

The Germanic Kindreds

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The Influence of the Kindreds on Social Conditions

The importance of the pre-historic kindred systems constantly recognized by historians, and has often been credited with more power than it can ever have possessed; but it is no less constantly implied that such features of the system as survived into historic times had little or no influence on the body politic, and are only worth mentioning in connection with criminal law. It is true that the shifting nature of the Teutonic kindred precluded its ever having a chief, and asserting itself as a permanent compact body, so that its workings are bound to be obscure. Yet such organizations as existed in Denmark and Friesland, the Netherlands and Picardy, cannot have been without influence on the social conditions of their times. A man who can at any moment surround himself with a large group of persons, all of whom are willing to make sacrifices for him, is in a very different position to one who has to depend on his own efforts and on those of his immediate family for protection against aggression.

Not only would his position be better from the social and political point of view: it would also be far better from the economic point of view. It is generally agreed that the isolation of the small landowner was his undoing, since it rendered him unable to withstand adverse circumstances, such as a bad year, a fire, a plague among his beasts, or a piratical raid on his homestead. In such an emergency the simplest and best expedient was always to surrender one's land, getting it back as a benefice, and now at least to have the social support of a patron, which also had an economically useful side. This is all quite true of the isolated small landowner, but we cannot believe that it was all true of the small peasant proprietor who was surrounded by a kindred. We have seen evidence to show that the cohesive kindred would rally round a member threatened with a lawsuit, and that it probably performed the functions of an insurance society, besides keeping a jealous watch on the inherited land belonging to its members. In regions where the kindred preserved its solidarity it would thus far be less easy, for a wealthy landowner, or even for ecclesiastical foundations to exploit the financial and social difficulties of a poor neighbor, by acquiring his lands or by extorting rights over him at periods of want. In such regions we might reasonably expect to find few great territorial lords, and few seignorial privileges, together with a preponderance of free peasant proprietors. This is exactly what we do find in Schleswig-Holstein. The "nobles" up to the 12th century, are peasant proprietors who perform certain military services to the king, and who receive certain immunities in return, but they are little wealthier than their fellows, and have no seignorial rights. This class of noble disappears in the 13th century in Schleswig-Holstein, and somewhat later in the rest of Jutland, largely owing to poverty. The later class of nobles also sprang from the peasant farmers, but has a different history. In order to encourage colonization, the Count of Holstein granted fiefs in Eastern Holstein to persons of the peasant class, who thus became rich and powerful, with feudal rights over their dependents. Almost the whole of the later nobility of Denmark, as well as Schleswig-Holstein, can be traced back to these colonists. Except in the colonized districts, the peasant farmers possessed their own lands, and continued to enjoy a high degree of local autonomy up to the 16th and 17th centuries. The independence is also characteristic of the Old Saxon peasants, until the country was overrun by colonizing nobles; and for a much longer period of time in East and West Friesland ... In non-Frisian Holland, too, free peasant proprietors continued to flourish until the rise of the towns, when it would seem that the free kindreds flocked thither, preserving their independence throughout the whole Middle Ages, and abandoning agriculture to a lower class.

In France, owing to the need for cavalry occasioned by the Saracen invasions, an immense impulse was given to feudalism, which naturally resulted in depressing the status of the ordinary freeman. Yet of the early Frankish kingdom it has been observed that the prevalence of lordship is by no means so clear as in England.

In our own country, on the other hand, Professor Vinogradoff has said that "in a sense, the feudal law of England was the hardest of all in Western Europe". The dependent state of the ceorl in the greater part of England (before the Norman conquest) has been commented on by many authorities, and is so marked

that Seebohm found himself forced to contemplate a serf origin for the English village community. Maitland attributes the ceorl's loss of independence to the exhausting efforts made by Wessex to keep off the Danes.

This would account for his poverty, if poor he was, but would it account for manors and seigniorial rights? We must observe that the Viking raids (together with ecclesiastical influence which should surely have been effective in England if anywhere) have been recently adduced as paving the way to an "elevation of the lowest elements of the population" in Friesland. Friesland suffered more than England at the hands of the Norsemen, and it shakes our faith in the Vikings as the agents of social change to find the adduced in England as the chief cause of the prevailing serfdom, and in Friesland as contributing towards the rise of the agricultural classes.

