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MANU=SMRTI

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WITH

THE MANUBHĀSYA OF MEDHĀTITHI

TRANSLATED BY

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Vol. V

Comprising Discourses IX to XII



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DEDICATION

पितुः श्रीतीर्थनाथस्य जयदेवस्य मद्गुरोः
मातुस्तीर्थलतादेव्या गुरोश्चित्रधरस्य च
प्रोत्साहकस्य विदुषामाशुतोषस्य धीमतः
भ्रातुः श्रीविन्ध्यनाथस्य प्रभोर्लक्ष्मीश्वरस्य च
पादयोः प्रणिपत्येयं कृतिः सादरमर्प्यते ॥



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PREFACE TO VOLUME V

THIS is the fifth and the last volume of the Text of Manu and Medhātithi, comprising Discourses IX to XII. The second part of Vol. IV comprising Discourse VIII is not yet ready; it will be ready shortly. After that all that will remain to be printed will be the third and last volume of the Notes; this also is ready for the Press.

I have to thank my colleague and pupil Pandit Umesha Mishra, M.A., Kāvya-tīrtha, Lecturer in Sanskrit, for having very kindly prepared the Index for this volume.

I cannot sufficiently thank the Calcutta University for having made it possible for me to complete this work. As regards the late lamented Sir Ashutosh Mukerji, under the influence of whose inspiration such a stupendous work could be undertaken and completed, I cannot do better than include his honoured name in the dedicatory lines appearing on the next page.

THE UNIVERSITY: }
ALLAHABAD,
March 28, 1926. }

GANGĀNĀTHA JHĀ



LIST OF CONTENTS

ADHYĀYA IX

SEC.	PAGE
1. Husband and Wife	1
2. Duty towards Children	20
3. To whom does the Child belong?... ..	23
4. Duties of Women in times of Distress	42
5. Repudiation of the Betrothed Maiden	58
6. Duties of the Husband going abroad	60
7. The Recalcitrant Wife... ..	66
8. Seniority among Co-wives	73
9. The Marriage of Girls... ..	74
10. Impropriety of the Nuptial Fee	82
11. Summary of Law relating to Husband and Wife	84
11A. Equal Division among Sons	86
12. The Entire Property goes to the Eldest Brother	87
13. Separation of Brothers ;—Partition : Allotment of Shares	90
14. Shares of Unmarried Sisters	98
15. Non-partition of the Odd Cattle	102
16. Detailed Laws of Partition among Sons	103
17. Property of One who has no Male Issue : The Appointed Daughter	109
18. Adoption	125
19. Sons not entitled to share in Parental Property	128
20. Status of Son born by " Authorisation "	132
21. Shares of Sons born of Mothers of Diverse Castes	136
22. Relative Status of the Twelve Kinds of Sons... ..	145
23. The Twelve Kinds of Sons defined	150
24. Inheritance	162
25. Stri-dhana... ..	164
26. Disqualifications to Inheritance	166
27. Properties of Brothers, and their Mutual Relationship	169
28. Son's Property Inherited by Mother	180
29. Impartible Property	181
30. Gambling	182

SEC.	PAGE
31. Miscellaneous Punishments	185
32. Mortal Sins	189
33. Disposal of Fines realised from Worst Offenders ...	194
34. Punishing the Non-guilty and Acquitting the Guilty ...	196
35. Consolidation and Settlement of Kingdom ...	198
36. Who are 'Thorns' ?	201
(37—39. Omitted by misprint.)	
40. Treatment of Criminals and their Punishment ...	206
41. Seven 'Limbs' of the Kingdom : their Relative Importance	219
42. Personal Behaviour of the King	224
43. Treatment of Brāhmaṇas	228
44. Summing up	234
45. Duties of the Vaishya and the Shūdra ...	235
45A. Conclusion... ..	241

ADHYĀYA X

1. Four Castes : Their Legitimate Progeny	245
2. Mixed Castes	261
3. Status of Mixed Castes	281
4. Occupations of Mixed Castes	286
5. Habitation and Dress of Mixed Castes	288
6. Other Functions of Mixed Castes	290
7. Men of Impure Origin : their Characteristics... ..	292
8. Improvement in the Status of Castes	294
9. Variations in the Functions of the Brāhmaṇa, due to abnormal conditions	307
10. Occupation of the Kṣatriya in abnormal times ...	318
11. Functions of the Vaishya in abnormal times ...	320
12. Functions of the Shūdra in abnormal times ...	321
13. The Brāhmaṇa in times of Distress	322
14. Sources of Income	330
15. Summary	340

ADHYĀYA XI

1. <i>Snātakas</i> and their Treatment	341
2. Brāhmaṇa's Responsibilities and Privileges ...	346
3. Expiation for neglect of <i>Agnihotra</i>	357
4. Expiation : General Laws	369
5. Physical Effects of Unexpiated Offences	379



CONTENTS

ix
CSL

SEC.	PAGE
6. Offences : Their Classification ...	382
7. Special Expiation for Special Offences : For Brāhmaṇa-killing ...	397
8. Expiation of Drinking Wine ...	412
9. " Stealing Gold ...	420
10. " Violating the Guru's Bed ...	423
11. " Minor Offences : Cow-killing ...	426
12. " Immoral Religious Student ...	434
13. " Offences causing Loss of Caste ...	438
14. " Killing Kṣātriya, Vaiśhya, Shūdra ...	440
15. " Killing of Cats and other Animals ...	444
16. " Cutting Trees and other Offences ...	453
17. " Taking Forbidden Food ...	456
18. " Theft ...	468
19. " Wrongful Sexual Intercourse ...	473
20. " Associating with Outcasts ...	486
21. " Neglect of <i>Sāvitrī</i> ...	493
22. " for Brāhmaṇa's Acquiring Property by Improper Means ...	500
23. " for Abandoning Refugees ...	505
24. " " Dog-bite and Similar Offences ...	506
25. " " Man Excommunicated from Repasts ...	507
26. " " Riding a Camel and Similar Offences ...	508
27. " " Hurting and Insulting Brāhmaṇas ...	510
28. General Expiation—Covering all Unspecified Cases ...	513
29. Description of Expiatory Penances ...	516
30. Confession and Repentance ...	528
31. Austerity : Its Value ...	534
32. Expiation of Secret Sins ...	544

ADHYĀYA XII

1. Question ...	557
2. Philosophy of Action and its Retribution ...	562
3. Fruits of Action ...	567
4. Meaning of 'Tridaṇḍa,' 'Triple Control' ...	569
5. Self : the Responsible Agent ...	571
6. Transmigration ...	574
7. Three <i>Guṇas</i> ...	581
8. " " States of Existence due to ...	589



CONTENTS

CSL

	PAGE
9. Transmigration—Details of	...
10. The Highest Good ...	596
11. Supremacy of the Veda ...	608
12. Doubtful Points of Law to be Decided by the Assembly...	625
13. Esoteric Teaching—Summing up of the— ...	639
	647



DISCOURSRE IX

DUTIES OF THE KING—(Concluded.)

SECTION (1)—HUSBAND AND WIFE.

VERSE I

I SHALL NOW EXPOUND THE ETERNAL DUTIES OF THE MAN AND WOMAN, WHO KEEP TO THE RIGHTEOUS PATH, DURING UNION AND SEPARATION—(1).

Bhāṣya.

In course of the enunciation of the 'heads of dispute', after 'adultery' comes 'the determining of the duties of husband and wife'. It is this therefore that is now going to be set forth.

When the husband is very much harassed by his wife, or the wife is very much persecuted by her husband, the dispute is to be brought up before the king.

It has been laid down that the wife shall attend upon her husband who behaves in the right manner, who is not beset with hate and jealousy and who is well-disposed^o towards his wife; and the husband has no sort of 'sovereignty' over his wife; and the (attending) is to consist in shampooing his feet and rendering such service as behoves a servant.

Though the words used in the text are 'man' and 'woman',—which only denote the human genus in its two sexes,—yet in the present context they are relative

The text of the *Bhāṣya* on this Discourse is specially defective; there are endless *lacunae*, which, even with the large number of manuscripts we have used, we have not been able to supply.

terms, connotative of the *husband* and *wife*; specially as in the next verse, the term '*sva*' (*svaīh*) clearly indicates that the 'man' and 'woman' bear a distinct relationship to one another.

The present verse contains the author's declaration as to what he is going to do in the coming discourse.

Of the husband and wife,—'*during union*'—while they are together,—and '*during separation*',—when the husband has gone away from home.

'*The righteous path*'—regarding toilet, the care of the body and so forth.

All this '*I am going to expound*'.

The epithet '*eternal*' is only by way of praise.

'*Who keep to the righteous path*',—this is purely reiterative of the fact that it is the path laid down in the legal scriptures that is the most righteous.—(1).

VERSE II

DURING THE DAY AND THE NIGHT WOMEN SHOULD NOT BE LEFT TO THEMSELVES BY THEIR MEN. IF THEY BECOME ADDICTED TO SENSUAL OBJECTS, THEY SHOULD BE KEPT UNDER ONE'S CONTROL.—(2).

Bhāṣya.

Women should not be left free to act as they like, in regard to morality, wealth and pleasure. Whenever they desire to employ their wealth in acts of righteousness and the like, they should obtain the permission of their '*men*', the husband or other male relations, according to her age.

'*Their men*'—Guardians, indicated in the following verse.

'*Sensual objects*',—Singing and the like; they become '*addicted to*' having recourse to—these,—'*they should be kept under one's control*',—should be checked.



Though the phrase '*not left to themselves*' indicates the propriety of depriving them of independence in regard to all actions, yet the text specifically mentions the 'sensual objects' with a view to point out that in regard to these latter special care should be taken; so that people may not be led to think that all that is necessary is to prevent the women from associating with other men, and it does not matter if they become addicted to drink and other evils, while keeping confined to their homes.

The particle '*cha*' indicates that, though what the words directly declare is the duty of the man, yet it also follows that the woman also should not be independent; it is in this manner that the duties of both 'man and woman' in relation to one another become expounded, as promised in verse (1),—and not those duties that consist of sacrificial performances and the like.—(2).

✓ VERSE III

THE FATHER GUARDS HER DURING VIRGINITY, THE HUSBAND GUARDS HER IN YOUTH, THE SONS GUARD HER IN OLD AGE; THE WOMAN IS NEVER FIT FOR INDEPENDENCE.
—(III).

Bhāṣya.

'*Guarding*' here stands for *averting of trouble*,—'trouble' consisting in suffering caused by the transgression of the right course of conduct, by illegal appropriation of property and so forth; and the 'averting' of this consists in warding it off. This should be done by the father and others.

The Present tense in '*guards*' has the force of the Injunctive; such use being a Vedic idiom; hence the word '*guards*' should be taken to mean 'should guard'.

The mention of the three stages of her life separately is only meant to show on whom lies the greater

responsibility during a certain period of the woman's life. In reality all the male relatives are equally responsible for her safety.

'*Virginity*'—stands for the period preceding her being given away in marriage.

Similarly '*youth*' stands for the period during which her husband is alive.

Thus the words of the text are only reiterative of the actual state of things; the sense being that the woman shall be guarded by that man under whose tutelage she may be living at the time. It is for this reason that even during her husband's life-time, the responsibility for the woman's protection rests upon her father and her son also. This is what has been declared in the laws of Manu; which means that all of them shall guard her at all times; and this has not been stated in so many words, as that would have made the text prolix.

"What is asserted here has been already declared above, under 5. 147."

'Not so; '*independence*' is one thing and '*guarding*' is another. 5. 147 has declared that woman shall not be '*independent*', while the present text lays down that she shall be '*guarded*', as a matter of fact, even while the woman is '*dependent*' upon some one else, she may be open to danger, which has got to be averted.

"But in the present text also it is said that '*the woman is not fit for independence.*'"

Our answer to this is that the present text does not lay down that she shall not be independent in regard to anything at all; all that it means is that her mind being not quite under her control, she is not capable of guarding herself, specially as she does not possess the requisite strength. Under discourse V on the other hand, the absence of '*independence*' laid down is in regard to something totally different (*i.e.* her property).—(3).



VERSE IV

CENSURABLE IS THE FATHER WHO GIVES HER NOT AWAY AT THE RIGHT TIME; CENSURABLE THE HUSBAND WHO APPROACHES HER NOT; AND CENSURABLE THE SON WHO, ON THE DEATH OF HER HUSBAND, DOES NOT TAKE CARE OF HER.—(4).

Bhāṣya.

If, at the approach of the right time for giving her away, the father does not give her away, (he becomes censurable).

“What is the right time for the girl to be given away?”

It has been laid down that such time begins from her eighth year and extends to the time previous to her puberty. We have indications of this in the present work also.

‘*Who does not approach her*’—Who does not have intercourse with her. The ‘right time’ for such approach is the period of her ‘course’.—(4).

VERSE V

WOMEN SHOULD BE SPECIALLY GUARDED AGAINST EVEN SMALL ATTACHMENTS; FOR, IF NOT GUARDED, THEY WOULD BRING GRIEF TO BOTH FAMILIES.—(5).

Bhāṣya.

‘*Attachment*’—association, with a woman of unknown character,—one who is in the habit of standing at the doorway, looking at gaily dressed young men passing by, and so forth.

The meaning is that they should be guarded against temptations. Even though the acts mentioned above,—i.e.



gazing at young men and so forth are not wrong in themselves, nor is the association of women with women wrong in itself.

* * * *

Against these they should be '*guarded*'; they should be checked.

'*Specially*' with particular care.

* * * *

Thus the meaning is that the woman should be guarded by all the men of the family, her brother, father, brother-in-law, and the rest.

* * * * (5).

VERSE VI

LOOKING UPON THIS AS THE HIGHEST DUTY OF ALL CASTES,
EVEN WEAK HUSBANDS STRIVE TO GUARD THEIR
WIVES—(6).

Bhāṣya.

This is the highest duty of all the four castes.

'*Looking upon this*'—Knowing it as such.

'*Even weak husbands*'—should '*strive*', make due effort. The Present tense ending in '*guards*', has the force of the Injunctive.

* * * * (6).

VERSE VII

HE WHO CAREFULLY PROTECTS HIS WIFE PRESERVES HIS
OFFSPRING, HIS CHARACTER, HIS FAMILY, HIS OWN SELF,
AND ALSO HIS RELIGION.—(7).

Bhāṣya.

The wife has to be protected, not only because the scriptures prescribe it as a duty; but also because it serves many useful purposes, such as the following.



'Offspring'—Progeny, in the shape of sons and daughters. The 'preservation' of this means that one's progeny is kept pure, free from the amalgam of castes.

'Character'—cultured habits.

'Family'—described above. If a single woman of a family loses her chastity, the ill-fame attaches to the whole family, the idea among the people being that 'the women of such and such a family are not chaste'.

Or, the meaning may be that the said guarding is necessary in view of the fact that, if the purity of the progeny were not secured, there would be no proper fulfilment of the after-death rites performed in honour of one's ancestors.

'His own self'.—It is well known that men are often murdered by their wife's paramours, or poisoned by their wives.

'His religion'.—An unchaste woman not being entitled to being associated in the performance of religious rites.

