VILLAGE-COMMUNITIES

IN THE

EAST AND WEST

SIX LECTURES DELIVERED AT OXFORD

TO WHICH ARE ADDED OTHER

LECTURES, ADDRESSES AND ESSAYS

BY

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LECTURE I.

THE EAST, AND THE STUDY OF JURISPRUDENCE.

In the Academical Statute which defines the duties of the Professor of Jurisprudence, the branches of enquiry to which he is directed to address himself are described as the investigation of the history and principles of law, and the comparison of the laws of various communities. The Lectures to which I am about to ask your attention will deal in some detail with the relation of the customary law of the East, and more particularly of India, to the laws and usages, past and present, of other societies; but, as we are employed upon a subject—and this is a warning which cannot be too soon given—in which ambiguities of expression are extraordinarily common and extremely dangerous, I perhaps should state at once that the comparison which we shall be making will not constitute Comparative Jurisprudence in the sense in which those words are understood by most modern jurists, or in that which, I think, was intended by the authors of the statute. Comparative Jurisprudence in this last sense has not for its object to throw light upon

the history of law. Nor is it universally allowed that it throws light upon its philosophy or principles. What it does, is to take the legal systems of two distinct societies under some one head of law—as for example some one kind of Contract, or the department of Husband and Wife—and to compare these chapters of the systems under consideration. It takes the heads of law which it is examining at any point of their historical development, and does not affect to discuss their history, to which it is indifferent. What is the relation of Comparative Jurisprudence, thus understood, to the philosophy of law or the determination of legal principle, is a point on which there may be much difference of opinion. There is not a little in the writings of one of the greatest of modern juridical thinkers, John Austin, which seems to imply that the authors and expositors of civilised systems of law are constrained, by a sort of external compulsion, to think in a particular way on legal principles, and on the modes of arriving at juridical results. That is not my view; but it is a view which may deserve attentive consideration on some other occasion. It would, however, be universally admitted by competent jurists, that, if not the only function, the chief function of Comparative Jurisprudence is to facilitate legislation and the practical improvement of law. It is found, as matter of fact, that when the legislators (and I here use the term in its largest sense) of different communities pursue, as they frequently do, the same end, the mechanism by which the end is attained is extremely dissimilar. In some systems of law, the preliminary assumptions made are much fewer and simpler than in others; the general propositions which include subsidiary rules are much more concise and at the same time more comprehensive, and the courses of legal reasoning are shorter and more direct. Hence, by the examination and comparison of laws, the most valuable materials are obtained for legal improvement. There is no branch of juridical enquiry more important than this, and none from which I expect that the laws of our country will ultimately derive more advantage, when it has thoroughly engrafted itself upon our legal education. Without any disparagement of the many unquestionable excellences of English law—the eminent good sense frequently exhibited in the results which it finally evolves, and the force and even the beauty of the judicial reasoning by which in many cases they are reached—it assuredly travels to its conclusions by a path more tortuous and more interrupted by fictions and unnecessary distinctions than any system of jurisprudence in the world. But great as is the influence which I expect to be exercised in this country by the study of Comparative Jurisprudence, it is not that which we have now in hand; and I think it is best taken up at that stage of legal education at

which the learner has just mastered a very difficult and complex body of positive law, like that of our own country. The student who has completed his professional studies is not unnaturally apt to believe in the necessity, and even in the sacredness, of all the technical rules which he has enabled himself to command; and just then, regard being had to the influence which every lawyer has over the development of law, it is useful to show him what shorter routes to his conclusions have been followed elsewhere as a matter of fact, and how much labour he might consequently have been spared.

The enquiry upon which we are engaged can only be said to belong to Comparative Jurisprudence, if the word 'comparative' be used as it is used in such expressions as 'Comparative Philology' and 'Comparative Mythology.' We shall examine a number of parallel phenomena with the view of establishing, if possible, that some of them are related to one another in the order of historical succession. I think I may venture to affirm that the Comparative Method, which has already been fruitful of such wonderful results, is not distinguishable in some of its applications from the Historical Method. We take a number of contemporary facts, ideas, and customs, and we infer the past form of those facts, ideas, and customs not only from historical records of that past form, but from examples of it which