Moreover even in Northern and Eastern England the only form of independence granted to free sokemen is the right to choose their own lord. Lords, it seems, they must have; and not only must they have lords, but for purposes of administration and police supervision they must be dragooned into groups (tithing groups), whose function it is to guarantee their orderliness and produce them when required. In Wessex, too, feudal lords are frequently mentioned in Ine's laws, before the Danish invasions. Of course England was a military kingdom, won at the point of the sword, but it has been maintained that it was not until some time after the conquest that the status of ceorl begins to fall, and in any case it is strange that the rigors of feudalism should be more pronounced in England than in the Frankish kingdom, which was also won by force of arms.

The real reason why the burden of the small landowner so soon proved too heavy for him to bear in England was not that the burden became so much heavier, but that it was a burden calculated for the backs of many individual, not for one. Wergild for instance became a crushing imposition, leading to debt, serfdom, poverty, when the price was paid out of the cattle and household goods possessed by the individual slayer and his immediate family: when dispersed among a whole kindred it was comparatively little felt.

Now let us compare England with a country that was not gained at the power of the sword. In Iceland individuals, not associated in kindreds, took peaceful possession of their land, and at the outset all landowners were on equal footing. There were no Viking raids to repel, there was no national army, whose officers might obtain over-lordship over their fellows; and yet, within a few years of the settlement, every landowner, unless himself a chief, had a lord to whom he owed military and other service, and the courts of justice were more seigniorial than popular in character. By the 12th century, the small landowners were so crushed that the few powerful families could demand what services and dues they liked. No resistance was ever made, despite the fact that the chiefs were always at war among themselves. Now if there is a fact agreed upon by all authorities, it is that these Icelandic settlers were no servile class accustomed to tyranny, but men with an extreme independence of character and traditions. Many of them, we are told, left Norway because they would not acknowledge Harold Hairfair's right to tax their ancestral lands, which they declared to be their own absolute property. And yet this is their history in Iceland, where they only needed protection against each other! If they had had kindreds to protect them, should we have found this absolute and speedy decline into dependence on a lord? It is not entirely the absence of a central executive that reduces them to this pitch, for in the commonwealth of Ditmarschen, which till the middle of the 15th century was governed by its kindreds, the noble class disappeared in the 13th century, and when Holstein nobles pressed in, in the 16th century, after the subjugation of the country, the peasants united to buy them out.

As in Iceland, the chief feature of medieval Norwegian history is the enormous power wielded in the 12th and 13th centuries by the nobles and their followings, until the class was practically annihilated in their protracted civil wars against Sverri.

In Sweden, on the other hand, the aristocratic class does not make its appearance until the end of the 11th century, and when it reaches the summit of its power, in the 15th century, it admittedly owes much to its sense of kinship-solidarity, as the extensive genealogical tables in Swedish history books testify. Even then, however, the Swedish commons are still powerful enough to play a leading part in the struggle

between the king and nobles. As late as 1608, justice is still administered in rural courts, with doomsman, and even cases of manslaughter are within their competence.

We must note how very few traces of a hereditary class of nobles there are in the earlier period of the Viking Age, and indeed in the literary traditions from the Age of National Migrations. Kings there are in bewildering plenty, and it is they who lead migrations and Viking expeditions of every kind. Such nobles as there are seem to be officials of the king. Round him are gathered an aristocracy of fighting men, often, it would seem, foreigners, to the wealth of whose equipment archaeological finds testify. When these *comites*, as Tacitus calls them, reach a certain age, the king grants them land and they settle down. Professor Chadwick has shown us that in England this class soon formed a hereditary nobility, which early gained rights over the neighboring freemen in return for protection. But if we suppose strong cohesive kindreds among these neighboring freemen, for instance in the Jutish peninsula, is it so certain that the retired *comes*, unsupported by a kindred of his own, would obtain or maintain rights over his neighbors? The absence of seignorial rights among the nobility of Jutland, Schleswig, and Friesland may thus well be due to the strength of the kindreds; just as the growth of these rights in England and in Iceland has to our mind a common cause, and is bound up with the absence of cohesive kindreds in those countries, the military nature of the settlement in England having only a subsidiary influence.