For these reasons, if a man guards his wife, he preserves all these—(7).

VERSE VIII

THE HUSBAND, ENTERING THE WOMB OF HIS WIFE, BECOMES THE EMBRYO AND IS THEN BORN; THE WIFE-HOOD OF THE 'WIFE' CONSISTS IN THIS THAT THE HUSBAND IS RE-BORN OF HER.—(8).

Bhāṣya.

This is a purely declamatory passage. As a matter of fact, the husband is never found to enter the womb of his wife; and it is the entrance of the semen, the very essence of his body, into the wife's womb, which is figuratively called his own '*entering*'. The Mantra also says—'You are my own self, called by the name of *son*'.

The real basis of the denotation of the term 'wife', 'jāyā', is that the husband is *re-born of her*.

The application of the name 'jāyā', 'wife' being based upon the fact of the woman giving birth to the child, she comes to be spoken of as the 'wife' of her paramour also.—(8).

VERSE IX

AS THE MAN TO WHOM THE WOMAN CLINGS, SO THE OFFSPRING THAT SHE BRINGS FORTH; HENCE FOR THE SAKE OF THE PURITY OF THE OFFSPRING, ONE SHOULD CAREFULLY GUARD THE WOMAN.—(9).

Bhāṣya.

The present text proceeds to explain what has been said in verse 7.

One should not entertain the idea that what is meant is —either (1) that 'the woman brings forth a child of *the same caste* as that of the other man to whom she clings', or (2) that 'the child born resembles that man in his qualities'; because the child born of a *Shūdra* is a '*chaṇḍāla*' and so forth. Even in the case of the parties belonging to the same caste, the caste of the child is not the same as that of the father; since it has been declared that 'the child should be born of a woman of untouched womb'. If again, the child were to resemble the father in qualities, it would mean that the text permits the woman whose husband is poor and of bad character to have recourse to another man possessed of better qualities.

If, on the other hand, the text is taken as purely declaratory, the sense of the assertion, 'as the man so the child' comes to be that 'the child born is not endowed with the qualities of the family'.—(9).



VERSE X

NO MAN CAN GUARD WOMEN FORCIBLY; THEY CAN HOWEVER BE GUARDED BY THE EMPLOYMENT OF THESE EXPEDIENTS.—(10)

Bhāṣya

This verse serves to eulogise the expedients going to be described.

'*Forcibly*'—by shutting them up by force in a harem or by banishing other men, and so forth—they cannot be guarded.

But they can be guarded by the employment of expedients;—i. e., by employing, making use of, these '*expedients*', means.—(10)

VERSE XI

HE SHALL EMPLOY HER IN THE ACCUMULATION AND DISBURSEMENT OF WEALTH, AS ALSO IN CLEANLINESS, IN RELIGIOUS ACTS, IN THE COOKING OF FOOD AND IN TAKING CARE OF THE HOUSEHOLD FURNITURE.—(11)

Bhāṣya.

'*Wealth*'—riches.

'*Accumulation*'—Counting and storing in the house; tying up with ropes etc., and keeping in a safe place, dealing them and so forth.

'*Disbursement*'—Expenditure of the wealth: so much for rice, so much for curry, so much for vegetables, and so forth.

'*Cleanliness*'—Cleaning of utensils and ladles and washing the floor etc., etc.

'*Religious acts*'—rinsing the mouth, offering oblations of water and other things, and the worshipping of deities with flowers and offerings, in the women's apartments.



‘*Cooking of food*’—well known.

‘*Taking care of the household furniture*’—Such as stools and couches.

In all this the husband shall employ his wife.—(11)

VERSE XII

WOMEN CONFINED IN THE HOUSE UNDER TRUSTED SERVANTS
ARE NOT WELL GUARDED ; REALLY WELL GUARDED ARE
THOSE WHO GUARD THEMSELVES BY THEMSELVES.—(12)

Bhāṣya.

‘*Trusted servants*’—Those who would act in the right manner at the right moment; i. e., persons ever on the alert; and hence considered fit for being employed in the harem, as chamberlains.

Women who are ‘*confined*’—not allowed to go about freely—in the house under such men, are not really well-guarded; but those are ‘*who guard themselves by themselves*.’

And how are they to guard themselves?

Just when they are employed as above.

This verse is meant to be a praise of the method laid down in the preceding verse, and it does not exclude other methods.—(12)

VERSE XIII

DRINKING, ASSOCIATING WITH WICKED PEOPLE, SEPARATION
FROM HER HUSBAND, RAMBLING, SLEEPING AND RESIDENCE
AT OTHER’S HOUSE ARE THE SIX CORRUPTERS OF
WOMEN.—(13)

Bhāṣya.

‘*Rambling*’—in the market place, for purchasing vegetables etc. and also in temples and such places.



'Residence in other's houses'—Living for several days in the houses of relatives.

'Corrupters of women.'—These contaminate the minds of women, and they come to lose all fear of their father-in-law and others, as also all regard for public opinion.—(XIII).

VERSE XIV

THEY CARE NOT FOR BEAUTY; THEY HAVE NO REGARD FOR AGE; BE HE HANDSOME OR UGLY, THEY ENJOY THE MAN SIMPLY BECAUSE HE IS A MALE.—(14)

Bhāṣya.

The husband should not labour under the vain hope—'I am well favoured, handsome and young, how can my wife desire any other man, having me?';—because women do not take into consideration the fact of a man being 'handsome' or 'brave'; simply because he happens to be a male, they have recourse to him.—(14)

VERSE XV

EVEN THOUGH CAREFULLY GUARDED, THEY INJURE THEIR HUSBANDS, ON ACCOUNT OF THEIR PASSION FOR MALES, OF FICKLEMINDEDNESS AND OF INNATE WANT OF TENDERNESS.—(15).

Bhāṣya.

'Passion for males'—At the sight of any and every man, women lose their firmness of mind and there arises in their minds an extreme desire for meeting him somehow or other, followed by a liquid exudation; this is what is called 'passion for males.'

'Fickleminedness'—The mind not being steady, even when applied to religious and other acts. It is through this that the object of hatred becomes the object of love

and persons who have been looked upon as brothers and sons come to be looked upon as lovers.

‘*Tenderness*’ is love, longing, towards the husband, the son and other relations. Women are without such feelings.

On account of these defects, they ‘*injure their husbands*’—become disloyal towards them.—(15)

‘For this reason—’

VERSE XVI

KNOWING THIS DISPOSITION TO BE INNATE IN THEM, FROM THE VERY CREATION OF THE LORD, THE MAN SHOULD MAKE THE HIGHEST EFFORT TO GUARD THEM.—(16)

Bhāṣya.

‘*Lord*’, ‘*Prajāpati*’, is Hiranyagarbha; the disposition was born with them at the time of creation of the world by him.

The rest is clear.—(16)

VERSE XVII

MANU ASSIGNED TO WOMEN SLEEP, SITTING, ORNAMENT, LUST, ANGER, DISHONESTY, MALICE AND BAD CONDUCT.—(17)

Bhāṣya.

‘*Sleeping*’—Proneness to too much sleep.

‘*Sitting*’—Indolence, want of energy.

‘*Ornament*’—Bodily adornment.

‘*Lust*’—Desire for carnal association with men.

‘*Anger*’—Hatred.

‘*Dishonesty*’—Consisting in hating those who love, loving those who hate, concealing one’s real feelings, immorality.



‘*Malice*’—Maliciousness. ‘*Drogdhr*’ is derived from the root ‘*druh*’ and the affix ‘*trch*’, and it is then compounded with ‘*bhāvam*’.

‘*Bad conduct*’—Association with wicked people.

Such was the nature allotted to women by Manu, at the beginning of creation; the sense is that just as the characters here set forth cannot be eradicated, so bad conduct also cannot be dissociated from women.—(17)

VERSE XVIII

FOR WOMEN THERE IS NO DEALING WITH THE SACRED TEXTS ;
SUCH IS THE RULE OF LAW ; THE FACT IS THAT, BEING
DESTITUTE OF ORGANS AND DEVOID OF SACRED TEXTS,
WOMEN ARE ‘FALSE’—(18)

Bhāṣya.

Some people entertain the following notion;—“Even though woman may misbehave, she may, with the help of Vedic texts, perform some rites in the shape of secret Expiatory Rites and thus become pure; so that there cannot be much harm in her misbehaving”

But this is not true; because ‘*for women there is no dealing with sacred texts*’; so that there can be no repeating of the texts; which, with the help of her own learning, she might do whenever she transgressed and thereby regain her purity. For this reason also they should be carefully guarded;—this is the injunction to which the statement in the present verse is a declamatory supplement.

Some people have held that the present verse contains the absolute prohibition of the use of sacred texts in connection with all kinds of rites for women; and holding this opinion, they declare that whatever rites may be performed, by whomsoever, for the sake of women,—that is, (a) in rites where women figure as the performers, as in

the making of offerings, or (*b*) in those where they figure as the object to be sanctified, as in the tonsure-ceremony, or (*c*) in those where they figure as recipients, as in *shrāddhas* offered to them,—at all these the use of sacred texts being forbidden by the present text, no such texts should be used at the *shrāddhas* offered to women.

But these people say what is not reasonable; because the present text refers to a totally different matter, and is a purely hortatory supplement. And it still remains to be explained what there is in the text to indicate either injunction or prohibition regarding such rites as the Tonsure and the like. As for the inability of women to recite the expiatory texts, this follows from the fact of their not learning the Vedas.

‘*Destitute of Organs.*’—‘*Organ*’ here stands for *strength*;—courage, patience, intelligence, energy and so forth are absent in women; that is why they are prone to become over-powered by sinful propensities. Hence it is that they have to be carefully guarded.

‘*Women are false*’;—on account of the inconstancy of their character and affections, they are deprecated as being ‘false’—(18)

VERSE XIX

SO ALSO THERE ARE MANY TEXTS SUNG IN THE VEDAS WITH A VIEW TO INDICATE THE TRUE CHARACTER OF WOMEN. FROM AMONG THESE LISTEN TO THOSE TEXTS THAT ARE MEANT TO BE EXPIATORY.—(19)

Bhāṣya.

The author now puts forward, in support of the assertion that ‘by their nature women are impure in their hearts’, Vedic texts and declamatory passages.

[The author says]—I have declared that ‘women are false’; and this same fact is asserted in the texts of the Vedas also.



The term '*nigama*' is synonymous with '*veda*', and is found to be used as such. The term '*nigama*' is also found to be used as a name for that subsidiary science which explains the meaning of vedic texts,—i.e. in such statements as '*Nigama Nirukta* and *Vyākaraṇa* are the subsidiary sciences.' In the *Nirukta* also is found the expression—'These are *nigamas*'; and the term '*nigama*' here cannot be taken as standing for anything else but 'Vedic texts', as is clear from the examples cited. Thus it is only right that in the present text the term '*nigama*' should be taken as standing for the *Veda*.

The texts are spoken of as '*in the Veda*', which presupposes the relation of container and contained, on the understanding that there is some sort of difference between the whole and its parts.

In the *Nigama*, *Veda*, there are '*texts*', sentences, forming part of it, which are '*sung*'—recited, repeated, read there. In fact no limitation of time (past, present or future) is applicable to the case of the *Veda*, which is *ever present*.

'*Nigadāḥ*' is another reading for '*nigītā*'. In this case '*nigada*' would mean *the mantra-texts*; and the term '*shruti*' would mean the *Brāhmaṇa texts*; and the meaning would be that 'this fact *that women are false* is stated in both *Mantra* and *Brāhmaṇa* texts.'

In this latter reading the construction would be—'*bahvyaḥ santi*', 'there are many such texts',—the verb '*santi*', 'are', being added.

From among these texts listen to those that are meant to be 'expiatory' of the sin of unchastity.

"Why are the said texts put forth?"

'For the purpose of indicating the true character of women.' True character means the permanent feature of their nature, and the texts are meant to expose this. 'Character' means *disposition*; and the disposition meant here is *proneness to unchastity*.—(19)

VERSE XX

'IF MY MOTHER, UNFAITHFUL UNTO HER LORD, BECAME ENAMOURED WHILE ROAMING ABOUT,—MAY MY FATHER'S SEMEN REMOVE THAT FROM ME';—THIS IS AN EXAMPLE OF THIS.—(20)

Bhāṣya.

The particle '*iti*' at the end of the third quarter of the verse indicates that up to that point we have the part of an original Vedic text.

'*If my mother, unfaithful unto her lord*',—she who observes the vow 'may I never, even in my mind, conceive love for any man other than my husband' is called '*faithful unto her lord*'; the opposite of that is '*unfaithful unto her lord*':—'*roaming about*'—in the houses of other people,—seeing a gaily dressed person—'*became enamoured*'—conceived a desire for that other man;—'*that*'—impurity or evil in my birth, '*may the semen of my father remove*'; *i. e.*, may that impurity be washed off by that semen. The nominative ending in '*pitā*' has the force of the genitive. Or the *semen* itself may be taken in apposition to the '*father*'; which it can be without having its gender altered, just as we have in other phrases: '*dyaurm̐ pitā*', 'the heaven, my father' (*where* '*dyaum̐*' in the feminine, is in apposition to '*father*').

Or '*semen*' may be taken as standing for the *mother's* seed; and in that case the meaning would be—'may my father purify that seed of my mother'; *i. e.*, may the impurity of the mother's seed be removed by the force of the father's seed.

'*This is an example*'—instance—'*of this*'—*i. e.* of the proneness of women to unchastity.

All men when reciting sacred texts recite the one here quoted; and the reciting of such a text by all men would be justified only if all women were prone to unchastity;



otherwise, if only some were so, the use of the text would not be universal.

The text here quoted has been prescribed as to be recited during the '*Chāturmāsya*' sacrifice, as also at *shrāddhas*, during the '*Padyānumantraṇa*' rite.—(20)

VERSE XXI

WHAT IS SAID HERE IS THE PROPER EXPIATION FOR WHATEVER ILL SHE THINKS IN HER MIND OF HER HUSBAND.—(21)

Bhāṣya.

'*Pāṇigrāha*' is *husband*;—of him '*whatever ill*'—disagreeable, in the form contact with other men—'*she*'—the woman—'*thinks of*';—of that mental transgression, the '*expiation*'—purification—is expressed by the aforesaid *text*, if used in the right manner at the proper rite.

By the way the author has indicated the use of the particular text. Even though the use of such texts lies in forming part of the ritual, yet what is meant is that when the particular text is laid down as to be recited, it serves the purpose of expiating the sin of transgression.—(21)

— VERSE XXII

WHEN A WOMAN IS UNITED IN ONE FORM WITH A MAN POSSESSED OF CERTAIN QUALITIES, SHE BECOMES HERSELF ENDOWED WITH SIMILAR QUALITIES,—LIKE A RIVER UNITED WITH THE OCEAN.—(22)

Bhāṣya.

