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978-1-108-01050-4 - Kindred and Clan in the Middle Ages and After: A Study in the Sociology of the Teutonic Races

Bertha Surtees Phillpotts

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Kindred and Clan in the Middle Ages and After

Bertha S. Phillpotts (1863–1932) was an English historian and linguist of Scandinavia who served as the Director of Scandinavian Studies in the University of Cambridge from 1926 to 1932. First published as part of Cambridge Archaeological and Ethnological Series in 1913, this pioneering and highly influential book contains a detailed examination of kinship structures in northern Europe during the early medieval period. In this work, Phillpotts analyses the laws and literature of seven northern European countries to explore the kinship structure of their ancient societies. The references to the legal concept of 'wergild' and the description of gender hierarchies, together with the range of evidence examined, cause this work to remain of considerable relevance for the understanding of kinship systems in medieval Germanic and Scandinavian societies.

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KINDRED AND CLAN

IN THE MIDDLE AGES AND AFTER

A STUDY IN THE SOCIOLOGY OF
THE TEUTONIC RACES

BY

BERTHA SURTEES PHILLPOTTS, M.A.

Late Pfeiffer Student of Girton College, Cambridge ; Fellow of
the Royal Society of Northern Antiquaries, Copenhagen

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To

M. A. C. and M. C.

in whose house this book was planned and written.

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PREFACE

THE aim of this book is to discover how long the solidarity of the kindred survived as a social factor of importance in the various Teutonic countries. The lack of accessible information on the subject was brought home to me by the difficulty I experienced in qualifying my own ignorance with regard to it,—an ignorance of which I only became aware through reading Dr Brunner's *Sippe und Wergeld nach alt-niederdeutschen Rechten*. I had just worked out the results embodied in the first chapter of this book, and the startling contrast between their negative character and the ample evidence set forth by Dr Brunner evoked a desire to know why the kindreds should have endured so long in North Germany, where they were assailed by so many adverse influences, while I had found but the faintest traces of their survival in Iceland. The present work is nothing more than an attempt at answering my own questions. In the course of a general survey of the field it became obvious that neglect of the evidence furnished by judicial records and charters had led scholars to attribute too long a lease of life to the system in some countries, and to under-estimate its duration in others; and that the causes usually adduced for its break-up only serve to complicate the problem still further. Finally there arose the suspicion that even in the later Middle Ages the institution played a part, obscure but not negligible, in the making of history. Thus I was lured on by successive problems, until the book was written, and I had never so much as asked myself whether my stock of legal and linguistic knowledge was equal to the demands made upon it.

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Frontmatter

[More information](#)

viii

PREFACE

Where I have been guilty of errors I can only ask for the indulgence of my critics.

Since the field was far too wide in any case, I have circumscribed it as much as possible by restricting myself to districts continuously occupied by the Teutonic races since the Age of National Migrations or the Viking Age. Further, I have been reluctantly obliged to forego any serious investigation of central and south German conditions. Such meagre scraps of evidence as presumably exist for those regions could only be gleaned by an exhaustive search through all the published collections of mediæval charters and chronicles. The search would be attractive, however slightly rewarded, but it must be the task of some student who has longer daily access to books than has fallen to the lot of the present writer.

In view of the fluctuations of boundaries in the later Middle Ages it has seemed best to discuss the various districts in terms of modern political divisions, though it must be admitted that such a method has its drawbacks.

With regard to terminology, I must apologize to the anthropologists for using the term 'clan' in its Scottish connotation, for large groups of kindred organized on an agnatic basis, regardless of the fact that they were probably not exogamous. 'Agnatic' and 'cognatic' I employ in the usual dictionary sense: 'agnatic' to denote kinship reckoned exclusively through males, 'cognatic' for all other blood-relationships, whether on the paternal or maternal side. In the concluding chapter I felt the need of a term signifying kinship reckoned exclusively through females, and I have there used the word 'matrilinear.' It would consequently have been more consistent to have substituted 'patrilinear' for 'agnatic' throughout the book, had that been feasible. As regards legal terminology, I am aware of the dangers of translating foreign mediæval technicalities into modern English, and have perhaps gone to the other extreme in using only the most general terms.

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Bertha Surtees Phillpotts

Frontmatter

[More information](#)

PREFACE

ix

The difficulty which such combinations of sounds as *ldr*, *rðr* present to the non-Icelandic reader may, it is hoped, justify a certain inconsistency in my treatment of Old Norse proper names. Where a nominative final *r* is preceded by any other consonant the accusative form is used, in all other cases the nominative. Thus I write Thórð, Harald, Sæmund, but Njáll, Thorgeirr, Snorri. The Old Norse *þ* is of course rendered by *th*, but *ð* (with the sound of *th* in 'the') has been allowed to stand.