These may be said to be hasty generalizations, and indeed the subject deserves more exhaustive inquiry, but it seems that we must acknowledge this much: where cohesive kindreds persist into the later middle ages, there the peasant or townsman tends to be free. Where, on the other hand, the solidarity of the kindred disappears early, there the liberty of the individual suffers, and seignorial rights make their appearance. Further evidence pointing in this direction is not entirely lacking. Thus it is highly significant that wherever the kindreds survive, the blood-feud remains a privilege of all classes, recognized, if deplored, by the law. It is the unquestioned right of the slain man's kin in the Swedish law books of the 13th century. In France and the Netherlands it persisted until the same period and later, in spite of well-governed towns and powerful kings or nobles. In Namur we have seen a slayer acquitted in the 15th century, on its being shown that he committed the deed in a legitimate feud, the slain man's cousins having killed his father. In England, on the other hand, there is no trace of legitimate blood-feuds after the time of Eadmund (c. 943).

But the true significance of the survival of feud in France and the Netherlands is not fully apparent until we remember that in Iceland the blood-feud was never legally recognized, and that even the heir avenging himself on the slayer of his kinsman was as liable to penalty as the original aggressor unless he succeeded in killing the man before the next Althing. There is only one way of accounting for this extraordinary discrepancy between the laws of anarchical Iceland and the comparatively well-policed Frankish towns and territories. In the latter, large cohesive kindreds could stand on their rights, however disturbing to the community at large; in England and Iceland the feud was a matter between a few individuals only, and it was easy to override their wishes in the interests of the general public.

It thus seems safe to admit that the kindreds of the early middle ages played no negligible part in the making of history. The countries where the kindreds did not survive - England, Norway, and possibly the states of Central and Southern Germany - avoided, it is true, a problem of government which gave other states some trouble, since among the difficulties in the way of a central government they did not have to reckon with the obstinate, if passive resistance of the kindreds. Is it not possible, however, that they paid a heavier price for this immunity than their historians have ever realized?

In Iceland, it is true, that there was no problem of a central executive, for it lacked a king, Iceland also lacked a nucleus round which a central executive could grow up. But since they further lacked the main cohesive principle of the ancient Teutonic State, the bond of kinship, the political efforts of the Icelandic settlers may be likened to the making of bricks without straw, and indeed the frail structure of their constitution, in some ways the most wonderful achievement of the middle ages, crumbled and fell through inner disintegration before it was seriously threatened by enemies from without. But it is important to realize that theirs was a barren experiment *not* because their constitution was an antiquated survival of a pre-historic Teutonic polity, but because it had lost both the factors, the kindred and the king, which made for permanence and cohesion in the ancient order, and had found no sufficient substitute. We must

therefore beware of regarding the Icelandic commonwealth as a new Germania of Tacitus, miraculously appearing in the northern seas to show us what the original condition of the Germans was really like. Anglo-Saxon England is almost equally suspect from this point of view, for, if it has kept the king, it too has lost the kindred, probably a much more integral part of the Teutonic State. In fact, if we want to seek after the original German condition, would it not be safer to turn our attention to those regions where its two main elements remained longest in something like their ancient equilibrium, namely in Denmark and the old Danish provinces, and in Southern Sweden ?

