

whom he afterwards taught how to appease the Aṅgirasas, and to procure cows. This is a significant indication that the property he divided was movable property, rather than land (Urvarā). In the Aitareya Brāhmaṇa<sup>3</sup> the division is said to have been made during Manu's lifetime by his sons, who left only their aged father to Nābhānediṣṭha. According to the Jaiminiya Brāhmaṇa,<sup>4</sup> again, four sons divided the inheritance while their old father, Abhipratārin, was still alive. It is, of course, possible to regard Dāya as denoting the heritable property of the family, but the developed *patria potestas* of the father, which was early very marked, as shown by the legend of Śunaḥśepa, is inconsistent with the view that the sons were legally owners with their father, unless and until they actually insisted on a division of the property.<sup>5</sup> Probably—there is no evidence of any decisive character—land was not divided at first, but no doubt its disposal began to follow the analogy of cattle and other movable property as soon as the available supply of arable land became limited.

As for the method of division, it is clear from the Taittirīya Saṃhitā<sup>6</sup> that the elder son was usually preferred; perhaps

<sup>3</sup> v. 14.

<sup>4</sup> iii. 156 (*Journal of the American Oriental Society*, 26, 61, 62).

<sup>5</sup> The same question has been raised as to the origin of English or Teutonic property in land generally. Against any idea even of family ownership in a strict sense of the word, see Fustel de Coulanges, *Recherches sur quelques Problèmes d'Histoire*, 322 *et seq.*; Ashley, in Fustel de Coulanges, *Origin of Property in Land*, xvi-xxi; Pollock and Maitland, *History of English Law*, 2, 237 *et seq.* The older view, which accepted family and communal ownership, represented in different forms by Maine (*Village Communities in the East and West*), Stubbs, Green, and others, is defended in a new form by Vinogradoff, *Villanage in England*. See also Keith, *Journal of the African Society*, 6, 201 *et seq.* Jolly, *Recht und Sitte*, 93-96, does not accept the communal ownership of land,

but, *ibid.*, 80, is inclined to believe in the joint ownership of a family. He admits that this is inconsistent with the strict rule of *patria potestas*, which still exists in Bengal; Baden Powell, *Village Communities in India*, 133 *et seq.*, doubts the existence in early India of such a *patria potestas*. But the facts seem clearly to show that there was such a power, and that the father owned the property. His sons, as they grew up, came to claim the property, and he might have to divide it; hence the idea naturally developed that every child on birth had a legal share in the property. No doubt also from the first the right to part with land was one which grown-up sons and the rest of the community could object to, once the village had acquired a fixed existence. This would account adequately for the later system. Cf. also pp. 100, n. 19; 336, n. 7, and Rājanya.

<sup>6</sup> ii. 5, 2, 7.