If a man wishes to guard his wife, he should guard himself also against evil habits; and it is not the woman that should preserve her chastity. Since if the man has a bad character, his wife also becomes the same; just

as the wife of a man possessed of good character becomes good. For instance the river, though herself sweet-watered, becomes saline like the Ocean, when she joins this latter.—(22)

VERSE XXIII

THE LOW-BORN *Akṣamālā* UNITED WITH *Vaśiṣṭha*,
 AND THE DOE UNITED WITH *Mandapāla*, BECAME
 WORTHY OF WORSHIP.—(23)

Bhāṣya.

Even though born of a low caste, *Akṣamālā*, the wife of *Vaśiṣṭha*, became, through that union, 'worthy of worship'.

Similarly the 'doe', though an animal, on becoming united with the sage *Mandapāla*, 'became worthy of worship'.

Thus it is that even low-born women, belonging to the lower castes, came to be honoured like their husbands; as it has been said that 'women are honoured by their age'.—(23).

VERSE XXIV

THESE AS WELL AS OTHER WOMEN, OF LOW BIRTH, HAVE
 ATTAINED EMINENCE IN THE WORLD, THROUGH THE
 GOOD QUALITIES OF THEIR RESPECTIVE HUSBANDS.
 —(24).

Bhāṣya.

'Low'-inferior-'birth'—origin; these who have this are said to be 'of low birth'.

'Others'—*Gaṅgā*, *Kālī*, and others.

Though the preceding verse has named only two, yet here we have 'these,' 'ētāḥ,' in the plural, which may be explained as including a third, indicated by the particle 'cha'. Or, we may read the Dual form 'ētē' instead of 'ētāḥ'.—(24)



VERSE XXV

THUS HAS BEEN DECLARED THE COMMON PRACTICE, AS BETWEEN HUSBAND AND WIFE, WHICH IS ALWAYS HAPPY; NOW UNDERSTAND THE LAWS RELATING TO CHILDREN, WHICH ARE CONDUCTIVE TO HAPPINESS HERE AS WELL AS AFTER DEATH.—(25)

Bhāṣya.

'*Common practice*'—ordinary usage; what has been stated here is the 'common practice' obtaining in the world; and when it is said that 'women are to be guarded in such and such a manner, and not otherwise', or 'if women are not guarded, the progeny becomes defiled,'—it is not by way of *injunction*.

'*Now listen to the laws relating to children*';—i.e., to whom does the child belong?—to the owner of the seed, or to the owner of the field?

'*Udarka*' stands for '*futurity*'; and that whose '*future is happy*' is called '*sukhodarka*', *conductive to happiness*. The praise is that while all things perish in the end, these do not perish.—(25)



SECTION (2)—DUTY TOWARDS CHILDREN

VERSE XXVI

THERE IS NO DIFFERENCE WHATEVER BETWEEN THE
GODDESS OF FORTUNE AND THE WOMEN WHO SECURE
MANY BLESSINGS FOR THE SAKE OF BEARING CHILD-
REN, WHO ARE WORTHY OF WORSHIP AND WHO
FORM THE GLORY OF THEIR HOUSEHOLD—(26)

Bhāṣya.

Question.—"In what way is the duty towards children conducive to happiness, since children are dependent upon the man himself, and women, being beset with many defects, deserve to be abandoned? And who is there who would be willing to maintain all these in his house?"

It is with a view to set aside such notions that we have the present verse.

In as much as the defects of women are capable of rectification, they are '*worthy of worship*'. When the above-mentioned verses dilated upon the defects of women, it was not with a view to discredit them, or to make people avoid them; it was done with this view that they may be guarded against evil. Simply because there are beggars, people do not give up cooking their food; or because there are deer to graze them, people do not desist from sowing seeds.

'*Bearing children*'—stands for the whole series of acts beginning with conception and ending with fostering and bringing them up: as is going to be said below (27)—'Begetting of children and nourishing of those that are born'.

They are like effulgence in their home. It is well-known that there is no comfort at home, in the absence of the wife. Even when there is plenty of wealth, if the



wife is absent, the household is not able to attend to the feeding and other needs of friends and relatives that may happen to come in as guests. In fact, they are as powerless as poor men.

For this reason there is no difference between the Goddess of Fortune and women in their homes.—(26)

VERSE XXVII

THE BEGETTING OF THE CHILD, THE NOURSHING OF THE BORN, AND THE ORDINARY LIFE OF THE WORLD,—OF EACH OF THESE THINGS THE WOMAN IS CLEARLY THE MAIN-SPRING.—(27)

Bhāṣya.

'The woman is the mainspring'—the prime cause of the begetting of children and the rest.

That this is so is quite 'clear.'

'Ordinary life of the world,'—such as offering food to guests that have arrived, welcoming and inviting others, and so forth.

'Of each of these things'—the woman is the mainspring.

Another reading for 'pratyartham' ('of each of these') is 'pratyaham (daily)

The term 'clearly' implies importance, the sense being that the woman is the prime cause.—(27)

VERSE XXVIII

OFF-SPRING, RELIGIOUS ACTS, FAITHFUL SERVICE, HIGHEST HAPPINESS,—ALL THIS IS DEPENDENT ON THE WIFE; AS ALSO THE ATTAINMENT OF HEAVEN BY ONESELF AS WELL AS BY HIS FOREFATHERS.—(28)

Bhāṣya.

The sense of this verse has been already pointed out before.—(28)



VERSES XXIX & XXX

[These are the same as verses 164 and 165 of Discourse V]

Bhāṣya.

These two verses have been already explained under Discourse V.—(29-30)



SECTION (3)—TO WHOM DOES THE CHILD BELONG ?

VERSE XXXI

LISTEN TO THE FOLLOWING DISQUISITION REGARDING THE SON, PROPITIOUS AND SALUTARY TO THE WORLD, SET FORTH BY THE WISE PATRIARCHS AND THE GREAT SAGES.—(31)

Bhāṣya.

'*Disquisitions*'—the setting forth of a matter for investigation; or a dissertation.—'*Listen*' to that,—'*set forth*'—put forward—'*regarding the son*'—with reference to the son,—'*by the wise patriarchs and the great sages*'

'*Salutary to the world*'—calculated to do good to all men.

'*Propitious*'—beneficial.

The subject of the 'laws relating to children,' which was introduced in verse 25 has been interrupted by the few verses dealing with the greatness of women; hence it has been necessary to recall attention to the original subject-matter—'*listen to the disquisition*'.—(31)

VERSE XXXII

THEY RECOGNISE THE SON TO BE THE HUSBAND'S; BUT IN REGARD TO ONE WHO IS ONLY THE PROGENITOR, THERE IS DIVERSITY OF OPINION; SOME PEOPLE DECLARE THE BEGETTER, WHILE OTHERS THE OWNER OF THE SOIL (TO BE THE OWNER OF THE CHILD).—(32)

Bhāṣya.

'*Husband*'—the marrier; the man with whom the woman has gone through the sacrament of marriage;

and when a son is born from this husband in that woman, 'they'—all learned men—'*recognise*'—accept—the son to be that man's. There is no difference of opinion on this point; it is an acknowledged principle.

'*There is diversity of opinion however in regard to one who is the progenitor only*'; in a case where the man is not one to whom the woman has been married, but only the begetter of the son in a soil belonging to another man.

This diversity of opinion is next pointed out—'*Some people declare the begetter*' to be the person to whom the child belongs; while others declare '*the owner of the soil*' to be so; i.e., the person whose wife the woman is, even though he be not the actual begetter.

Having thus propounded the doubt due to the difference of opinion among teachers, the author himself proceeds to justify the doubt.—(32)

VERSE XXXIII

THE WOMAN HAS BEEN DECLARED TO BE LIKE THE 'SOIL',
AND THE MAN HAS BEEN DECLARED TO BE LIKE
THE SEED; AND THE PRODUCTION OF ALL CORPOREAL
BEINGS PROCEEDS FROM THE UNION OF THE SOIL
AND THE SEED.—(33)

Bhāṣya.

'*The woman*' is as if it were '*the soil*'. '*Soil*' stands for that part of the Earth where corns are grown; and the woman is like that: Just as the seed sown and held in the soil sprouts up, so also the semen deposited in the woman.

'*The man is like the seed*',—Here also the term '*bhūta*' denotes similitude. The man's semen is the '*seed*', and not the man himself; but he is himself so called because the semen is contained in him.

'*From the union*'—contact, the relationship of container and contained—there is '*the production*'—birth—'*of all corporeal beings*'—beings endowed with bodies; *i.e.* of the four kinds of living beings. In the case of sweat-born insects also, the *ākāsha* is the 'soil' and *sweat* the 'seed', and the 'union' of these is the relation of container and contained.

For the said reason it is only right that there should be the said doubt; as there can be no 'production' when either of the two is absent; the function of both being necessary in the begetting of the child; and since there is nothing to indicate to which one of the two the child belongs, hence the doubt as to whether the child belongs to both or to either one of the two.

In fact, the whole of this subject relating to the relationship of the child and the person to whom the child belongs is one that is amenable to reasoning; as we shall show under the verse where the details are set forth.—(33)

VERSE XXXIV

IN SOME CASES THE SEED IS PROMINENT; BUT IN OTHERS IT IS THE FEMALE WOMB; WHEN BOTH ARE EQUAL, THE OFFSPRING IS HIGHLY COMMENDED.—(34)

Bhāṣya.

The prominence of the seed is seen in the case of Vyāsa, Rṣyaśṛṅga and other great sages, (who, though born of low mothers, became high sages);—and that of the female womb in the case of *Dhṛtarāṣṭra* and other '*kṣētraja*' sons, who, even though born of *Brāhmaṇa* fathers, took the caste of their mothers.

'*Where both are equal*'—*i.e.* belonging to the same caste.

'*The offspring is highly commended*;'—since in this case there is no dispute; this is what has been declared under 32 above, regarding people recognising the son as belonging to the father.—(34)

· VERSE XXXV

[*Prima-facie argument*]"—“AS BETWEEN THE SEED AND THE WOMB, THE SEED IS DECLARED TO BE SUPERIOR; BECAUSE THE PRODUCTION OF ALL THINGS IS MARKED BY THE CHARACTERISTICS OF THE SEED.”—(35)

Bhāṣya.

The doubt having been set forth, the author puts forward the 'preponderance of the seed' as the *prima facie* argument. And if the seed is the superior factor, then the child must belong to him whose the seed is. That the seed is the more important is indicated by the fact that in the case of the corn and such other things, though the soil and several other causes operate in their production, yet they take up the characteristics of the seed. So that even though in the case of the child, the transmission of the characteristics of the seed is not so clearly manifest, yet it has to be accepted as a fact, on the basis of the fact of such transmission being found in the case of corn and other things. Further, it is only when this view that is accepted that the uniformity of all products becomes established. Thus it is that superiority belongs to the seed.

This is what is shown by the text—'*the production of all things*' is found to be '*marked by the characteristics of the seed*';—these '*characteristics of the seed*' consisting in shape, colour, figure and so forth; and by this is the production '*marked*' distinguished; *i. e.*, it follows them.—(35)



VERSE XXXVI

“AS IS THE SEED WHICH IS SOWN IN THE SOIL PREPARED IN SEASON, SO DOES THE SEED SPRING FORTH, MARKED BY ITS OWN QUALITIES.”—(36)

Bhāṣya.

This verse is only a detailed version of what has just gone above.

The exact meaning of the term ‘*yādrsham*,’ ‘*as*’, is going to be explained under verse 39 below, where the several kinds of grains are mentioned—‘paddy, *vrihi*’ and so forth.

‘*Prepared in season*’.—‘*In season*’, i. e., during the rains, at the time of sowing;—‘*prepared*’—tilled and levelled and got ready.

‘*So does it spring forth*’—is produced.

‘*Own qualities*’—of colour, shape, taste, strength and so forth;—‘*marked*’—characterised.—(36)

VERSE XXXVII

“THIS EARTH IS CALLED THE PRIMEVAL WOMB OF THINGS; AND YET, IN ITS DEVELOPMENT, THE SEED DOES NOT DEVELOP ANY QUALITIES OF THE WOMB.”—(37)

Bhāṣya.

The foregoing verse has described the fact that the qualities of the seed are reproduced in the product; the present verse is going to show that the qualities of the soil are not so reproduced.

‘*This earth is called the womb*’—soil of production—‘*of things*’—i. e., herb, vegetables, thickets, creepers and other immovable things; and yet none of the qualities of the earth are found in these things, neither clay nor dust being found in them.

'*The seed does not develop in its development*'.—The term '*seed*' here stands for the corn growing out of the sprouts, and not for the roots. The corn, left over after consumption, when sown, again becomes the seed; and this does not '*develop*'—reproduce;—the reproduction of qualities being a part of the '*development*,' we have the present tense in '*develops*,'—acquires, obtains—'*the qualities of the womb*'—in its constituent parts. If the verb '*develops*' itself had stood for the *reproduction* that forms part of the development, then the term '*in its development*' would be superfluous. Hence, according to the principle that verbal roots have several meanings, the verb '*develops*' has to be taken as denoting something else. Or, the term '*in its development*' may be taken as only serving the purpose of filling up the metre; and the superfluity thus explained somehow. Or the two terms, '*in its development*' and '*develops*,' may be explained as standing respectively for the general and special forms; just as in the expression '*svapoṣaṃ puṣṭaḥ*', '*nourished by his own nourishment*.'—(37)

VERSE XXXVIII

"IN THIS WORLD, SEEDS SOWN IN SEASON BY THE CULTIVATORS EVEN IN ONE AND THE SAME PLOT OF LAND SPRING FORTH IN VARIOUS FORMS, ACCORDING TO THEIR NATURE".—(38)

Bhāṣya.

What has been just said is further explained by means of an example.

'*In one and the same plot*'—the particle '*api*' being construed after '*kēdārē*'—*i. e.*, in one and the same field,—'*sown in season*,'—*i. e.*, at the time that may be fit for each of the seeds concerned,—'*by the cultivators*,'—'*spring forth in various forms*,'—each seed being produced in its own peculiar form.



If the soil were the more important factor, all the products would have been of one and the same quality; since the soil is one and the same for all.—(38)

VERSE XXXIX

“*Vṛīhi*-CORN, RICE, MUDGA-BEANS, SESAMUM, *māṣa*-beans, BARLEY, LEEKS AND SUGAR-CANE ARE PRODUCED IN ACCORDANCE WITH THE SEEDS.”—(39)

Bhāṣya.

The “various forms” in which the seeds grow are here described. ‘*In accordance with the seeds*’,—i.e., according to the character of the seed.

The plural number throughout is denotative of the species.—(39)

VERSE XL

“IT IS NOT POSSIBLE THAT WHAT IS SOWN IS OF ONE KIND AND WHAT IS PRODUCED IS OF A DIFFERENT KIND; THE SEED THAT IS PRODUCED IS THE SAME THAT IS SOWN.”—(40)

Bhāṣya.

The same fact is set forth in other words.

If *Mudga-beans* are sown, what is produced can never be *Vṛīhi*.

What is stated in the first half in the negative form is re-affirmed, in the second half, in the affirmative form.—(40)

VERSE XLI

[*The established conclusion*].—FOR THIS REASON HE WHO IS INTELLIGENT, WELL-TRAINED, AND CONVERSANT WITH THE SCIENCES AND THE ARTS, SHOULD NEVER, IF HE DESIRES LONGEVITY, SOW IN ANOTHER’S WIFE.—(41)

*Bhāṣya.*

The *prima facie* argument having been put forward, the present verse sets forth the established doctrine ; and what the text means is that the soil is the predominant factor.