have not yet died out of the world, and are still to be found in it. When in truth we have to some extent succeeded in freeing ourselves from that limited conception of the world and mankind, beyond which the most civilised societies and (I will add) some of the greatest thinkers do not always rise; when we gain something like an adequate idea of the vastness and variety of the phenomena of human society; when in particular we have learned not to exclude from our view of the earth and man those great and unexplored regions which we vaguely term the East, we find it to be not wholly a conceit or a paradox to say that the distinction between the Present and the Past disappears. Sometimes the Past *is* the Present; much more often it is removed from it by varying distances, which, however, cannot be estimated or expressed chronologically. Direct observation comes thus to the aid of historical enquiry, and historical enquiry to the help of direct observation. The characteristic difficulty of the historian is that recorded evidence, however sagaciously it may be examined and re-examined, can very rarely be added to; the characteristic error of the direct observer of unfamiliar social or juridical phenomena is to compare them too hastily with familiar phenomena apparently of the same kind. But the best contemporary historians, both of England and of Germany, are evidently striving to

increase their resources through the agency of the Comparative Method; and nobody can have been long in the East without perceiving and regretting that a great many conclusions, founded on patient personal study of Oriental usage and idea, are vitiated through the observer's want of acquaintance with some elementary facts of Western legal history.

I should, however, be making a very idle pretension if I held out a prospect of obtaining, by the application of the Comparative Method to jurisprudence, any results which, in point of interest or trustworthiness, are to be placed on a level with those which, for example, have been accomplished in Comparative Philology. To give only one reason, the phenomena of human society, laws and legal ideas, opinions and usages, are vastly more affected by external circumstances than language. They are much more at the mercy of individual volition, and consequently much more subject to change effected deliberately from without. The sense of expediency or convenience is not assuredly, as some great writers have contended, the only source of modification in law and usage; but still it undoubtedly is a cause of change, and an effective and powerful cause. The conditions of the convenient and expedient are, however, practically infinite, and nobody can reduce them to rule. And however mankind at certain stages of development may dislike to have their

usages changed, they always probably recognise certain constraining influences as sufficient reasons for submitting to new rules. There is no country, probably, in which Custom is so stable as it is in India; yet there, competing with the assumption that Custom is sacred and perpetual, is the very general admission that whatever the sovereign commands is Custom. The greatest caution must therefore be observed in all speculations on the inferences derivable from parallel usages. True, however, as this is, there is much to encourage further attention to the observed phenomena of custom and further observation of customs not yet examined. To take very recent instances, I know nothing more striking among Mr. Freeman's many contributions to our historical knowledge than his identification of the fragments of Teutonic society, organised on its primitive model, which are to be found in the Forest Cantons of Switzerland. This, indeed, is an example of an archaic *political* institution which has survived to our day. The usages which it has preserved are rather political than legal; or, to put it in another way, they belong to the domain of Public rather than to that of Private law. But to usages of this last class clearly belong those samples of ancient Teutonic agricultural customs and ancient Teutonic forms of property in land which Von Maurer has found to occur in the more backward parts of Germany. I

shall have to ask a good deal of your attention hereafter to the results announced by the eminent writer whom I have just named; at present I will confine myself to a brief indication of his method and conclusions and of their bearing on the undertaking we have in hand.

Von Maurer has written largely on the Law of the Mark or Township, and on the Law of the Manor. The Township (I state the matter in my own way) was an organised, self-acting group of Teutonic families, exercising a common proprietorship over a definite tract of land, its Mark, cultivating its domain on a common system, and sustaining itself by the produce. It is described by Tacitus in the 'Germany' as the 'vicus'; it is well known to have been the proprietary and even the political unit of the earliest English society; it is allowed to have existed among the Scandinavian races, and it survived to so late a date in the Orkney and Shetland Islands as to have attracted the personal notice of Walter Scott. In our own country it became absorbed in larger territorial aggregations, and, as the movements of these larger aggregations constitute the material of political history, the political historians have generally treated the Mark as having greatly lost its interest. Mr. Freeman speaks of the politics of the Mark as having become the politics of the parish vestry. But is it true that it has lost