We may summarize what seems to have been the tendency of the kindreds by describing it as democratic, that is to say that in discouraging the rise of petty local chiefs they tended to keep the status of all freemen equal, but we must believe that they achieved this result by refusing opportunities to the strong, as well as by protecting the weak against outside aggression. They were not democratic in the sense that the medieval church was democratic. But though it seems that we must concede this quite reasonable degree of influence to the kindreds, we must be careful to note that it implies no active organization, no conscious political aim, on their part. It was achieved as it were anonymously, by what we may call passive resistance. We still have no right to think of the Teutonic kindreds as "organizing" themselves in any but the most temporary manner, or as combining for aggression. A kindred can only be said to exist at the moment when it groups itself around a given kinsman, and a large proportion of this group must merge into some other groups if some other individual is in need. So long as kinship was recognized through both male and female - i.e., during the whole historic period - these characteristics of the kindreds must have set very definite bounds to their political power.

We need only compare the kindred with its offshoot, the gild, to realize the deficiencies of the earlier group in this respect. The gild is definite, organized, transplantable - everything that the kindred is not. Yet it is a question whether the very indefiniteness of the kindred, its anonymity, its shifting outline, what we may call its Protean attributes, did not qualify it for its obscure workings towards social equality better than a fixed organization, open to attack, could ever have done. There can be no question that the kindred, through a long course of centuries, clung far more closely to the democratic ideal than the gild. The gilds did a great deal for the towns and the craftsmen, but did they achieve more than the kindreds, wherever they survived, accomplished for the rural districts or for the agricultural classes ?

Causes of the Decline of the Kindreds

We must now set ourselves to consider the causes of the disintegration of the kindred, but it is a task of unexpected difficulty, owing to the failure of the commonly-received explanations when confronted by the facts we have observed. For instance, the influence of Roman law first took hold in Southern Germany, there, it was declared, did the kindreds first disappear. So long as the history of the kindreds in Germany was considered without reference to the history of the institution elsewhere, this explanation seemed sound enough. But if Roman law was the solvent, how was it that the kindreds were so tenacious of life in Northern France, the Netherlands, and North-West Germany - conquered by Romans, or by partly Romanized Franks, and during the later middle ages steeped in an atmosphere of Roman ideals of law - while in Norway and Iceland they disappeared before Roman law was even a name ?

Then again the influence of Christianity has been involved, and indeed the doctrine of the responsibility of the individual must to a certain extent have acted adversely on the kindreds, though perhaps not so much as has been sometimes assumed. For the result of impairing the sense of corporate responsibility was too often the temptation to take summary vengeance. That there was a tendency to sporadic and ill-disciplined acts of vengeance wherever the kindred was early shattered may well prove to be the case : Frauenstadt's collection of instances in South Germany, and the Icelandic Sagas, might go far to establish such a theory. So that the early Church in Northern Europe probably took the better part in profiting by the sense of corporate responsibility rather than in weakening it. Almost everywhere the Church mediates between the kindreds, and few would criticize her role. But whatever the effect of the medieval Church in urging the acceptance of wergild rather than recourse to arms, it is obvious that neither Christian doctrine nor ecclesiastical influence can be the determining factor in the decay of the kindreds, when once we admit that

they survived many centuries of Christianity in France and Germany, while their disintegration was complete in Iceland by the year 1000 (the year of the introduction to Christianity).

A similar objection applies to the theory that a strong executive was the force which finally pulverized the kindreds. France and Denmark, at least, had as strong a line of kings as any medieval Teutonic State, yet in France the organized feuds of the kindreds were with difficulty checked in the 14th century, and in Denmark the kindred clung together for two centuries more. In Iceland, on the other hand, where the kindreds might have been a substitute for a strong executive (as they actually were in Ditmarschen and in Wursten), those ancient Teutonic organizations had the feeblest hold.

Yet there can be no doubt that though Roman law, Christianity and strong executives cannot be made to explain the decline or predominance of the kindreds in the various parts of Teutonic Europe, they were nevertheless factors which had a mighty influence in pulverizing the kindreds in those regions where the institution had survived the earlier middle ages. It is the recognition of this fact which makes our task so difficult, for we have to account, not only for the disparities we have already noticed in the duration of the system, but also for the resisting-power exhibited by the kindred-organization all through the middle ages in just those regions where the destructive influences were brought to bear on it, in strong contrast to its early disappearance where it apparently had nothing to contend against.