Objection—"In the text there is no word signifying the predominance of the soil ; all that is declared is the prohibition of having recourse to other's wives—'*shall not sow in another's wife*' ; which means that one should not let his semen enter another man's wife ; and it does not mean that the child belongs to the person to whom the soil belongs."

True ; but when we take the present text along with what follows (under 43) regarding 'the seed sown in what belongs to another' being 'lost',—it becomes clear that the prohibition of intercourse contained in the present verse is based upon the consideration that the child born would be taken away by another, and it is not with a view to any spiritual result. The prohibition based upon spiritual considerations has in fact already gone before (4.134) ; where it has been said that 'there is nothing so conducive to the shortening of life etc.' Thus the conclusion is that, inasmuch as the present prohibitive text is supplementary to another text (43), with which it has to be construed, we are not free to interpret it as we choose ; so that the only right course is to take it as declaring the predominance of the soil.

'Intelligent',—possessed of inborn intelligence.

'Well-trained',—thoroughly educated by his father and others.

'Conversant with the sciences and the arts'.—The terms '*jñāna*' and '*viññāna*' connote instrumentality (meaning '*jñāyate anēna iti jñānam*', and '*viññāyate anēna iti viññānam*'). So that the term '*jñāna*', 'science', stands for the sciences subsidiary to the Veda, and '*viññāna*', 'arts', for the art of reasoning and the fine arts.

The sense of the verse is that the man who is possessed of any intelligence should never do such an act ;



since such is the law laid down in all scriptures. As regards the ignoramus, who is as good as an animal, the present teaching is not meant for him at all. Hence what is stated here is purely reiterative.

'If he desires longevity'.—This has been added with a view to indicate that the present prohibition is the same as that contained under Discourse IV; and this sets aside the idea as to its being a distinct prohibition.—(41)

VERSE XLII

ON THIS POINT, PERSONS CONVERSANT WITH ANCIENT LORE RECITE SOME '*Gāthās*' SUNG BY *Vāyu*, TO THE EFFECT THAT MAN SHOULD NOT SOW HIS SEED IN WHAT BELONGS TO ANOTHER.—(42)

Bhāṣya.

The term '*gāthā*' is the name of a particular metre; as has been declared by Piṅgala—'*Atrāsiddhaṅgāthēti*'; it is also used in the sense of verses handed down by a long-continued tradition. For instance, in the Veda, we find that, having made the declaration—'This is the *gāthā* of the learned that is going to be recited', it goes on to quote the verses '*Yadasya pūrvamaparantadasya &c.*'

'Sung by Vāyu'—recited, declared by him.

'Conversant with ancient lore';—those who know all about what happened in the past cycles.

'In what belongs to another'—In another man's field.—(42)

VERSE XLIII

'AS THE ARROW SHOT BY AN AFTER-SHOOTER HITTING A WOUNDED ANIMAL IN A HOLE (ALREADY MADE) IS WASTED, SO DOES THE SEED BECOME WASTED WHEN SOWN IN WHAT BELONGS TO ANOTHER.'—(43)

Bhāṣya.

The author quotes the said '*gāthā*'.

'*Iṣu*' is arrow,—'*becomes wasted*'.

'*In a hole*'—at a wound.

The man who *shoots* a deer *after* it has been wounded by another archer.

In this case the kill belongs to the man who wounded it first.

Or, the meaning may be that 'the arrow shot *in the air*—i.e. away from the mark—'*becomes wasted*'—abortive,—as also when one shoots an animal already wounded.'

In the same manner, the seed sown by a man in another's wife, becomes wasted. That is, the child born belongs to the owner of the 'field'.—(43)

VERSE XLIV

PEOPLE LEARNED IN ANCIENT LORE HAVE REGARDED THIS *Prthivī* (EARTH) TO BE THE WIFE OF *Prthu*; THEY DECLARE THE FIELD TO BELONG TO HIM WHO HAS CLEARED OFF THE STALKS, AND THE DEER TO HIM WHO STRUCK THE DART.—(44)

Bhāṣya.

The relation of husband and wife established by ancient tradition is such that two totally distinct entities are spoken of as one. For instance, though the Earth (*Prthivī*) was associated with King *Prthu* thousands of years ago, yet she is even now named after him '*Prthivī*'.

In view of this, even though a son may be born of another man, he must belong to him whose wife the mother is.

'*They declare the field to belong to him who cleared off the stalks*;'—there being no other relationship spoken of, the Genetive ending (in '*sthānūchchhēdasya*') must signify the relation of possessor and possessed.



'*Stalks*'—stands here for groves, thickets, creepers and other growths on the land;—he who clears off these is '*he who clears off the stalks*.' The land belongs to him by whom the over-growths have been cleared and the land levelled and made into arable land. The fruits of filling and sowing this land also belong to that same man.

'*The deer to belong to him who struck the dart*.'—'They declare' has to be construed with this also. Where several persons are hunting and following a deer, they declare the animal to belong to him the dart of whose arrow is found in its body. So that it belongs to the man who wounded it first, and this is what has been said above regarding 'the arrow of the shooter being wasted.'—(44)

VERSE XLV

THE MAN IS A MAN ONLY IN SO FAR AS HE CONSISTS OF HIMSELF, HIS WIFE AND HIS PROGENY. THUS IT IS THAT THE *Brāhmaṇas* HAVE DECLARED THAT 'THE HUSBAND IS DECLARED TO BE THE SAME AS THE WIFE.'—(45)

Bhāṣya.

It is only right that the child belongs to the man whose wife the mother is; because the husband and wife are one; and the child also is the man himself; how then can the *self* of one man belong to another?

Such is the usage of the world, and the learned Brahmanas also have made the same assertion.—(45)

VERSE XLVI

EITHER BY SALE OR BY REPUDIATION THE WIFE IS NOT RELEASED FROM HER HUSBAND; SUCH IS THE LAW THAT WE KNOW, AS ORIGINALLY PROPOUNDED BY PRAJAPATI.—(46)

*Bhāṣya.*

Some one may have the following notion :—"Other men's wives may be made one's *own* by paying money to the husband, and the difficulty regarding ownership being thus removed, the son born of her would belong to the begetter."

This is declared to be not possible. Wives of other men cannot be made one's own even by the paying of a thousand gold-coins.

Nor, when she is abandoned by her husband on account of poverty, can the wife belong to the man who receives her.

The reason for this lies in the fact that verse 3.4, which contains the injunction of marriage, uses the verb '*udvahēta*' ('shall take'), in the *Ātmanēpada* form, which clearly indicates that the woman who has been 'taken' through the sacramental rites by one man cannot be the 'wife' of any other man; just as the '*āhavanīya*' (sacrificial Fire) cannot be regarded as being so for any other person save the one who has kindled it with the prescribed rites.

'*Sale*' stands for *purchase* as well as *exchange*; and '*Repudiation*' for *abandoning*. By neither of them is the wife '*released*'—lose the character of 'wife.'—(46)

VERSE XLVII

ONCE DOES THE SHARE FALL TO A MAN; ONCE IS A MAIDEN
GIVEN AWAY; ONCE DOES ONE SAY 'I GIVE'; EACH OF
THESE THREE COMES ONLY ONCE.—(47)

Bhāṣya.

This has been explained by us under the section on 'Rescission' (8.227).

At the time of partition, if the co-partners are such as are entitled to equal as well as unequal shares, they should divide the property in such equal and unequal



shares. This partition having been once made, some one of the co-partners may subsequently raise objections to it. It is such subsequent objection that the present verse is meant to preclude. If, however, at the very outset, the party were to indicate the inadequacy of his share, then, the partition should have to be revised. If, on the other hand, the objecter should declare the inequity of the partition after the lapse of a long time, all that he can claim is the equalisation of his own share, and not a rescission of the whole partition; since during the time that has elapsed each co-partner will have made additions to his share, or carried out repairs to what may have been in a dilapidated condition, or used up the clothes and gold and other things [so that a re-partition of the entire inheritance would not be possible].

Others, however, explain the declaration regarding 'the share falling only once' to mean that—'if after the partition, it be discovered subsequently that there are some among the co-partners who are affected by impotence or some such physical defect as disqualifies him from receiving a share in the property,—there shall be no resumption of these shares by the others.'

Similarly, if there be some co-partners who are really entitled to two, three or four shares, but somehow at the time of partition, all of them receive equal shares, then, if, after sometime, they were to complain, they should not be permitted to annul the former partition.

In the case of the outcast, however, there is resumption of his share, as we shall explain later on.

'*The maiden is given away only once.*'—Though this would imply that the husband acquires ownership over the girl immediately after verbal betrothal,—even before the marriage has been performed,—yet what is really meant is that particular time which is indicated by such declarations

as 'One might take away a girl even though she may have been betrothed' (*Yājñavalkya*, 1.65) and 'The marriage is to be regarded as accomplished at the seventh step' (*Manu*, 8.227). This we have already explained above.

"Once does one say 'I give'."—Cows and other things are given away to others in the same form of ownership that the giver himself has over them; but the maiden belongs to the father as 'daughter,' while she is given away to the other party as his 'wife'; so that the father's relationship to her does not cease. It is for this reason that she has been mentioned separately (in the sentence 'the maiden is given away only once').

Objection.—"If the father's ownership and relationship does not cease, how can the 'giving away of the maiden' be said to be accomplished? It is in the very nature of the act of *giving* that the ownership of one ceases and that of another is brought about."

There is no force in this objection. In the case in question there are two relationships,—that of parent and child, and that of owner and owned, and while the former remains intact, the latter does cease. This is what is meant when verse 5.188 declares that 'During childhood the girl should remain under her father,' and 'under her husband during youth,' which indicates the cessation of the father's ownership and the coming into existence of that of the husband.—(27)

VERSE XLVIII

AS WITH COWS, MARES, SHE-CAMELS, SLAVE-GIRLS, BUFFALOES, SHE-GOATS AND EWES, IT IS NOT THE BEGETTER WHO OBTAINS THE OFFSPRING,—EVEN THUS IT IS WITH THE WIVES OF OTHERS—(48)

[There is no *Bhāṣya* on this verse. The same idea occurs again in 55 below].

VERSE XLIX

IF PERSONS, POSSESSING NO FIELDS, BUT HAVING SEEDS, SOW THESE IN FIELDS BELONGING TO OTHERS,—THEY NEVER OBTAIN THE GRAIN OF THE CROP THAT IS PRODUCED.—(49)

Bhāṣya.

It is a well-known fact that persons possessing no fields, but having seed-corn, do not obtain any portion of the crop of *mudga*, *māṣa* and in other grains that spring from fields belonging to other persons.—(49)

VERSE L

IF A BULL WERE TO BEGET A HUNDRED CALVES ON OTHERS' COWS, THOSE CALVES WOULD BELONG TO THE OWNERS OF THE COWS, AND THE BULL'S EMISSIONS WOULD BE IN VAIN.—(50)

Bhāṣya.

The foregoing verse has indicated and explained the state of things as pertaining to immoveable property; and the present verse points it out in reference to cows and other animate belongings of men.

When one man's bull begets a number of calves on cows belonging to other men, the owner of the bull does not obtain a single one of those calves; all of these calves belong to the 'owners of the cows'—the persons to whom the cows belong.

'Of the bull'—i.e., related to the bull—'Emission' sowing of seed;—'in vain';—futile, useless.—(50)

VERSE LI

SIMILARLY PERSONS WHO HAVE NO 'SOIL' OF THEIR OWN—IF THEY SOW IN THE 'SOIL' BELONGING TO ANOTHER MAN, THEY CONFER BENEFIT UPON THE OWNER OF THE 'SOIL,' AND THE OWNER OF THE SEED REAPS NO FRUIT.—(51).

Bhāṣya.

This is a continuation of what has gone before.

Just as in the case of the cows, and also in that of immoveable property, so among human beings also, the sowers of the seed '*confer the benefit upon*'—accomplish the purposes of—the owner of the soil.—(51)

VERSE LII

IF BETWEEN THE OWNER OF THE SOIL AND THE OWNER OF THE SEED, THERE HAS BEEN NO COMPACT REGARDING THE PRODUCE, THEN THE CROPS BELONG CLEARLY TO THE OWNER OF THE SOIL;—THE RECEPTACLE BEING MORE IMPORTANT THAN THE SEED.—(52)

Bhāṣya.

It has been stated in a general way that the produce belongs to the owner of the soil, not to that of the seed; a further detail in regard to this is now added.

'*When no compact has been made*'—i.e., no agreement between the owner of the soil and the seed, as to the produce belonging to both, in accordance with the maxim relating to two men, one of whom had lost his horse and another had burnt his chariot, (where the fruit, in the shape of being carried, accrued, by agreement, to both),—'*the crop*'—i.e., the produce—'*belongs clearly to the owner of the soil.*'—The term '*clearly*' indicates that there is no doubt on this point.



'Because the receptacle is more important than the seed'—i.e., more importance attaches to the soil,—(52)

In a case however, where there is a compact, (what happens is as follows.)—

VERSE LIH

IF HOWEVER THE SEED IS GIVEN FOR THE PURPOSE OF SOWING, AFTER THE ACCEPTANCE OF A COMPACT,—IN THAT CASE BOTH, THE OWNER OF THE SOIL AND THE OWNER OF THE SEED, ARE CONSIDERED TO BE SHARERS OF THE PRODUCE.—(53)

Bhāṣya.

It has been said in the preceding verse that in the absence of a compact, the produce belongs to the owner of the soil. The question that arises next is—In case there is a compact, does the crop belong to the owner of the seed or to both? It is in answer to this that the present verse declares that it belongs to both.

'Acceptance of the compact.'—The term '*Kriyā*' stands for the compact, the agreement, that 'this shall be so and so';—when such compact has been 'accepted,'—'*it*'—i.e., the '*seed*,' as is clear from the context—is '*given*'—'*for the purpose of sowing*'—i.e., for the purpose of the raising of the crop,—then of this crop both are sharers.—(53)

VERSE LIV

IF SEED, CARRIED AWAY BY RAIN OR WIND, GERMINATES IN A SOIL,—THAT SEED BELONGS TO THE OWNER OF THE SOIL, AND THE OWNER OF THE SEED DOES NOT RECEIVE THE PRODUCE.—(54)

Bhāṣya.

It has been declared (under 43) that when a man sows his seed in another man's soil, his seed is lost. And on the basis people may have the following idea—"In the case cited, it is only right that the produce shall be confiscated, since a wrong act has been committed by the man, in that he has tried to obtain surreptitious possession of the land,—otherwise, why should he go about sowing his seed in another's field? But in a case where the owner of the seed has sown it in his own field, but it has been carried into another field by water or wind, there is no wrong done by the man; in fact he loses his own seed by this transference."

It is with a view to combat such a notion that we have the present verse declaring that when '*seed, carried away by rain or wind*'—'*oyha*' stands for *rain*,—'*germinates in another man's field*',—then, the produce belongs to the owner of the soil.