its juridical, as it has lost its political importance? It cannot reasonably be doubted that the Family was the great source of personal law; are there any reasons for supposing that the larger groups, in which Families are found to have been primitively combined for the purposes of ownership over land, were to anything like the same extent the sources of proprietary law? So far as our own country is concerned, the ordinary text-books of our law suggest no such conclusion; since they practically trace our land-law to the customs of the Manor, and assume the Manor to have been a complete novelty introduced into the world during the process which is called the feudalisation of Europe. But the writings of Von Maurer, and of another learned German who has followed him, Nasse of Bonn, afford strong reason for thinking that this account of our legal history should be reviewed. The Mark has through a great part of Germany stamped itself plainly on land-law, on agricultural custom, and on the territorial distribution of landed property. Nasse has called attention to the vestiges of it which are still discoverable in England, and which, until recently, were to be found on all sides of us; and he seems to me to have at least raised a presumption that the Mark is the true source of some things which have never been satisfactorily explained in English real-property law

The work of Professor Nasse appears to me to

require some revision from an English professional lawyer; but, beyond attempting this, I should probably have left this subject in the hands of writers who have made it their own, if it were not for one circumstance. These writers are obviously unaware of the way in which Eastern phenomena confirm their account of the primitive Teutonic cultivating group, and may be used to extend it. The Village-Community of India exhibits resemblances to the Teutonic Township which are much too strong and numerous to be accidental; where it differs from the Township, the difference may be at least plausibly explained. It has the same double aspect of a group of families united by the assumption of common kinship, and of a company of persons exercising joint ownership over land. The domain which it occupies is distributed, if not in the same manner, upon the same principles; and the ideas which prevail within the group of the relations and duties of its members to one another appear to be substantially the same. But the Indian Village-Community is a living, and not a dead, institution. The causes which transformed the Mark into the Manor, though they may be traced in India, have operated very feebly; and over the greatest part of the country the Village-Community has not been absorbed in any larger collection of men or lost in a territorial area of wider extent. For fiscal and legal purposes it is the proprietary unit of large and populous provinces. It is under constant and careful observation, and the doubtful points which it exhibits are the subject of the most earnest discussion and of the most vehement controversy. No better example could therefore be given of the new material which the East, and especially India, furnishes to the juridical enquirer.

If an ancient society be conceived as a society in which are found existing phenomena of usage and legal thought which, if not identical with, wear a strong resemblance to certain other phenomena of the same kind which the Western World may be shown to have exhibited at periods here belonging chronologically to the Past, the East is certainly full of fragments of ancient society. Of these, the most instructive, because the most open to sustained observation, are to be found in India. The country is an assemblage of such fragments rather than an ancient society complete in itself. The apparent uniformity and even monotony which to the new comer are its most impressive characteristics, prove, on larger experience, to have been merely the cloudy outline produced by mental distance; and the observation of each succeeding year discloses a greater variety in usages and ideas which at first seemed everywhere identical. Yet there is a sense in which the first impressions of the Englishman in India are correct. Each individual in India is a slave to the customs of the

group to which he belongs; and the customs of the several groups, various as they are, do not differ from one another with that practically infinite variety of difference which is found in the habits and practices of the individual men and women who make up the modern societies of the civilised West. A great number of the bodies of custom observable in India are strikingly alike in their most important features, and leave no room for doubt that they have somehow been formed on some common model and pattern. After all that has been achieved in other departments of enquiry, there would be no great presumption in laying down, at least provisionally, that the tie which connects these various systems of native usage is the bond of common race between the men whose life is regulated by them. If I observe some caution in using that language on the subject of common race which has become almost popular among us, it is through consciousness of the ignorance under which we labour of the multitudinous and most interesting societies which envelope India on the North and East. Everybody who has a conception of the depth of this ignorance will be on his guard against any theory of the development or inter-connection of usage and primitive idea which makes any pretensions to completeness before these societies have been more accurately examined.

Let me at this point attempt to indicate to you the sort of instruction which India may be expected to yield to the student of historical jurisprudence. There are in the history of law certain epochs which appear to us, with such knowledge as we possess, to mark the beginning of distinct trains of legal ideas and distinct courses of practice. One of these is the formation of the Patriarchal Family, a group of men and women, children and slaves, of animate and inanimate property, all connected together by common subjection to the Paternal Power of the chief of the household. I need not here repeat to you the proof which I have attempted to give elsewhere, that a great part of the legal ideas of civilised races may be traced to this conception, and that the history of their development is the history of its slow unwinding. You may, however, be aware that some enquirers have of late shown themselves not satisfied to accept the Patriarchal Family as a primary fact in the history of society. Such disinclination is, I think, very far from unnatural. The Patriarchal Family is not a simple, but a highly complex group, and there is nothing in the superficial passions, habits, or tendencies of human nature which at all sufficiently accounts for it. If it is really to be accepted as a primary social fact, the explanation assuredly lies among the secrets and mysteries of our nature, not in any characteristics