Our survey of the evidence in those countries where the kindreds showed marked vitality seems to suggest that the 14th century was the first in which their cohesion was seriously threatened, and the date leads us to infer the possibility that the Black Death, which ravaged Northern Europe in 1349-50, may have had a more adverse influence on the kindreds than has been suspected. By killing off a very considerable proportion of the population, it may have helped to disintegrate the kindreds, both by encouraging migration and by causing individuals to look to themselves instead of having recourse to the help of a wide group of kinsmen. There may well be an element of truth to this theory, but of course its uses as an explanation of the phenomena just described are but limited. It cannot, for instance, be made to account for the disappearance of the kindreds in Norway, England, Iceland or even Central or Southern Germany, since kinship-solidarity as a social factor of importance had entirely disappeared in these regions long before the visitation of the Black Death. Yet other explanations which have been put forward are no more satisfactory.

It has been maintained that the Teutonic kindreds broke down as a result of their recognition of cognates. This theory, however, seems untenable in the light of our recent survey, for those regions where the most absolute equality between agnates and cognates prevails are the very strongholds of the system, while in Norway and England, where we trace a discrimination in favor of agnates, it disappears early. But we shall deal with this question again later.

Another suggestion is that the village-community form of settlement was favorable to the formation of kindreds, while a system of solitary homesteads tended to weaken them. This suggestion is attractive at first sight, since solitary homesteads are characteristic of Iceland and most of Norway. But unfortunately they are equally characteristic of Friesland and the Netherlands, where the kindreds show strong vitality, while the village-community system is prevalent in England, where the kindreds languished.

As far as the Norwegian kindreds are concerned, emigration, in the form of Viking expeditions, might be considered to have had an adverse effect on kinship-solidarity, but this suggestion again is contravened by the fact that the kindreds were especially strong in the Jutish peninsula, whence emigration must at one time have taken place on a very large scale, and in the rest of Denmark, which took its full part in Viking expeditions. It would of course also fail to explain English conditions.

The disappearance of kindreds has also been ascribed to an increased density of population. " Kin economy ", it has been said, fails in intensive culture where that becomes necessary, and has consequently survived where the population is of no great density. This may be true in certain cases, though it is hard to reconcile with the fact that the wasteful system of strip-holding survived in Teutonic countries long after the equal partition of land among the kindred, supposed to be its justification, had disappeared. But in any case, if

there is a connection to be traced in Northern Europe between density of population and the survival of kindreds, it is of an almost opposite kind to that suggested. Probably the marsh lands of Schleswig-Holstein, where the kindred survives longest, would be found to offer the best example of intensive culture, as also of density of population, while the sparsely inhabited Iceland and Norway, with their absence of kin-solidarity, do not encourage us to pursue this line of investigation.

There seems to be a growing tendency to regard the southernmost part of Sweden, Denmark, Schleswig-Holstein, and the old Danish duchies as the original home, at any rate from the Stone Age onwards, of the Teutonic race. Certainly no other theory can be so well reconciled with the facts, but archaeological and philological. Now it is exactly these regions where the solidarity of the kindred persisted longest. The kindred system of those tribes whose migration did not lead them far afield, as the Fresians, shows a not much reduced vitality. It is easy to imagine that the tribes which met with little resistance on their migrations, or who overcame it speedily, and settled down comparatively soon, would preserve the organization of the kindred almost unimpaired. Such a fortunate tribe were the Fresians; such, to an even greater extent, the Salian Franks, most of whom remained in the south-west regions of the basin of the Scheldt. On the other hand, many of the South or Middle German peoples must have been in an unsettled condition for centuries, liable to the necessity of frequent migration and constantly at war.