Thus is the special law established that '*the owner of the seed does receive the produce*'; i.e., ownership of the soil is the more important factor.—(54)

VERSE LV

THIS SAME LAW SHOULD BE UNDERSTOOD AS APPLYING TO THE OFFSPRING OF COWS, MARES, SLAVE-GIRLS, SHE-CAMELS, SHE-GOATS AND EWES; AS ALSO OF BIRDS AND BUFFALOES.—(55)

Bhāṣya.

Cows and horses, etc. are added here in order to prevent the notion being entertained that the laws laid down here are meant only for children; or it may be regarded as added for the purpose of precluding the notion that they are meant to apply to only seeds, fruits and crops, as is already known among people.

The same law applies to quadrupeds, and bipeds, as also to immovable things.



'*This*'—refers to what has been said in the preceding two verses :—viz. (1) when there is no compact, the produce belongs to the owner of the soil, and (2) when there is compact, it belongs to both.

Cows and the rest have been named only by way of illustration; the same law applies to the cases of dogs, cats and other animals.

"Why then should the declaration in verse 50 have been made?"

It is only a reiteration of the well-known fact that birds and other animals do not form the 'property' of men to the same extent as cows do.

'*Slave girls*'—i. e., those acquired by the seven sources of slavery.

'*Offspring*'—young ones born from their wombs.
—(55)

VERSE LVI

THUS HAS BEEN EXPLAINED TO YOU THE COMPARATIVE IMPORTANCE AND NON-IMPORTANCE OF THE SEED AND THE WOMB; AFTER THIS I AM GOING TO EXPOUND THE DUTIES OF WOMEN DURING TIMES OF DISTRESS.—(56)

Bhāṣya.

'*Importance*'—predominance.

'*Non-importance*'—non-predominance.

This verse sums up the foregoing section, and its second half introduces the next section.

'*Distress*'—i. e., (1) want of food and clothing necessary for the sustaining of life; and also (2) absence of progeny.—(56)

SECTION (4)—DUTIES OF WOMEN IN TIMES OF
DISTRESS.

Niyoga.

VERSE LVII

THE WIFE OF THE ELDER BROTHER IS, FOR THE YOUNGER,
A 'WIFE OF THE PRECEPTOR'; AND THE WIFE OF
THE YOUNGER BROTHER HAS BEEN DECLARED TO BE
A 'DAUGHTER-IN-LAW' FOR THE ELDER.—(57)

Bhāṣya.

These two verses (57 and 58) describe the actual
state of things, for the purpose of laying down the
advisability of 'Niyoga' or 'appointment,' in times of
distress.

'*Elder*'—one born before;—'*younger*'—one born
after; junior in age.—(57)

VERSE LVIII

IF THE ELDER BROTHER HAS RECOURSE TO THE WIFE
OF THE YOUNGER, OR THE YOUNGER BROTHER
TO THE WIFE OF THE ELDER, THEY BECOME
OUTCASTS, EVEN THOUGH 'AUTHORISED,'—EXCEPT IN
TIMES OF DISTRESS.—(58)

Bhāṣya.

Both the younger and the elder brothers become
outcasts by having recourse to each other's wife, except
in times of distress,—even though they be 'authorised,'
—(58)



VERSE LIX

ON FAILURE OF ISSUE, THE WOMAN, ON BEING AUTHORIZED, MAY OBTAIN, IN THE PROPER MANNER, THE DESIRED OFFSPRING, EITHER FROM HER YOUNGER BROTHER-IN-LAW OR FROM A 'Sapinda'.—(59)

Bhāṣya.

This verse enjoins the practice of 'Niyoga', hemmed in by all its qualifications.

'On failure of issue, the woman, on being authorised, may obtain, offspring in the proper manner,'—from her younger brother-in-law and others.

This 'failure of issue' is the 'distress' referred to under verse 56.

The term 'issue', '*santāna*', here stands for the son; as regards the daughter, she is regarded as 'issue' only when she has been 'appointed,' as it is only then that she carries on ('*santanoti*'), perpetuates, her father's family; which is not done by the daughter, in ordinary circumstances.

The 'failure' of such issue consists in no son being born, or in a son, though born, dying off, and in the non-appointment of a daughter (by the husband). We shall explain later on that the woman is not entitled to have an 'appointed daughter' or any other substitute for the son. She may, therefore bring forth a child only when authorised by her elders.

"Whence is the idea obtained that the authorisation is to be done by her elders?"

It is obtained from other Smṛti-texts. Or, the idea follows from the very name '*niyoga*', 'authorisation'. In ordinary parlance 'authorisation' is always understood as proceeding from a superior; when the teacher does the teaching, he is not spoken of as being 'authorised' by his pupil to do it; in fact it is the pupil that is spoken of as being 'authorised' to read and repeat the lessons.

The 'elders' meant here are the mother-in-law, the father-in-law, the younger brother-in-law and other persons belonging to her husband's family,—and not the woman's own father and other relations. Because if a child is born as the result of this 'authorisation', it is only the former who come to be known as 'with offspring', and who become benefitted by the after-death rites performed by that child.

"If that were the sole criterion, then, since the child's maternal grandfather also would benefit by the rites performed by his grand-child, it would follow that the said 'authorisation' could be done by him also."

This has been already answered by the explanation that those persons alone are to 'authorise' who would become known as 'with offspring' through the child born as the result of that authorisation. Further, when the verse speaks of the '*younger brother-in-law*' and the '*sapinda*', all persons belonging to the same *gotra* come to the mind. In the *Mahābhārata* also, in several places, it is shown that 'authorisation' can proceed only from the woman's relations on the husband's side. It is for this same reason that there is to be no 'authorisation' when the husband's brother's son is present.

"As a matter of fact, the benefits from the issue occur to only those persons who are 'authorised' to beget the offspring; in fact only those persons are entitled to 'authorisation' who are eager to obtain the benefits of the issue, in the shape of the love and satisfaction derived from the son. Thus then, no benefits can occur to one who is dead; how then can the child be said to be the 'issue' of the latter?"

Our answer to this is that the dead person also does obtain benefits, in the shape of the offering of libations and so forth; and that this is so is clearly asserted in authoritative texts. Though it is true that the dead person has not carried out the injunction regarding the begetting of a child; yet the scriptures clearly lay down that libations are offered to him by

the child that may be begotten in the 'soil' belonging to him, (i.e. on his wife), according to the law of 'authorisation'. And from this it follows that benefits for the issue do accrue to the dead father also. How this is we shall explain fully later on.

'Younger brother-in-law'—the husband's brother.

'Sapinṛa'—a person belonging to the husband's family. This is what is understood to be meant by the law in other Smṛti-texts regarding the child being obtained from any person 'of the same caste'.

'In the proper manner'.—This refers to the rules regarding the man anointing himself with clarified butter and so forth.

'The desired offspring may be obtained'.—The verbal affix has the force of the Injunctive. The term '*desired*' indicates the capacity for fulfilling his duties; which implies that in the event of a girl or a blind or deaf son being born, the process of 'authorisation' may be repeated.—(59)

VERSE LX

HE WHO HAS BEEN AUTHORISED IN REGARD TO A WIDOW SHALL, ANNOINTED WITH CLARIFIED BUTTER AND WITH SPEECH CONTROLLED, BEGET, AT NIGHT, ONE SON,—AND ON NO ACCOUNT A SECOND ONE.—(60)

Bhāṣya.

No significance is meant to be attached to the mention of the '*widow*'; as the rule laid down here is applicable also to the case of the woman whose husband is alive, but subject to such disabilities as impotence and the like. That such is the meaning is clear from what follows later (in 63). As a matter of fact, the sole purpose underlying the practice lies in what is stated in the present verse; the restriction too pertains to persons subject to the law, and not to the observances themselves. Otherwise it would seem that the whole thing pertained to widows only. (?)



'*At night*';—this is meant to indicate the *absence of all light*, in the shape of lamps etc.; intercourse *during the day* having been already forbidden by another text.

Others however hold that the prohibition of intercourse during the day is with reference to the benefit of the man, while the specification of 'night' in the present text bears upon ritualistic purposes.

Hence what is meant is that '*only one*'—and never a second—'*Kṣētraja*' son is to be begotten; but never by intercourse during the day.—(60)

An exception to this is set forth in the next verse:—

VERSE LXI

SOME PEOPLE, LEARNED IN THE SUBJECT, ADMIT, ON THE BASIS OF PROPRIETY, OF A SECOND PRO-CREATION ON WOMEN,—PERCEIVING, AS THEY DO, THAT THE COUPLE'S PURPOSE OF 'AUTHORISATION' IS NOT (OTHERWISE) ACCOMPLISHED.—(61)

Bhāṣya.

A second son also should be begotten;—such is the opinion of some people.

'*Learned in the subject*'—persons versed in the laws relating to the *begetting* of '*Kṣētraja*' sons.

'*Perceiving that the purpose of authorisation is not accomplished*'.—These people hold that the injunction, that 'the woman on being authorised should beget a child', is not fulfilled by the begetting of a single son.

What is the real intention of these men?

They hold that the singular number (in the word 'son' in the injunction 'a son is to be begotten') is not meant to be significant; since it is the *substance* that forms the more important factor, and no qualification attaches to the act, which shows that no significance can attach to the singular



number; just as in the case of the word 'cup' (in the injunction 'wash the cup').

"In the case of injunctions of things not already spoken of elsewhere, even though the *substance* is recognised as the predominant factor, yet the significance of such specifications as those by means of number and such qualifications remains undisturbed; e.g., in such injunctions as the 'twice-born man shall marry a woman'. Then from the indicative power of such mantra-texts as 'Beget ten sons on this girl', it is clear that the number *one* as pertaining to *children* is not to be observed.

"In that case the man need not rest with *two* sons only."

In fact it is in view of this that the text has added the term '*second*', the use whereof lies in the precluding of the possibility of more sons than two. This same is the sense of the *mantra-text* also, which pertains to the '*aurasa*' (body-born) son, the text occurring in the section on Marriage. In the present instance however, all that is intended is the exceeding of the number 'one'; and this on the strength of the saying current among cultured people that 'a man with one son is as good as sonless', or on that of the present verse containing the eulogisation of the second son.

'On the basis of propriety'—i.e. on the strength of the practice of cultured people.—(61)

VERSE LXII

BUT WHEN THE PURPOSE OF THE 'AUTHORISATION' IN REGARD TO THE WIDOW HAS BEEN DULY ACCOMPLISHED, THE TWO SHOULD BEHAVE TOWARDS EACH OTHER LIKE AN ELDER AND LIKE A DAUGHTER-IN-LAW.—(62)

Bhāṣya.

The 'authorisation' herein laid down refers to the act of 'intercourse', ending with the sexual act. After

this act has been accomplished, their behaviour towards each other should be like that of the 'elder' and the 'daughter-in-law'. If the woman is the wife of the elder brother, she shall be treated like an 'elder'; but if she is the wife of the younger brother, she shall be treated like a 'daughter-in-law'.

The use of the term '*towards each other*' implies that the woman should behave like the daughter-in-law towards her elder brother-in-law, and like an 'elder' towards her younger brother-in-law.—(62)

VERSE LXIII

IF THE TWO PERSONS THUS 'AUTHORISED' RENOUNCE THE LAW AND ACT FROM CARNAL DESIRE, BOTH WOULD BECOME OUTCASTS,—BEING LIKE ONE WHO HAS INTERCOURSE WITH HIS DAUGHTER-IN-LAW AND ONE WHO DEFILES THE BED OF HIS ELDER.—(63)

Bhāṣya.

'*Law*'—regarding 'annointing with clarified butter' and so forth. The transgression of the law leads to the parties becoming outcasts.

The 'authorised' elder brother being '*one who has intercourse with his daughter-in-law*', and the younger brother being '*one who defiles the bed of his elder*'.—(63)

VERSE LXIV

BY TWICE-BORN PERSONS THE WIDOW SHALL NOT BE 'AUTHORISED' IN REGARD TO ANOTHER PERSON; BY 'AUTHORISING' HER IN REGARD TO ANOTHER, THEY WOULD VIOLATE THE ETERNAL LAW.—(64)

Bhāṣya.

This is the prohibition of the practice of 'authorisation', which has been sanctioned in the foregoing texts.



In this connection, some people have held the following view:—"Inasmuch as the text contains the term 'widow', it prohibits the practice only with reference to the woman whose husband is dead; so that the impotent husband should still 'authorise' his wife; both the sanction and the prohibition would thus have distinct spheres of application."

Others, however, have held the following opinion:—"The text that sanctions the practice mentions the *failure of issue* as the occasion for it; and as a matter of fact, this occasion is equally present in both cases,—in the case of the husband being impotent or invalided, as also in that of his being dead. So that as the sanction, so the prohibition also, must be accepted as free from restrictions. Then again, a woman is called '*vidhavā*' (widow) when she ceases to have any intercourse with her '*dhava*' or husband; and this condition is equally present in both cases."

It is this latter view that has to be accepted; as otherwise, the rules regarding 'anointment with clarified butter' and other details would not be applicable to the case of 'authorisation' by the impotent or invalided husband; because the text that lays down that rule uses the term 'widow'—"He who has been authorised *in regard to the widow*, etc.' (Verse 60). For these reasons, just as the preceding sanction, so the subsequent prohibition also, should be taken as free from all limitations. And thus the sphere of application of both being the same, we must take the case as being one of *option*. This option is possible only in view of the obligatory character of the injunction regarding the begetting of children; the case being analogous to the option bearing upon the 'holding' and 'not holding' of the *Shodashi* Cups. If, on the other hand, the injunction of begetting a son were regarded as consisting in such assertions as 'by means of a son one wins heaven', and

so forth, (where the act of begetting a son is put forward as leading to a certain desirable result), the effect of one having no children would only be the non-performance of the after-death rites. So that the results of the two acts (begetting of a child by 'authorisation' and not begetting a child by that method) would be totally distinct; and under the circumstances, whence could there be any *option*? It is only when the sanction and the prohibition both bear upon the same object that there can be *option*; as is the case with the 'holding' and 'not holding' of the *Shodashi* Cups.

It has already been pointed out that when an act is done along with all its subsidiary details, its results are fuller than what they are when it is done without those details; but so far as the accomplishment of the main act itself is concerned, there is no difference. So that in this case the only effect would be that the man not having recourse to the practice would fail to obtain the benefits that would be conferred by the son; and if he has recourse to the practice with a view to obtaining those special benefits, then he would be transgressing the prohibition, and his act would stand on the same footing as the performance of the *Shyēna* sacrifice (which is performed for the special purpose of obtaining the death of the enemy, and involves the transgression of the prohibition of all *killing*).

"In connection with this object, the following point deserves to be considered in regard to the man who is 'authorised' (to have connection with the 'widow')—Why does he have recourse to the act? There is no such injunction for him as that 'when one is *authorised* he should have intercourse with the widow'; as there is for the woman, in the form of the text (59)—'the woman, being duly authorised, etc.' It would not be right to argue that—"since the 'authorisation' of the woman can be accomplished only when her younger brother-in-law or some



other male relation would also act, the action of these latter also is implied by that same injunction (which prescribes the 'authorisation' of the woman),—since what is desired by the women is the *Kṣētraja* son (and this cannot be obtained without the action of the male)."