which are on its surface. Again, under its best ascertained forms, the Family Group is in a high degree artificially constituted, since it is freely recruited by the adoption of strangers. All this justifies the hesitation which leads to further enquiry; and it has been strongly contended of late, that by investigation of the practices and ideas of existing savage races, at least two earlier stages of human society disclose themselves through which it passed before organising itself in Family Groups. In two separate volumes, each of them remarkably ingenious and interesting, Sir John Lubbock and Mr. McLennan conceive themselves to have shown that the first steps of mankind towards civilisation were taken from a condition in which assemblages of men followed practices which are not found to occur universally even in animal nature. Here I have only to observe that many of the phenomena of barbarism adverted to by these writers are found in India. The usages appealed to are the usages of certain tribes or races, sometimes called aboriginal, which have been driven into the inaccessible recesses of the widely extending mountain country on the north-east of India by the double pressure of Indian and Chinese civilisation, or which took refuge in the hilly regions of Central and Southern India from the conquest of Brahminical invaders, whether or not of Aryan descent. Many of these wild tribes have now for many years been

under British observation, and have indeed been administered by British Officers. The evidence, therefore, of their usages and ideas which is or may be forthcoming, is very superior indeed to the slippery testimony concerning savages which is gathered from travellers' tales. It is not my intention in the present lectures to examine the Indian evidence anew, but, now that we know what interest attaches to it, I venture to suggest that this evidence should be carefully re-examined on the spot. Much which I have personally heard in India bears out the caution which I gave as to the reserve with which all speculations on the antiquity of human usage should be received. Practices represented as of immemorial antiquity, and universally characteristic of the infancy of mankind, have been described to me as having been for the first time resorted to in our own days through the mere pressure of external circumstances or novel temptations.

Passing from these wild tribes to the more advanced assemblages of men to be found in India, it may be stated without any hesitation that the rest of the Indian evidence, whencesoever collected, gives colour to the theory of the origin of a great part of law in the Patriarchal Family. I may be able hereafter to establish, or at all events to raise a presumption, that many rules, of which nobody has hitherto discerned the historical beginnings, had

really their sources in certain incidents of the Patria Potestas, if the Indian evidence may be trusted. And upon that evidence many threads of connection between widely divided departments of law will emerge from the obscurity in which they have hitherto been hidden.

But the Patriarchal Family, when occupied with those agricultural pursuits which are the exclusive employment of many millions of men in India, is generally found as the unit of a larger natural group, the Village-Community. The Village-Community is in India itself the source of a land-law which, in bulk at all events, may be not unfairly compared with the real-property law of England. This law defines the relations to one another of the various sections of the group, and of the group itself to the Government, to other village-communities, and to certain persons who claim rights over it. The corresponding cultivating group of the Teutonic societies has undergone a transformation which forbids us to attribute to it, as a source of land-law, quite the same importance which belongs to the Indian Village-Community. But it is certainly possible to show that the transformation was neither so thorough as has been usually supposed, nor so utterly destructive of the features of the group in its primitive shape. When then the Teutonic group has been re-constructed by the help of observed Indian phenomena

—a process which will not be completed until both sets of facts have been more carefully examined than heretofore by men who are conscious of their bearing on one another—it is more than likely that we may be able to correct and amplify the received theories of the origin and significance of English real-property law.