Yet the disintegration resulting from years of wandering and warfare would not be very great except in extreme cases. But the analogy of the Icelandic settlers will incline us to accept the idea that a migration involving transport by sea was especially likely to impair the sense of kin-solidarity among those who venture on it, though the organization of those who remained behind might not be appreciably affected. It is extremely unlikely that each group of kindred would build a vessel and man it exclusively, or even mainly, with their own kinsmen; on the contrary, all analogies show us that any individuals wishing to join an expedition would rally to the first ship that was sailing, and probably remain permanently associated with its crew in the new country. Professor Vinogradoff has pointed out that in the ancient Teutonic tribal system, which involved an equal claim to the ancestral estate on the part of a number of coheirs, the danger of excessive subdivision of land was avoided by the renunciation of their claim on the part of the supernumerary heirs, who receive an indemnity, calculated not according to the value of their shares, but to the ability of the estate to bear the outlay. Where this system of coheirs (the sons and daughters) still persists, in the moorlands of Schleswig-Holstein, these supernumerary heirs often leave home, permanently or for a time, to settle in the towns, since they have not the means to marry if they remain on the land.

In prehistoric times in Denmark these supernumerary heirs no doubt went to swell the military followings of kings, who like themselves were very often in a landless condition. The historical sagas of Iceland and Norway give us the clearest insight into this process in Norway, and it is just these " supernumerary heirs " encouraged to seek other means of livelihood than agriculture, who join with others in the same position, and leave their country on permanent or temporary Viking raids; in the earlier period under the leadership of a king, later under a noble. A classic example is afforded by the sons of Earl Hrollaug of Norway, one of whom, Gongu-Hrolf, is declared by Snorri to have founded the Duchy of Normandy, one lost his life in the western isles of Scotland on an expedition with Harold Hairfair; another became Earl of the Orkneys, while yet another settled in Iceland. It seems more than probable that the peoples of Schleswig-Holstein lived under similar conditions in the 5th century, with Viking expeditions, and finally the permanent conquest of England as the result. The settlers in England might therefore be almost as lacking in full kindreds as the settlers in Iceland a few centuries later. Before we make certain that the invaders must have come over *en masse* , in full kindreds, in order to achieve such a vast result as the conquest of England, we shall do well to remind ourselves that the feat was all but paralleled in a much shorter time and in the teeth of a resistance at least equally obstinate, by the Vikings of a later period; yet no one thinks it necessary to assume a wholesale emigration of kindreds in this case, or to postulate that the organization of the Vikings, when they arrived in England, was on a basis of kindreds.

If we are to adopt the Danish theory that the Normans were mainly of Danish, and not Norwegian origin, we can point to Normandy also as offering corroborative evidence for the disintegrating influence on the kindred of a settlement by sea. According to this theory, the invaders of Normandy came from the highly

cohesive kindreds of Denmark. Yet the traces of kinship-solidarity in thirteenth century Normandy are far fainter than in other districts of Northern France, which the Teutons reached by land.

So far as it goes, too, the evidence available for the easternmost and westernmost of Teutonic settlements bears out our contention. The laws of the Swedish kingdom in Russia, won by naval expeditions, show but a feeble concept of kinship : the slayer alone pays for his deed, and the right of vengeance is limited to brother, father, son, and nephew. On the other hand, West Gothic customs in Spain show division of wergild between kinsman, definitely organized blood-feuds between kindreds, and oath-helpers of the kindred: in fact, as Professor de Hinijosa observes: " The Spanish family of the first part of the middle ages shows in the sense of solidarity that animates it, the same bent as the German *Sippe*. " The West Goths traveled a long way, but they traveled by land.

This particular instance that the earlier the migration, the greater the cohesion of the kindred, and it is very probable that some connection of the kind can be traced. But there is hardly enough difference in time between the Frankish settlements in Gaul and the Anglo-Saxon conquest of Britain to account, on this theory, for the strength of the kindreds in the one country and their weakness in the other. Moreover the Vierlande, settled by Dutch immigrants at a later date, and Lubeck and other towns not founded until the 12th century, yet show considerable kin-solidarity. So do the records of the Silesian towns investigated by Frauenstadt, yet these only became German in the late middle ages.