"This cannot be right, because the action of the male might proceed from carnal desire also.

"If the injunction did not imply the action of the male, there would be no sense in the rules laying down *anointing with clarified butter* and other details.

"These rules would not be meaningless; as their meaning would be that the son can be called '*Kṣētraja*' only when he is born in the manner prescribed, and in no other circumstances.

"Some people have held that the general injunction that 'one must obey the injunction of his elders' is what prompts the male in question.

"But if this were allowed, then one would be justified in drinking wine and doing such forbidden acts, by the wish of his elders to do so. As a matter of fact, one who would prompt the man to have recourse to such acts would not be an 'elder' at all. Then again, there is the law—'The abandoning of the elder is enjoined, if he is vain or ignorant of what should and what should not be done, or has recourse to the wrong path'; and the 'abandoning' meant here can only consist in *ceasing to work for the elder*.

"This same reasoning does away with the following view also:—'The assertion, (in 63) that by acting contrary to the rules relating to the details of the practice of 'authorisation,' the parties concerned become outcasts, implies the sanctioning of the action of both, in accordance with those rules. Otherwise, if the action of the man involved the penalty of outcasting in all kinds of intercourse, there would be no point in the declaration

that he becomes an outcast under the special circumstances (of acting contrary to the rules).'

"Then again, the idea that—'in the case of there being no transgression of the rules the man alone becomes an outcast, whereas, when there is transgression of them, both parties become outcasts'—is also derived from the indicative power of the texts themselves.

"Thus then, the action of the yonger brother-in-law and other male relations has got to be explained (and justified)."

Our explanation is as follows:—Judging from the instance of Vyāsa and others, it has to be admitted that, in the begetting of the '*Kṣētraja*' son, if one acts according to the behests of his elders, there can be nothing wrong in it. In the case of Vyāsa and other great men, their action can never be regarded as having been prompted by carnal desire. Then, as for the argument that "the assertion that the parties become outcasts if they transgress the rules, is indicative of the act of the male",—this cannot be right; for, if the male became an outcast, then, the son born of him would not be entitled to the performance of any rites; so that the begetting of the child would be absolutely futile. From all this, it follows that there is just a semblance of an injunction for the action of the younger brother-in-law or other male relations.—(64)

VERSE LXV

NOWHERE IN THE MANTRA-TEXTS BEARING UPON MARRIAGE IS 'AUTHORISATION' MENTIONED; NOR AGAIN IS THE MARRIAGE OF THE WIDOW MENTIONED IN THE INJUNCTION OF MARRIAGE.—(65)

Bhāṣya.

'*Udvāha*,' 'marriage,' is a *rite*; and the sacred texts used at that rite—such as: (a) '*Aryamaṇannu dēvam*



kanyā agnimayakṣata, (b) '*Mayā patyā jaradaṣṭih,*' (c) '*Mayā patyā prajāvatī,*' and so forth,—in all these, it is clearly stated that ownership over the woman belongs to the person that *marries* her; and nowhere among them is there any such assertion as 'beget a child from a man in regard to whom you are *authorised* by me.'

What the text means by mentioning the '*mantra-texts*' is that even *Mantra-texts* and *Declamatory Texts* do not contain any indications of the injunction of the practice. This is further explained.—'*The marriage of widows is not mentioned in the injunction of marriage.*' 'Marriage' here stands for *intercourse*. If the act of the brother-in-law having intercourse with his widowed sister-in-law were a regular 'marriage,' then, the practice of '*niyoga*,' 'authorisation,' would be the same as 'Marriage'; and as such, it would be fully *enjoined* by some such injunction as 'the brother-in-law shall marry his sister-in-law.' As a matter of fact, however, there is no such injunction at all.

This is a declamatory supplement to what has gone before.—(65)

VERSE LXVI

DURING THE TIME THAT KING VENA WAS RULING OVER HIS KINGDOM, THIS REPREHENSIBLE BESTIAL PRACTICE WAS INTRODUCED BY IGNORANT TWICE-BORN MEN AMONG MEN ALSO.—(66)

Bhāṣya.

This also is a declamatory supplement to the prohibition of 'authorisation.' The '*ignorant*' men, who do not know the scriptures, and who do not understand that the indicative power of the texts points to something entirely different,—'*introduced*' '*this bestial practice*,' which is most '*reprehensible*,' '*among men also*'; and this was done not during

modern times, but ‘*during the time that Vēna*’—the first king—‘*was ruling over his kingdom*’—looking after his realm.

“It has been said that there are no sacred texts indicative of prevalence of this practice.”

Not so; what was said was that there was no such indicative in the texts recited at marriage; in other texts there certainly are words indicative of it; for instance, there is the *mantra*—‘*Ko vā sa putro vidhavēva devaram mayā nu doṣo kṛṇutē sadhastha*’ (Rgveda, 10:40:2),—which means ‘who is the woman that invites you Ashvins to her bed in the manner in which the widow invites to her bed her younger brother-in-law,—that you do not come up?’

“But what peculiarity is there in the *mantras* used at marriage (that capital is made of there being no indication in them of the practice in question)?”

What is meant is that the texts connected with marriage are more nearly connected with the subject of the begetting of children.

Others read ‘*vidvadbhiḥ*’ (for ‘*avidvadbhiḥ*’); and the meaning of this would be—‘This practice, of having intercourse with the brother’s wife, which is fit for beasts, *has been declared by the learned to be reprehensible, for men*,—and it was introduced during the reign of King Vēna.’—(56)

VERSE LXVII

IN ANCIENT TIMES THAT CHIEF OF ROYAL SAGES, POSSESSING THE WHOLE WORLD, BROUGHT ABOUT THE CONFUSION OF CASTES, HAVING HIS MIND BESET WITH LUST.—(67)

Bhāṣya.

‘*Possessing*,’—ruling over.

“When the King brought about the confusion of castes, how can he be called the chief of royal sages?”

The answer is that possessing the whole Earth, he was a great King, but he had his '*mind*'—mental equanimity—'*beset*'—destroyed—'*by lust*'—in the shape of carnal desires and so forth.—(67)

VERSE LXVIII

SINCE THEN, WHENEVER ANY ONE, THROUGH FOLLY,
 'AUTHORISES' A WOMAN WHOSE HUSBAND IS DEAD,
 TO BEGET CHILDREN,—HIM THE GOOD MEN CENSURE.
 —(68)

Bhāṣya.

The sense of this declamatory passage is clear.—(68)

VERSE LXIX

IF THE HUSBAND OF A MAIDEN DIES AFTER THE TROTH
 HAS BEEN VERBALLY PLIGHTED,—SHALL HER THEN
 OWN YOUNGER BROTHER-IN-LAW ESPOUSE IN THE
 FOLLOWING MANNER.—(69)

Bhāṣya.

This verse lays down a practice in connection with maidens, which has the form of 'authorization'.

'*After the troth has been verbally plighted*'—i.e., after the accomplishment of verbal betrothal;—when she has been given away orally by one and accepted by the other party.

'*Her own younger brother-in-law shall espouse*'—marry—'*her, in the following manner.*'—(69)

VERSE LXX

WHEN HE HAS, ACCORDING TO RULE, ESPOUSED HER,
 CLAD IN WHITE GARMENTS AND PURE IN HER
 OBSERVANCES, THEY SHALL APPROACH EACH OTHER
 ONCE IN EACH SEASON, UNTIL ISSUE.—(70)

Bhāṣya.

‘*According to rule*’—in accordance with the rules laid down in the scriptures.

‘*Has espoused her*.’—This would be ‘espousal’ or ‘marriage’ only in name; as the maiden in such a case would be called a ‘*punarbhū*,’ ‘a remarried widow’; and even though married, she could not be a ‘wife’ (in the real sense of the term); her marriage, which is nominal, being only for a definite purpose. That this is so is shown in the next verse—‘Having given away his daughter to one man, one shall not give her to another,’—which means, that she should not be given to her younger brother-in-law either; and when she is not *given away*—and as such does not become the property of the man—how could she be his ‘wife’?

‘*Clad in white garments*’;—this is a rule that is to be observed by the man approaching the woman; it is to be observed also in other cases of ‘authorisation.’—(70)

VERSE LXXI

HAVING GIVEN AWAY HIS DAUGHTER TO ONE MAN, THE WISE MAN SHOULD NOT GIVE HER AWAY AGAIN. HAVING GIVEN HER AWAY ONCE, IF HE GIVES HER AGAIN, HE INCURS THE GUILT OF ‘FRAUD TOWARDS MEN.’—(71)

Bhāṣya.

It has been declared ‘that consummation of it is to be understood as occurring at the seventh step’ (8.227). People may be inclined to the notion that if the bridegroom dies before this point has been reached, the girl may be given away to another man; it is this notion that the present text precludes.

This prohibition has been repeated here, in view of the special circumstances herein mentioned; as a matter



of fact, the girl married after betrothal has been already declared to be a 'remarried widow.'

When the girl has been betrothed, given away, to one man,—if he happens to die—she shall not be given to another. By doing this the father incurs the guilt of '*fraud towards men*';—i.e., he incurs the same guilt that would be incurred by the kidnapping of a human being.—(71)

SECTION (5)—REPUDIATION OF THE BETROTHED MAIDEN.

VERSE LXXII

EVEN AFTER HAVING ACCEPTED THE MAIDEN IN DUE FORM, ONE MAY REPUDIATE HER, IF SHE BE BLEMISHED, OR DISEASED, OR CORRUPTED, OR BETROTHED BY DECEPTION.—(72)

Bhāṣya.

'*Form*,'—as prescribed in the scriptures; what is done in accordance with this—*i.e.*, as laid down in 3'35 *et-seq.*,—where the use of water has been held by some to be meant for the case of maidens.

When one has, according to this form, accepted a maiden,—he may '*repudiate her*'—before marriage is done.

'*Blemished*'—disfigured by evil bodily marks, not perceived before. Even though she may have been accepted, and be very handsome, yet if she be found to be wanting in modesty, or harsh of tongue.

'*Diseased*'—suffering from consumption.

'*Corrupted*'—one who is known among men as suffering from an incurable disease, or as being in love with another man.

Such a girl one may repudiate.

Some people have explained '*vipraduṣṭā*' as 'deflowered.'

This however is not accepted by others as right. So long as the girl has not been enjoyed by a man, and as such remains a 'maiden,' she cannot be regarded as 'corrupted'; and after she has been enjoyed, she is no longer a 'maiden'; so that in this case there could be no sense in the assertion

that 'one may repudiate the corrupted *maiden*.' And the abandoning of the 'deflowered' girl has been already laid down before (under 8'226).

'*Betrothed by deception*'—actually wanting in limbs, or having superfluous limbs.

Since the text mentions the presence of defects as the ground for repudiation, it follows that even in the presence of such minor defects as are not mentioned here,—one may abandon the girl, even after betrothal.—(72)

VERSE LXXIII

IF A MAN GIVES AWAY A DEFECTIVE MAIDEN, WITHOUT
 DECLARING THE DEFECTS, ONE MAY ANNUL THAT ACT
 OF THE WICKED GIRL-BETROTHER.—(73)

Bhāṣya.

The defects of the maiden have been already described. If a man gives her away without declaring those defects,—one may '*annul*'—render null and void—that '*act*'—of giving—by returning the gift.

This, though already laid down in the preceding verse, has been made still clearer by the present one.—(73)

SECTION (6)—DUTIES OF THE HUSBAND GOING ABROAD.

VERSE LXXIV

A MAN HAVING BUSINESS MAY GO ABROAD, AFTER HAVING PROVIDED FOR THE MAINTENANCE OF HIS WIFE; FOR A WIFE, EVEN THOUGH VIRTUOUS, MAY BECOME CORRUPT, WHEN DISTRESSED BY WANT OF SUBSISTENCE.—(74)

Bhāṣya.

All that is meant by the injunction here put forth is that whenever a man goes abroad, he should do so after having made provision for his wife's subsistence; the form of the injunction being—'one going abroad should make provision for the subsistence of his wife'; that is, he should so arrange it that during the time that he is away, she shall be supplied with means of sustaining her body, with food, clothing and other household requisites.

Having provided for all this, he shall '*go abroad*,' i.e., go away to foreign lands.

'*Having business.*'—'*Business*' stands for the man's purpose, visible (temporal) as well as invisible (spiritual); the latter consisting in 'merit' and the former in 'wealth' and 'pleasure.' This same idea is going to be set forth again (in 76)—'If the man has gone abroad for the purposes of merit, etc.'

This text forbids journeying abroad and leaving the wife behind, in the absence of some such purpose as those herein mentioned.

'*Distressed by want of subsistence.*'—This points out a visible harm likely to arise; and is a purely declaratory assertion. '*Distressed*'—troubled—'*by want of subsistence*'—by poverty.

'*May become corrupt*'—by intercourse with other men.

'*Even though virtuous.*'—'*Virtue*' stands for the customs and ways of the family; and she who keeps up these is '*virtuous*'.

It is quite likely that through hunger and other forms of privation, the distressed wife may fall into corruption, and maintain herself by betaking herself to another 'husband.' The affix in '*pradusyēt*' indicates likelihood.—(74)

VERSE LXXV

WHEN THE HUSBAND HAS GONE ABROAD AFTER HAVING PROVIDED FOR HER SUBSISTENCE, SHE SHALL LIVE ON, FIRMLY DEVOTED TO RESTRAINT. WHEN HOWEVER HE HAS GONE WITHOUT PROVIDING FOR IT, SHE SHALL SUBSIST BY UNOBJECTIONABLE INDUSTRIES. —(75)

Bhāṣya.

'*Restraint*'—such as, avoiding the house of others, in the absence of her husband, as she does when he is present.

'*Devoted*'—fixed, observing.

When he has gone without making provision for her, she should subsist by industries;—such as, spinning, lace-making and the like. The '*objectionable*' industries are the making of fans and such things.

These are the means of subsistence for widows, depending upon their own labour.—(75)

VERSE LXXVI

IF THE HUSBAND WENT ABROAD FOR SOME SACRED DUTY, HE SHOULD BE AWAITED FOR EIGHT YEARS; IF FOR LEARNING, OR FOR FAME, SIX YEARS; BUT THREE YEARS, IF FOR PLEASURE.—(76)

Bhāṣya.

It has been said that a man may go abroad 'on business'; the present verse proceeds to show the several kinds of 'business,'—the time of waiting varying with the nature of the business.

The text has said nothing as to what the wife should do after having waited for the eight years. And on this point, some people on the strength of Context, say that she should maintain herself by unobjectionable industries.

This however is not right. Because, if the maintaining of herself by unobjectionable industries referred to the time after the eight years of waiting,—then, before the lapse of that time, is she to die? Suicide is not considered desirable for her, just as it is not for the man; being, as it is, forbidden for all. Hence, the conclusion appears to be that before the lapse of the said time she shall maintain herself by unobjectionable industries; but after that she may have recourse to objectionable ones also.