Let me pass to another epoch in legal history. More than once, the jurisprudence of Western Europe has reached a stage at which the ideas which presided over the original body of rules are found to have been driven out and replaced by a wholly new group of notions, which have exercised a strong, and in some cases an exclusively controlling influence on all the subsequent modifications of the law. Such a period was arrived at in Roman law, when the theory of a Law of Nature substituted itself for the notions which lawyers and politicians had formed for themselves concerning the origin and sanctions of the rules which governed the ancient city. A similar displacement of the newer legal theory took place when the Roman law, long since affected in all its parts by the doctrine of Natural Law, became, for certain purposes and within certain limits, the Canon law—a source of modern law which has not yet been sufficiently explored. The more recent jurisprudence of the West has been too extensive to have been penetrated throughout by any new theory, but

it will not be difficult to point out that particular departments of law have come to be explained on moral principles which originally had nothing whatever to do with them, and that, once so explained, they have never shaken off the influence of these principles. This phenomenon may be shown to have occurred in India on a vast scale. The whole of the codified law of the country—that is, the law contained in the Code of Manu, and in the treatises of the various schools of commentators who have written on that code and greatly extended it—is theoretically connected together by certain definite ideas of a sacerdotal nature. But the most recent observation goes to prove that the portion of the law codified and the influence of this law are much less than was once supposed, and that large bodies of indigenous custom have grown up independently of the codified law. But on comparing the written and the unwritten law, it appears clearly that the sacerdotal notions which permeate the first have invaded it from without, and are of Brahminical origin. I shall have to advert to the curious circumstance that the influence of these Brahminical theories upon law has been rather increased than otherwise by the British dominion.

The beginning of the vast body of legal rules which, for want of a better name, we must call the feudal system, constitutes, for the West, the greatest epoch in

its legal history. The question of its origin, difficult enough in regard to those parts of Europe conquered by barbarian invaders which were inhabited by Romanised populations, seemed to be embarrassed with much greater difficulty when it had to be solved in respect of countries like England and Germany Proper, where the population was mainly of the same blood, and practised the same usages, as the conquerors of the Empire. The school of German writers, however, among whom Von Maurer is the most eminent, appears to me to have successfully generalised and completed the explanation given in respect of our country by English historical scholars, by showing that the primitive Teutonic proprietary system had everywhere a tendency, not produced from without, to modify itself in the direction of feudalism; so that influences partly of administrative origin and (so far as the Continent is concerned) partly traceable to Roman law may, so to speak, have been met halfway. It will be possible to strengthen these arguments by pointing out that the Indian system of property and tenure, closely resembling that which Maurer believes to be the ancient proprietary system of the Teutonic races, has occasionally, though not universally, undergone changes which bring it into something like harmony with European feudalism.

Such are a few of the topics of jurisprudence—touched upon, I must warn you, so slightly as to

give a very imperfect idea of their importance and instructiveness—upon which the observed phenomena of India may be expected to throw light. I shall make no apology for calling your attention to a line of investigation which perhaps shares in the bad reputation for dulness which attaches to all things Indian. Unfortunately, among the greatest obstacles to the study of jurisprudence from any point of view except the purely technical, is the necessity for preliminary attention to certain subjects which are conventionally regarded as uninteresting. Every man is under a temptation to overrate the importance of the subjects which have more than others occupied his own mind, but it certainly seems to me that two kinds of knowledge are indispensable, if the study of historical and philosophical jurisprudence is to be carried very far in England, knowledge of India, and knowledge of Roman law—of India, because it is the great repository of verifiable phenomena of ancient usage and ancient juridical thought—of Roman law, because, viewed in the whole course of its development, it connects these ancient usages and this ancient juridical thought with the legal ideas of our own day. Roman law has not perhaps as evil a reputation as it had ten or fifteen years ago, but proof in abundance that India is regarded as supremely uninteresting is furnished by Parliament, the press, and popular literature. Yet ignorance of

India is more discreditable to Englishmen than ignorance of Roman law, and it is at the same time more unintelligible in them. It is more discreditable, because it requires no very intimate acquaintance with contemporary foreign opinion to recognise the abiding truth of De Tocqueville's remark that the conquest and government of India are really the achievements which give England her place in the opinion of the world. They are romantic achievements in the history of a people which it is the fashion abroad to consider unromantic. The ignorance is moreover unintelligible, because knowledge on the subject is extremely plentiful and extremely accessible, since English society is full of men who have made it the study of a life pursued with an ardour of public spirit which would be exceptional even in the field of British domestic politics. The explanation is not, however, I think, far to seek. Indian knowledge and experience are represented in this country by men who go to India all but in boyhood, and return from it in the maturity of years. The language of administration and government in India is English, but through long employment upon administrative subjects, a technical language has been created, which contains far more novel and special terms than those who use it are commonly aware. Even, therefore, if the great Indian authorities who live among us were in perfect

mental contact with the rest of the community, they could only communicate their ideas through an imperfect medium. But it may be even doubted whether this mental contact exists. The men of whom I have spoken certainly underrate the ignorance of India which prevails in England on elementary points. If I could suppose myself to have an auditor of Indian experience, I should make him no apology for speaking on matters which would appear to him too elementary to deserve discussion; since my conviction is that what is wanting to unveil the stores of interest contained in India is, first, some degree of sympathy with an ignorance which very few felicitous efforts have yet been made to dispel, and, next, the employment of phraseology not too highly specialised.