Thus we are driven to the conclusion that the main disintegrating factor in the case of the Teutonic kindreds was migration, and especially migration by sea. Denmark and Schleswig are the strongholds of the kindreds: those of Friesland, the Netherlands, and Northern France had vitality enough to withstand centuries of highly adverse influences, whereas the Iclander stood alone from the moment he set foot on Icelandic soil; and it may be questioned whether the Anglo-Saxon settler was in much better case in this respect. Here, too, we should find an explanation of the weakness of the kindreds on Norway, for much of the settlement of that country must have been accomplished by sea, and at a very late period (the Trondheim district and northwards does not seem to have been settled by the Teutonic invaders before the Iron Age). No doubt the character of the country, and the consequently often individualistic nature of the settlements were unfavorable to kinship-solidarity, and it may be that the small numbers of invaders and their relations with the aboriginal race were a partial cause of the weakness of the kindreds.

It is useless to seek for the original bounds of the Teutonic kindred. If the original group was of the nature of a clan, recognizing kinship through the female only, it is easy to account for the divergences in estimating the limit of kinship among the Teutonic races, for there would be no primitive model to follow. A group organized on patrilinear lines will probably include much more distant degrees of kinship than a kindred recognizing descent through both parents. In the former case the whole group will have a name by which its members can distinguish one another, and the right to this name, i.e., descent, is the main factor determining kinship, rather than the actual degree of relationship between any two members of the group. But once kinship is reckoned through both sexes, we have to take into account the fact that the various branches of a man's kindred will no longer share a common name, will in fact, no longer be related to each other as well as to himself, and the unwieldiness of the kindred will increase in proportion to the number of unrelated groups in it. This circumstance obviously sets a limit to the size of the shifting kindred. Thus it is easy to account for the divergences among the Teutonic races with regard to the extent of the kindred, for the necessity for limiting the group would arise naturally and would depend in the last resort on the extent to which men took wives out of their own district. Where marriage within the district prevailed to any extent, the various branches of the kindred would be likely to be at hand and could be readily assembled; where this was not the practice the kindred would be unwieldly and its limits would tend to shrink. (This refers only to the kindred as an effective and cohesive group: for purposes of inheritance kinship was frequently acknowledged as far as it could be traced.) On this theory, Ostergotland and Vestergotland in Sweden, with kinship recognized to the sixth degree as late as the thirteenth century, must have been the home of very much localized kindreds.

It has occasionally been stated that while kindreds organized on matrilinear or patrilinear lines are to be found in various parts of the world, a cohesive kindred which should reckon kinship through both male and female not only did not exist, but was inherently impossible. It is true that permanently organized kindreds on the double basis are unthinkable; but our researches have shown that the shifting kindred can persist for hundreds of years - probably it would not be an over-statement to attribute a thousand years of life to it in Schleswig - and that in spite of its lack of organization, of local habitation and name, it was able to exercise no small influence on the history of the nations which harboured it.

We have seen it manifest its solidarity in various ways: it appears in law-courts, now to support a kinsman by oath, now to pledge weregild or peace, now to sue the slayer or to insist on proper distribution of weregild. Or again, we have seen it refuse to submit its internal affairs to judicial control, and this is perhaps its most characteristic and most primitive side. We have seen it maintain its own poor, and cling through centuries to the right to avenge its own wrongs. We may well doubt whether agnatic clans could have achieved more towards securing the independence of the settled agricultural classes.

But it must be admitted that the protracted migrations were likely to prove fatal to a group for whose continued existence it was necessary that the families of all the women who had married into it should be close at hand and willing to cooperate with one another. Moreover the shifting kindreds were totally unfitted to serve as the organization of a migrating people. Everything would depend on the king and his following of professional warriors, and in prolonged migrations this group would tend to increase very greatly at the expense of the disintegrating kindreds. Yet as long as the latter had not been entirely annihilated, they would tend to rally when a final settlement was made, the need being more urgent than before in view of the increased strength of the *comites* or nobles. Where however the migrating group is not a tribe, but a collection of warriors, as in the case of a migration by sea, there will be no nucleus round which a kindred can grow up, so that England and Iceland will lack the influences which the institution brings to bear on the social and political order. Yet even in these countries, the laws will still show clear traces of a system which had been the keystone of the social fabric before migration.