Others hold that after the said time, the woman may deviate from chastity;—as says another Smṛiti text—'When the husband is lost, or dead, or become a renunciate, or impotent, or an outcast—in the event of these five calamities another husband is permitted for women.' (Parāshara).

Others again hold the following view:—Even in ignorance, it is not open to the woman to renounce her chastity. In fact, it has been laid down among the duties of women (under 5.156) that 'on the death of her husband she shall not even utter the name of another man'; so that deviation from chastity is not permissible even on the death of her husband,—what to say as to when he has only gone abroad. As regards the Smṛiti-text quoted, the word '*pati*,' 'husband,' is used there in the sense of *protector*, just as in the case of such terms as '*grāmapati*'



senāpati’ and so forth. So that all that the present text means is that—‘she should no longer remain dependent upon her husband, she may undertake the work of the toilet-maid or some such thing, under another man who would give her food’; and when she has entered into a contract for such service extending over six months, or a year,—if the husband happen to turn up and claim her, asking the employer to give her up,—he can claim her restitution, before the lapse of the eight years; as before that she belongs to her husband.

Other matters relating to this subject have been fully dealt with under Discourse V.

This same view has been accepted by many others also.

Other people, however, hold that the text sanctions recourse to the life of the ‘remarried widow’ (after the lapse of the time mentioned). If a woman is abandoned by her husband,—or if her husband, after having made provision for her, does not return during the said time, and she is as good as abandoned by him,—then, she may be married by another man, according to the practice of ‘widow remarriage’; and if the former husband happen to return after that, he can say nothing, and she shall continue to be the wife of the second husband.

This however is not right; since ‘neither by sale nor by repudiation is the wife released from her husband.’ (Manu 9.46); and the uses of this text we shall explain later on.

‘*For a sacred duty.*’—The compound ‘*dharmakāryam*’ being explained as a *karmadhāraya*—‘*dharmā*,’—‘sacred’—‘*kārya*’—duty; and that which is for purposes of this is ‘*dharmakāryārtham*.’

Objection—“For the house-holder, wherefore should there be any protracted journey abroad *for a sacred duty*? It is incumbent upon him to attend upon the Fires, to perform the



Five Sacrifices. How too can he remain away during the spring season? Since he has got to perform the *Jyotis*-sacrifice during the spring. Even such acts as bathing in sacred places and the like, which are enjoined by *Smṛti* texts, have to be performed by him only so long as they are compatible with those laid down by *Shruti* texts. These could not be possible even for one who has gone abroad after having made arrangements for the maintenance of the fires and other such *Shrauta* rites. Since it has been laid down that 'journeys, after proper arrangements during absence, are permissible only till the next New or Full Moon'; and it has also been declared that 'on the New or Full Moon Day the man shall pour the libations *himself*.' Even for one who has not laid the Fires, if pilgrimages were undertaken,—even though these and the performance of the Five Sacrifices would stand upon the same footing, both being laid down by *Smṛti* texts,—yet as both the acts are laid down as to be done by him along with his wife, there should be no pilgrimage if the wife were left behind."

Our answer to the above is as follows :—What is said here refers to the commands of one's elders;—*i.e.*, to the case where the man is sent out by his elders, either for acquiring merit, or for attendance upon the king, or on some business of their own,—this going abroad would be '*for a sacred duty*.' Or, it may refer to the performance of such Expiatory Rites as consist in wandering about hermitages and such places. Or, '*for sacred duty*' may stand for the *acquiring of wealth*,—the man being poor and seeking to earn wealth by some means.

'Or for the sake of learning.'—

Objection—"But the taking of a wife is possible only after one has taken the Final Bath, which is possible only for one who has completed his studies and already acquired learning; wherefore then could there be any possibility for a married man to seek for *learning*?"



It has been already explained that even after learning a little of what is contained in the Veda, a man becomes entitled to marry, and also to the Final Bath and other Ceremonies.

“This cannot be right; there is Final Bath only after the ‘enquiry into Dharma’ has been completed; and ‘enquiry’ consists in “coming to a definite conclusion after due consideration and clearing of doubts.”

True; but the present text does not contain the injunction that ‘one should seek for learning.’ If it were so, then it would be already included under the ‘purpose of sacred duty’. Then again, even though the man may have acquired sufficient learning to entitle him to Bath and Marriage, yet it would be open to him to seek for further proficiency and practice, specially in the new sciences.

Journey is said to be ‘for fame’, when one goes abroad for advertising his bravery or learning.

‘*For pleasure*’,—for instance, when one follows a prostitute; or goes about seeking for a more desirable wife.

Another *Smṛti* text lays down the period of time in reference to the children born:—Says *Viṣṇu*—‘The Brāhmaṇa shall wait till eight children are born, the Kṣattriya six and the Vaishya four.’

There is no time-limit in the case of *Shūdras*. But some people declare the limit in their case to be *one year*.—

SECTION (7)—THE RECALCITRANT WIFE:
 SUPERSESSION, DIVORCE.

VERSE LXXVII

FOR ONE YEAR THE HUSBAND SHALL BEAR WITH A HATING
 WIFE; AFTER THE YEAR HE SHALL WRÉST HER
 PROPERTY AND CEASE TO CO-HABIT WITH HER.
 —(77)

Bhāṣya.

‘*Hating*’—she who hates her husband.

The meaning of the verse is that he shall not turn her out of the house. Though the use of the root ‘*vas*’ with ‘*sam*’ is not compatible with the Accusative ending in ‘*ēnam*’; and ‘*samvasēt*’, ‘co-habit’, would stand for ‘*samvāsāyēt*’, ‘allowed to live with him’,—yet it should be taken to mean ‘chiding’. Even in the case of grievous sins, the woman is not to be turned away, since it has been laid down that ‘she is to be kept imprisoned in one room’; similarly, in the case of expiatory rites in connection with such sins. The confiscation of her property also is for the purpose of bringing her to her senses; and it does not mean absolute taking away of all her belongings.—(77)

VERSE LXXVIII

IF THE WIFE DISREGARDS HER HUSBAND WHO IS MAD,
 OR INTOXICATED, OR AFFLICTED BY DISEASE, SHE
 SHOULD BE DEPRIVED OF ORNAMENTS AND APPUR-
 TENANCES AND ABANDONED FOR THREE MONTHS.
 —(78)

*Bhāṣya.*

'*Disregarding*' means neglect of his service, omitting to look after his medication and diet ; it does not stand for having recourse to another man.

The 'abandoning' for three months also stands only for the omitting of endearing caresses, etc., for reasons already given.

She shall be deprived of '*ornaments*', such as necklaces, bracelets and so forth ;—'*and of appurtenances*'—such as vessels, water-jars, slaves and slave-girls, etc., etc.—(78)

VERSE LXXIX

IF, HOWEVER, SHE SHOWS AVERSION TO ONE WHO IS MAD, OR AN OUTCAST, OR IMPOTENT, OR SEEDLESS, OR AFFLICTED WITH FOUL DISEASE, THERE SHALL BE NO DESERTION, NOR THE WRESTING OF HER PROPERTY.—(79)

Bhāṣya.

'*Impotent*' and '*seedless*', both denote absence of manly vigour ; the only difference is that while the former indicates *futility of the seed*, the latter implies *total absence of virility*.

If a wife shows an aversion to such a husband, she is not to suffer punishment.

'*Wresting*'—means *confiscation*. *Banishment, stopping of food* and such other punishments have been forbidden by other *Smṛti*-texts.—(79)

VERSE LXXX

IF THE WIFE IS A DRUNKARD, OR FALSE IN CONDUCT, OR REBELLIOUS, OR DISEASED OR MISCHIEVOUS, OR WASTEFUL,—SHE SHOULD BE SUPERSEDED.—(80)

Bhāṣya.

'*Drunkard*'—addicted to drinking wine ; and hence incapable of looking after cooking, and other household



work. Such a woman deserves "supersession." If she persists in drinking, even after she has been forbidden by her elders, she shall undergo the punishment laid down later on, in verse 84. For the sin of transgressing what she ought to observe, she should perform an expiatory rite; but on repetition, she shall be superseded.

Other grounds for supersession have been laid down as hampering the due fulfilment of religious rites, begetting of children and other household duties.

In the case of the *Brāhmaṇa* woman, for whom wine-drinking has been forbidden by the scriptures, there is to be expiation of the sin of drinking, if the act is not repeated. She does not become an outcast, since the grounds for women being outcasts have been enumerated—'abortion, and service of low-born men are the grounds for women becoming outcasts'—(says Gautama, 21.9.) All this we shall explain under Discourse XI; it has been dealt with under Discourse V also.

'*False in Conduct*'—whose conduct is not good; for instance, whose treatment of servants is harsh, who takes her food even before the religious offerings have been made, who has no faith in rites in honour of gods and *pitṛs*, or in the feeding of *Brāhmaṇas* and such religious acts.

'*Wasteful*'—who is a spendthrift, and does not take proper care of her utensils and furniture, and buys them at high prices and so forth.

'*Mischievous*'—who is inclined to inflict punishments for very small offences (?), and who is prone to interfere with ordinary daily expenditure (?).

'*Supersession*'—*i.e.*, marrying of a wife over and above the said one.—(80)

VERSE LXXXI

THE BARREN WIFE SHALL BE SUPERSEDED IN THE EIGHTH YEAR; IN THE TENTH SHE WHOSE CHILDREN



DIE OFF; IN THE ELEVENTH SHE WHO BEARS ONLY DAUGHTERS; BUT IMMEDIATELY SHE WHO TALKS HARSHLY.—(81)

Bhāṣya.

The text proceeds to lay down the supersession of other kinds of wives.

Among these, the barren one should be superseded in the eighth year; in the tenth, she whose children die off.

By marrying a second wife the man shall save himself from the contingency of disobeying the injunction regarding the Laying of Fire (to which a childless person is not entitled), and that regarding the begetting of children,—to which he would be liable by reason of his wife being childless. Because, the Laying of Fire is not found to be prescribed for a sonless person.

The same holds good regarding the wife that bears only daughters; as also she whose children die off.

As regards the wife who is harsh of speech, as there is no such serious defect, there need be no supersession; and she may be forgiven.—(81)

VERSE LXXXII

BUT IF A WIFE, WHO IS AN INVALID, IS WELL-DISPOSED AND ENDOWED WITH MODESTY, SHE MAY BE SUPERSEDED AFTER HER CONSENT HAS BEEN OBTAINED; AND IN NO CASE IS SHE TO BE DISGRACED.—(82)

Bhāṣya.

‘*Will-disposed*’—towards her husband; i.e., devoted to his service.

The present verse enjoins—(a) that her consent is to be obtained, and (b) that she shall not be disgraced. This applies also to the case of the barren wife, and to that of one who bears only daughters; because, all these have been

mentioned in the same context; and in none of these is there any reason why she should be disgraced.

‘*In no case*’—never.

‘*Disgraced*’—in the form of harsh words addressed in admonition.—(82)

VERSE LXXXIII

ON BEING SUPERSEDED, IF A WIFE, IN ANGER, SHOULD GO AWAY FROM THE HOUSE, SHE SHALL BE EITHER IMMEDIATELY CONFINED, OR CAST OFF IN THE PRESENCE OF THE FAMILY.—(83)

Bhāṣya.

For the wife going off in anger, caused by the supersession,—the present text lays down two optional alternatives in the shape of *confinement* or *divorce*. It would not be right in such a case for either the mother-in-law or the father-in-law and other relations to console her and appease her anger by means of presents of food and clothing, or by sweet words, etc.

‘*Confinement*’ consists in placing her in the charge of guards.

‘*Divorce*’, ‘*Casting off*’, has already been explained as consisting in dropping intercourse with her, and avoiding her bed.

‘*Family*’—Relations, on the woman’s father’s side, as also those of the husband’s own side.—(83)

VERSE LXXXIV

IF THE WIFE, THOUGH FORBIDDEN, DRINKS WINE EVEN AT FESTIVALS OR VISITS, SHOWS AND ASSEMBLIES, SHE SHALL BE FINED SIX ‘*Kṛṣṇālas*’.—(84)

Bhāṣya.

‘*Forbidden*’,—by elders and relations.

The fine here prescribed is for the woman belonging to the *Kṣātrīya* and other lower castes; and not for the



Brāhmaṇa woman, who cannot be let off by the small fine here prescribed ; in her case the fine shall be a heavy one. Further, there is no chance of the latter partaking of wine at festivals. It is only the former class of women for whom wine-drinking is not entirely prohibited, who are found to give themselves to much drinking, when they come together on festive occasions ; and it is in view of this that they are forbidden.

This fine is to be inflicted by the husband. Even though the inflicting of punishments in the duty of the king, yet, inasmuch as the husband is the 'lord' of his wife, he is regarded as competent to inflict the fine ; specially as it is found that people are considered free to inflict fines upon servants and other dependents, in certain cases.

' *Festivals* '—rejoicings in connection with the birth of a son, marriages and the like.

' *Shows* '—theatrical and other spectacles.

' *Assemblies* '—large crowds of men.

This fine is to be imposed upon the woman who evinces anxiety to visit these.—(84)

SECTION (8)—SENIORITY AMONG CO-WIVES

VERSE LXXXV

WHEN TWICE-BORN MEN WED WOMEN OF THEIR OWN
 AS WELL AS OTHER CASTES, THEIR SENIORITY,
 HONOUR AND HABITATION SHALL BE ACCORDING TO
 THE ORDER OF THEIR CASTES.—(85)

Bhāṣya.

If urged by carnal desire, men should wed women belonging to the same caste as themselves, or those belonging to other castes, then their '*seniority*' shall depend upon '*the order of their castes*,'—and not upon age, nor upon the order of their age.

'*Honour*'—consisting in the presenting of fruits and other things.

'*The order of the caste*' is that the Brāhmaṇa-wife comes first, then the Kṣattriya, then the Vaishya.

'*Habitation*'—i.e., the principal apartments. This belongs to the Brāhmaṇa-wife.

Among wives of the same caste, all this is governed by the order of their marriage.—(85)

VERSE LXXXVI

OF ALL WIVES, THE WIFE OF THE MAN'S OWN CASTE,
 AND NEVER THAT OF A DIFFERENT CASTE, SHALL
 ATTEND TO THE HUSBAND'S PERSONAL SERVICE, AS
 ALSO TO HIS DAILY SACRED RITES.—(86)

Bhāṣya.

'*Personal service*'—i.e., cooking his food, making gifts on his behalf, keeping vigils for him, and so forth.



All this the wife belonging to the man's own caste shall attend to.

There is no such restriction however regarding such service as shampooing the back and the feet, washing of the feet and so forth.

The declamatory supplement to this follows in the next verse.—(86)

VERSE LXXXVII

WHILE THE WIFE OF THE SAME CASTE IS ALIVE, IF THROUGH FOLLY, ONE CAUSES THESE DUTIES TO BE PERFORMED BY ANOTHER WIFE, HE IS A 'Brāhmaṇa-Chāṇḍāla', AS HAS BEEN HELD BY THE ANCIENTS.—(87)

Bhāṣya.