If, however, there are reasons why the jurist should apply himself to the study of Indian usage, there are still more urgent reasons why he should apply himself at once. Here, if anywhere, what has to be done must be done quickly. For this remarkable society, pregnant with interest at every point, and for the moment easily open to our observation, is undoubtedly passing away. Just as according to the Brahminical theory each of the Indian sacred rivers loses in time its sanctity, so India itself is gradually losing everything which is characteristic of it. I may illustrate the completeness of the trans-

formation which is proceeding by repeating what I have learned, on excellent authority, to be the opinion of the best native scholars: that in fifty years all knowledge of Sanscrit will have departed from India, or, if kept alive, will be kept alive by the reactive influence of Germany and England. Such assertions as these are not inconsistent with other statements which you are very likely to have heard from men who have passed a life in Indian administration. Native Indian society is doubtless as a whole very ignorant, very superstitious, very tenacious of usages which are not always wholesome. But no society in the world is so much at the mercy of the classes whom it regards as entitled by their intellectual or religious cultivation to dictate their opinions to others, and a contagion of ideas, spreading at a varying rate of progress, is gradually bringing these classes under the dominion of foreign modes of thought. Some of them may at present have been very slightly affected by the new influence; but then a comparatively slight infusion of foreign idea into indigenous notions is often enough to spoil them for scientific observation. I have had unusual opportunities of studying the mental condition of the educated class in one Indian province. Though it is so strongly Europeanised as to be no fair sample of native society taken as a whole, its peculiar stock of ideas is probably the chief source from which the influences proceed which

are more or less at work everywhere. Here there has been a complete revolution of thought, in literature, in taste, in morals, and in law. I can only compare it to the passion for the literature of Greece and Rome which overtook the Western World at the revival of letters; and yet the comparison does not altogether hold, since I must honestly admit that much which had a grandeur of its own is being replaced by a great deal which is poor and ignoble. But one special source of the power of Western ideas in India I mention with emphasis, because it is not as often recognised as it should be, even by men of Indian experience. These ideas are making their way into the East just at the period when they are themselves strongly under the influence of physical knowledge, and of the methods of physical science. Now, not only is all Oriental thought and literature embarrassed in all its walks by a weight of false physics, which at once gives a great advantage to all competing forms of knowledge, but it has a special difficulty in retaining its old interest. It is elaborately inaccurate, it is supremely and deliberately careless of all precision in magnitude, number, and time. But to a very quick and subtle-minded people, which has hitherto been denied any mental food but this, mere accuracy of thought is by itself an intellectual luxury of the very highest order.

It would be absurd to deny that the disintegration

of Eastern usage and thought is attributable to British dominion. Yet one account of the matter which is very likely to find favour with some Englishmen and many foreigners is certainly not true, or only true with the largest qualifications. The interference of the British Government has rarely taken the form of high-handed repression or contemptuous discouragement. The dominant theory has always been that the country ought to be governed in conformity with its own notions and customs; but the interpretation of these notions and customs has given rise to the widest differences of opinion, and it is the settled habit of the partisans of each opinion to charge their adversaries with disregard of native usage. The Englishman not personally familiar with India should always be on his guard against sweeping accusations of this sort, which often amount in reality to no more than the imputation of error on an extremely vague and difficult question, and possibly a question which is not to be solved by exclusively Indian experience. If I were to describe the feeling which is now strongest with some of the most energetic Indian administrators, I should be inclined to call it a fancy for reconstructing native Indian society upon a purely native model; a fancy which some would apparently indulge, even to the abnegation of all moral judgment. But the undertaking is not practicable. It is by its indirect and for the most

part unintended influence that the British power metamorphoses and dissolves the ideas and social forms underneath it; nor is there any expedient by which it can escape the duty of rebuilding upon its own principles that which it unwillingly destroys.