

From: **Blackwells Dictionary of Anthropology** (Blackwell, Oxford, 1996)

SIR HENRY JAMES SUMNER MAINE
(15.8.1822-3.2.1888)

Sir Henry Maine was a distinguished lawyer, academic and civil servant in mid-Victorian England, holding chairs in Civil Law at Cambridge and Oxford, the legal member of the Council of India for seven years from 1862 and Master of Trinity Hall in Cambridge from 1877. But it is for his prolific writings and their influence on modern anthropology, of which, along with Tylor and Morgan, he is one of the founding fathers, that we best know him. His books included **Ancient Law**(1861), **Village Communities in the East and West**(1871), **Lectures on the Early History of Institutions**(1875) and **Dissertations on Early Law and Custom**(1883).

His central interest was to explain how modern civilization had emerged in certain 'progressive' societies. His theory that political organization had originally been based on blood (kinship) and later moved to territory, which is part of that famous transition from societies based on status to contract which he developed in **Ancient Law**, has provided a solid foundation for much work in political anthropology. His work on the difference between early communities and modern associations strongly influenced the contemporary work of Tonnies and Durkheim and later that of Robert Redfield. His analysis of corporate institutions helped laid the foundation of modern studies of kinship as developed by Fortes and Evans-Pritchard.

Maine showed the complexity of the 'bundle of powers' in property and the way in which these had been gradually separated into the institution of private, individual, property. He outlined the importance of the development of primogeniture and impartibility and the central device of wills. Supplemented by the work of F.W.Maitland, his characterization of the nature of property rights within feudalism is still valuable for he saw very clearly the mixing of political and economic power and the different layers of tenure in the feudal period.

His most famous work is on the development of the 'individual' from the 'group', that movement whereby status (family) is replaced by contract as the basis of modern nation states. Although many other great Victorians, including Marx and Spencer, were developing parallel ideas, his insight is unique. There is much debate concerning his methodological importance and some criticism of his accuracy. Some believe that he introduced a new comparative and historical approach which laid the basis for the discipline of anthropology and comparative jurisprudence. Others argue that his work was distorted by an evolutionary bias. In fact part of the tension in his writing results from the fact that he straddled the paradigm shift to evolutionism. He believed that stability was the norm, and that the evolution of certain 'progressive' societies was the exception. He was much more cautious in his generalizations than most of his critics realize. As Pollock wrote of him in the year of his death: 'Maine can no more become obsolete through the industry and ingenuity of modern scholars than Montesquieu could be made obsolete by the legislation of Napoleon' for 'At one master-stroke he forged a new and lasting bond between history and anthropology'. (quoted in Grant Duff, 1892: 48,76).

Reference: Sir M.E.Grant Duff, **Sir Henry Maine: A Brief Memoir of his life...**(Murray, London, 1892).

Further reading: Alan Diamond (ed.), **The Victorian Achievement of Sir Henry Maine** (Cambridge U.P. 1991).