It is a pleasure to record some of the obligations I have incurred during a two-months' visit to Copenhagen and a month spent in German libraries and archives. Especially I would mention my debt of gratitude to Professor J. H. C. Steenstrup, of Copenhagen, for much kindness and advice. My thanks are also due to the staff of the Rigsarkiv, to Dr Louis Bobé of Copenhagen University, to Professor Poul Jørgensen for kindly allowing me to read an unpublished essay on Danish criminal law, and to my friend Mr Sigfús Blöndal of the Royal Library in Copenhagen. I owe much of the measure of success which attended my researches in Schleswig to the kindness of the Director of the Staatsarchiv, Geheimrath Dr de Boor, who has since added to my obligations by collating one of my transcripts with the original MS. For help in obtaining admission, at a day's notice, to the town archives of Hamburg, as well as for many useful hints, I have to thank Professor Borchling and Dr Reincke; and I have a most grateful memory of the kindness of Geheimrath Dr Wachter, Director of the Staatsarchiv at Aurich.

I find it difficult to express my sense of indebtedness to Professor Chadwick, who has most kindly read the greater part of the book either in proof or in manuscript; but other old pupils of his will know from their own experience in like case how much I owe to his criticisms and suggestions, and how lavish he has been of his own time and trouble. I should add that for the

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Frontmatter

[More information](#)

x

PREFACE

theories contained in the book, the author is alone responsible, as also for the errors.

For the calculations respecting wergilds I am greatly indebted to my friend Miss Cave-Browne-Cave of Girton, who is however not to be held accountable for any inaccuracies that may have crept into them. I must also thank Miss Kirchberger, of Girton, and Dr Braunnholtz, for help in construing Old French legal phrases. Nor must I forget my obligation to Professor Vinogradoff, for criticism of certain chapters of the book at an early stage. My thanks are also due to the Syndics of the University Press for undertaking the publication of the book, and to their staff for their great care and skill.

Finally, I must make grateful acknowledgment to the Managers of the Frederick William Maitland Memorial Fund, for their grant of £40 towards the publication of this work.

B. S. P.

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CONTENTS

	PAGE
INTRODUCTION	I
CHAP.	
I. ICELAND	11
II. NORWAY	47
III. SWEDEN	68
IV. DENMARK	79
V. NORTH GERMANY AND HOLLAND	102
VI. BELGIUM AND NORTHERN FRANCE	173
VII. ENGLAND	205
VIII. CONCLUSION	245
I. Summary of previous chapters	245
II. The influence of the kindreds on social conditions	246
III. Causes of the decline of the kindreds	257
IV. The pre-historic group	265
APPENDIX I. The ‘hundred of silver’ in Iceland	277
II. Documents :	
1. Norway, 1348. Deed of reconciliation in a slaying-case	284
2. Norway, 1585. Plea to the king concerning wergild	285
3. Denmark, 1513. Deed of reconciliation	286
4. Denmark, 1542. Wergild of Niels Mogens- sen	287
5. Denmark, 1602. Deed of reconciliation	288
6. Schleswig, 1693. Court record of wergild- distribution	289
7. Schleswig-Holstein, 1588. Deed of recon- ciliation	291
8. Friesland, 1443. Notification of sums offered for the slaying of a slayer	293
9. Holland, 1392. Official adjudication in a slaying-case	294
INDEX	297

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[More information](#)

ADDENDA ET CORRIGENDA

- p. 1, l. 9 from bottom. *For country read century.*
- p. 24, ll. 6–7. These words have been accidentally overlooked in revision. Since the publication of Heusler's *Strafrecht der Isländersagas* (1911) they are no longer true.
- p. 48, l. 5 from bottom. *For Bárðr read Bárð.*
- pp. 50–52. It is worthy of notice that the Frostuthing wergild does not include the ordinary class of *sakaukar*—father-in-law, brother-in-law and son-in-law.
- p. 69, l. 12. *For Teutonic read Scandinavian.*
- p. 101, l. 1. *For Knud the Great read Knud VI.*
- p. 165, l. 1. *For Exactly read More than.*
- p. 172, l. 4. *For slayer read slain.*
- p. 181, l. 11 and l. 2 from bottom. *For Henricourt read Hemricourt.*
- p. 237, l. 2. *For Aeschere read Hondscioh, and for Grendel's mother read Grendel.*
- p. 249, l. 2. In Wursten the kindred-system was still strong up to 1525: see v. d. Osten, *Gesch. des Landes Wursten*, Th. I. pp. 46, 66 ff.
- p. 251, l. 3. *For kingdom read settlement.*
- p. 273, l. 2 from bottom. *For the Netherlands read Holland.*