrangement of succession. The personal factor will be subordinated to the real one.

In practice pure forms corresponding to these main concep­tions occur seldom, and the actual systems of succession mostly appear as combinations of these various views. We shall try to give briefly an account of the following arrangements: (1) the *joint family* in so far as it bears on succession; (2) *voluntary associations* among co-heirs; (3) *division* of inheri­tance; (4) united succession in the shape of *primogeniture* and of *junior right.*

The large mass of Hindu juridical texts representing customs and doctrines ranging over nearly 5000 years contains many indications as to the existence of a *joint family* which was considered as the corporate owner of property and therefore did not admit in principle of the opening of succession through the death of any of its members. The father or head of such a joint family was in truth only the manager of its property during lifetime, and though on his demise this power and right of management had to be regulated anew, the property itself could not be said to pass by succession: it remained as formerly in the joint family itself. In stating this abstract doctrine we have to add that our evidence shows us in practice only characteristic consequences and fragments of it, but that we have not the means of observing it directly in a consistent and complete shape during the comparatively recent epochs which are reflected in the evidence. It is even a question whether such a doctrine was ever absolutely enforced in regard to chattels: even in the earliest period of Hindu law articles of personal apparel and objects acquired by personal will and strength fell to a great extent under the conception of separate property. Gains of science, art and craft are mentioned in early instances as subject to special ownership and corresponding rules of personal succession are framed in regard to them (Jolly, Tagore lectures on *Partition, Inheritance and Adoption,* 94). But on the other hand there are certain categories of movable goods which even in later law arc considered as belong­ing to the family community and incapable of partition, *e.g.* water, prepared food, roads, vehicles, female slaves, property destined for pious uses and sacrifices, books. When law became rationalized these things had to be sold in order that the pro­ceeds of the sale should be divided, but originally they seem to have been regarded as owned by the joint family though used by its single members. And as to immovables—land and houses—they were demonstrably excluded in ancient customary law from partition among co-heirs.

In Greek law the most drastic expression of the joint family system is to be found in the arrangements of Spartan households, where brothers clustered round the eldest or “ keeper of the hearth”@@1 *(ἑστιαπαμιον),* and not only the management of family property but even marriages were dependent on the unity of the shares and on the necessity of keeping down the offspring of the younger brothers. With the Romans there are hardly any traces of a primitive family community excluding succession, but the Celtic tribal system was to a great extent based on this fundamental conception (Seebohm, *Tribal System in Wales).*

@@@1 The term illustrates the intimate connexion between inheritance and household religion in ancient Aryan custom.