If a man gets all this done by 'another wife'—one belonging to a different caste—while she of the same caste, is still living,—he, though a Brāhmaṇa, is as good as a 'Chāṇḍāla.' This has been so held by the ancients.—(87)

SECTION (9)—THE MARRIAGE OF GIRLS.

VERSE LXXXVIII

ONE SHALL GIVE HIS DAUGHTER IN THE PROPER FORM,
 EVEN THOUGH SHE MAY NOT HAVE ATTAINED (THE
 AGE), TO A BRIDEGROOM WHO IS OF EXCEPTIONALLY
 DISTINGUISHED APPEARANCE, AND HER EQUAL.—(88)

Bhāṣya.

‘*Utkr̥ṣṭāya-abhirūpāya.*’—The first term qualifies the second; and the meaning is ‘who is of exceptionally distinguished appearance.’—Or, the two terms may be taken as two distinct qualifications—‘*utkr̥ṣṭāya*’ meaning ‘one whose caste and other qualifications are remarkable,’ and ‘*abhirūpāya*’ meaning ‘handsome’;—the literal signification of the term being ‘*rūpam ābhimukhyēna prāptaḥ,*’ ‘who has acquired a good appearance.’—Or, ‘*abhirūpāya*’ may mean *well-disposed*; it is in this sense that a learned man also is called ‘*abhirūpa.*’

‘*Equal*’—in caste and other matters.

‘*Bridegroom*’—one who marries; the son-in-law.

‘*She who has not attained*’;—i.e., who has no carnal desires aroused, who is still too young, not having reached the youthful age,—called ‘*nagnikā*’ in another *Smṛti-text*; i.e., one in whom the sexual instinct has not arisen, who is only eight or six years old,—but not a mere *infant*; as is indicated by the qualifications (elsewhere)—‘one who is eight years old.’

This same qualification may also be indicative of the fact that marriage is meant to be conducive to spiritual merit. If mere Lust were the sole inducement to Marriage, wherefore could there be any marriage of the girl ‘*who has not attained her age*’?



There is no force however in this; as people are found to marry very young girls with a view to her dowry. And it has been fully explained under Discourse III that all forms of activity are not in accordance with what is laid down in the scriptures.—(88)

VERSE LXXXIX

WELL MIGHT THE MAIDEN, EVEN THOUGH SHE MAY HAVE REACHED PUBERTY, REMAIN IN THE HOUSE TILL HER DEATH; BUT THE FATHER SHALL NEVER GIVE HER TO A MAN DESTITUTE OF GOOD QUALITIES.—(89)

Bhāṣya.

As a rule, the girl should be given away before puberty; but even after puberty, the father should not give her away until a qualified bridegroom has been found.

‘*Qualities*’—such as a high degree of learning, bravery, physical beauty, right age, being averse to doing acts forbidden by custom and scriptures, love for the bride; and so forth.—(89)

VERSE XC

HAVING REACHED PUBERTY, THE MAIDEN MAY WAIT FOR THREE YEARS; AFTER THAT TIME, SHE SHALL PROCURE A SUITABLE HUSBAND.—(90)

Bhāṣya.

‘*Puberty*’—menstruation; after menstruation she may stay in her father’s house ‘for three years’; after that, in the event of a distinguished bridegroom not forthcoming, she shall choose a ‘*suitable husband*’—one who is her equal in caste.—(90)

VERSE XCI

WHEN A MAIDEN, WHEN NOT GIVEN AWAY, HERSELF PROCURES A HUSBAND, SHE INCURS NO SORT OF SIN; NOR DOES THE MAN WHOM SHE WEDS.—(91)

Bhāṣya.

After three years, if not given away, if the girl chooses a husband,—then, no sort of guilt accrues either to the girl or to the man.

That the girl incurs no sin having been already mentioned in the foregoing verse, the present verse is added for the purpose of declaring that there is none on the part of the bridegroom either.

Puberty has been declared to be reached by girls when they are twelve years old.—(91)

VERSE XCII

WHEN THE GIRL CHOOSES HER OWN HUSBAND, SHE SHOULD NOT TAKE AWAY ANY ORNAMENTS GIVEN TO HER EITHER BY HER FATHER, OR MOTHER OR BROTHER; IF SHE DID TAKE THEM, SHE WOULD BE A THIEF.—(92)

Bhāṣya.

Ornaments that may have been given to her on previous occasions by her brother or other relations, who would be ignorant of her desire to choose her own husband,—all such ornaments she should hand back to them. She is not to give up what has been given to her after she has actually done the act.

It is only when the ornament has been given to her beforehand by persons, with the motive that she shall not be given to a particular person,—and yet it is this same person that the girl chooses for her husband,—it is not right for her to retain the gift.

‘*Stēnah*,’ in the masculine form, is another reading for ‘*Stēnā*’; in which case the ‘theft’ would lie upon the bridegroom; in which case, the father should force him to give up the ornament.—(92)



VERSE XCIII

WHEN A MAN TAKES AWAY A MAIDEN WHO HAS REACHED PUBERTY, HE SHALL PAY NO NUPTIAL FEE TO THE FATHER,—WHO WOULD FALL OFF FROM HIS OWNERSHIP BY REASON OF THWARTING HER MENSES.—(93)

Bhāṣya.

This prohibits the payment of nuptial fees in the case of the girl who has reached puberty, and who is intended to be given away for a fee; and the reason for this is that—‘*he would fall off from his ownership.*’ It is only during *childhood* that the girl is to live under the tutelage of her father; so that when she is taken away by a man after she has reached a higher age,—the father’s ownership over her has ceased.

Even in the case of a girl who is not intended to be given away for a fee, the father’s ownership ceases,—the grounds for such cessation (*i.e.*, the girl having reached the higher age) being equally present in her case also.

‘*Falling off*’ means *cessation*.

‘*Thwarting*’—impeding its fruition in the shape of bearing children.

Some people say that this verse does not belong to Manu.—(93)

VERSE XCIV

A MAN THIRTY YEARS OLD SHALL MARRY A CHARMING MAIDEN TWELVE YEARS OLD; OR ONE TWENTY FOUR YEARS OLD, A DAMSEL EIGHT YEARS OLD; IN THE EVENT OF HIS DUTIES SUFFERING, HE MAY DO IT SOONER.—(94)

Bhāṣya.

What the injunction means is that the maiden married should be so much younger than the man;—and not that

marriage must be done only at the age stated. Nor is any stress meant to be laid upon the exact number of years mentioned; all that is meant is that one should marry a girl *very much younger* than himself.

This injunction does not occur in the section dealing with Marriage; hence, what is stated here cannot be regarded as a qualification of the persons undergoing that sacrament, and consequently, as an essential factor in the rite itself; for this same reason, it cannot be taken as precluding the age of 'ten' or 'twenty-five' or such others.

"But it is often found that even though laid down in a distinct passage, a detail does form an essential factor of an act."

True; but the very fact that the teacher has thought it fit to place the present text apart from the section on marriage is clearly indicative of the fact that he had some special purpose in this.

The practice of cultured men is also as we have stated.

Further, the age here stated can never be observed in the case of one's son marrying a second time; so that, if the injunction were meant to be taken literally, it would mean that there should be no second marriage; and this would be absurd.—(94)

VERSE XCV

THE HUSBAND OBTAINS HIS WIFE AS A PRESENT FROM THE GODS, AND NOT BY HIS OWN WISH; HENCE HE SHOULD ALWAYS SUPPORT THE FAITHFUL WIFE, THEREBY DOING WHAT IS AGREEABLE TO THE GODS.—(95)

Bhāṣya.

What the verse means is that 'the faithful wife should not be abandoned, even though she suffer from the defects of being disagreeable or of harsh speech and so forth'; and the rest of it is merely commendatory.



As for the rule that 'he shall' keep her confined in one room,' which has been laid down in regard to the unfaithful wife,—this applies to a case where there has been a single act of transgression on her part; if the act is repeated, divorce must follow. Otherwise, there would be no point in the assertion that 'he shall always support the *faithful* wife.'

As regards the declaration—'when a woman has transgressed, she shall have all her rights withdrawn, be dressed in dirty clothes and be given mere subsistence, being allowed to live in a degraded condition, lying upon the ground' (*Yājñavalkya*, 1'70),—this refers to a case where the husband is willing and able to keep her; if however he is unwilling, then there must be divorce.

It is going to be laid down later on that food and clothing should be provided for even such wives as have become outcasts, and so forth; but that has to be taken only as prohibiting *banishment* which would be involved in the starting of a life of living on alms, which forms part of the expiatory rite consequent upon such heinous sins as the murdering of a Brāhmaṇa and the like. This we shall explain later on. In any case, it is not incumbent upon the husband to support a wife who has turned unfaithful. Nor does the present text prescribe 'casting off' which might be interpreted as 'avoiding intercourse with her.'

That the wife is a 'present from the gods' is implied by such Vedic texts and declamatory passages as—'Soma gave her to Gandharva etc,' (*Rgveda*, 10.85.41).

Or, she may be called 'a present from the gods' in the sense that during the marriage-rite itself, the girl becomes the wife of the gods.

'*Obtains,—not by his own wish.*' So that the wife does not stand on the same footing as cattle or gold picked up in the market. This is what is meant by the phrase '*not by his own wish.*'

‘*What is agreeable to the gods.*’—When one divorces his wife, who is a necessary factor in the offering of libations to the Vishvedevas, he is not in a position to do ‘what is agreeable to the gods.’ Hence, even though she be hostile, she has to be supported. But in the event of her becoming an outcast, and hence losing her rights, the husband may ‘supersede’ her.—(95)

VERSE XCVI

WOMEN WERE CREATED FOR THE PURPOSE OF CHILD-BEARING, AND MEN FOR THE PURPOSE OF PROCREATION. HENCE IT IS THAT RELIGIOUS RITES HAVE BEEN ORDAINED IN THE VEDA AS COMMON BETWEEN THE MAN AND HIS WIFE.—(96)

Bhāṣya.

‘*Child-bearing*’—Conception.

‘*Procreation*’—Impregnating.

‘*Hence*’—i.e., because of the act of child-begetting being dependent upon both,—the man’s Religious Rites have been ordained in the Veda, as being in common with his wife.

Consequently, since alone by himself he could not be entitled to the performance of any rites, he shall not abandon his wife, even though she be hostile.—(96).

VERSE XCVII

AFTER THE NUPTIAL FEE FOR A GIRL HAS BEEN PAID, IF THE MAN WHO PAID THE FEE DIES, THE GIRL SHOULD BE GIVEN TO THE YOUNGER BROTHER-IN-LAW, IN CASE SHE CONSENTS.—(97)

Bhāṣya.

When the nuptial fee has been received by her father and other relations, but she has not been given away,—



only the verbal betrothal having been done,—if, in the interval, the giver of the fee happen to die, then there arises the doubt as to whether she, in the manner of other goods, shall revert to the younger brother-in-law, or to all brothers, as in the case of Yudhiṣṭhira and others, or in the absence of brothers, to ‘*Sapinda*’ relations,—the text lays down the rule that ‘*she should be given to the younger brother-in-law*’;—not either to all the brothers of her husband, or to all his ‘*Sapinda*’ relations,—but to his younger brother only. But here also, only if the girl consents.

“In the event of the girl not consenting, what shall become of the nuptial fee?”

If the girl desires to take to life-long celibacy, then the fee shall remain with the members of her father’s family; but if she seeks for another husband, then the fee shall be refunded out of the fee received from this second man.—(97)

SECTION (10)—IMPROPRIETY OF THE NUPTIAL FEE

VERSE XCVIII

EVEN A SHUDRA SHOULD NOT TAKE A NUPTIAL FEE,
WHEN HE IS GIVING AWAY HIS DAUGHTER;
BY ACCEPTING A FEE, WHAT HE DOES IS DIS-
GUISED BARTERING.—(98)

Bhāṣya.

What is to be done when the fee is received voluntarily, has been laid down in the preceding verse. Hence some people might come to entertain the following notion—“There is nothing wrong in receiving the nuptial fee, since the scriptures have laid down special rules regarding the subject.” And with a view to preclude such a notion, the text says—‘*even a Shūdra should not take a nuptial fee.*’—What the foregoing text has done is to lay down certain rules relating to cases where a man receives the fee, of his own will; and it does not lay down the propriety of receiving the fee. Just as the laying down of expiatory rites in connection with wine-drinking does not mean that the drinking is permitted.

The ‘nuptial fee’ here spoken of is the same as what has been deprecated in another text; and we have already explained why the same fact has been reiterated in the present verse.—(98)

VERSE XCIX

GOOD MEN, BOTH ANCIENT AND MODERN, HAVE NEVER
COMMITTED THE ACT, THAT HAVING PROMISED TO ONE
THEY GAVE HER TO ANOTHER.—(99)

*Bhāṣya.*

It has been declared above that—‘when the nuptial fee has been received, and the giver of the fee has died, the girl may be given to another man, if she consents.’ This is what is forbidden by the present text,—i.e., the act of promising the girl to man who has paid the fee, and then to give her to another after receiving a fee from him.

What is meant is that in such cases the girl should be made to choose her own husband.—(99)

VERSE C

NOR INDEED HAVE WE HEARD, EVEN IN FORMER CYCLES,
OF THE COVERT SALE OF A DAUGHTER, FOR A PRICE
STYLED “NUPTIAL FEE.”—(100)

Bhāṣya.

We have not heard of such a thing from any source.

‘*Pūrvēṣu janmasu*’—i.e., in former cycles.—(100)

SECTION (11).—SUMMARY OF THE LAW RELATING TO HUSBAND AND WIFE.

VERSE CI

‘MAY MUTUAL FIDELITY CONTINUE TILL DEATH’,—THIS,
IN BRIEF SHOULD BE UNDERSTOOD AS THE HIGHEST
DUTY BETWEEN HUSBAND AND WIFE.—(101)

Bhāṣya.

‘*Fidelity*’—unstinted obedience in all actions. Says
Āpastamba : (a) ‘The wife should not be neglected in matters
relating to Duties, Wealth and Pleasure’;—(b) ‘The highest
good of man consists in Duty, Wealth and Pleasure, as it
is declared that the whole *fabric* rests upon these three
factors.’

Some people hold the following view :—“What is meant
by ‘*fidelity*’ here is *non-abandonment*; otherwise, as to the
woman, so to the man also, it would not be open to marry
more than one wife.”

This however is not right; because in regard to men there
is a distinct sanction—(a) ‘Those who act through mere lust,
etc.,’ (b) ‘the barren wife shall be superseded in the
eighth year,’ and so forth; while there is no such sanction
in the case of women. There is another text also which
is indicative of the same fact—‘There are several wives
for one man, but not several husbands for a woman at
the same time.’

‘*Until death*,’—till they die; i.e., it ends only when
either of them dies.

This should be understood to be the highest duty
of man and wife, stated in brief.—(101)



VERSE CII

MAN AND WIFE, AFTER THEY HAVE PASSED THROUGH THE RITES, SHOULD ALWAYS SO EXERT THEMSELVES THAT THEY MAY NOT BECOME SEPARATED AND BE UNFAITHFUL TO EACH OTHER.—(102)

Bhāṣya.

'*Should exert themselves*'—should make an effort; so that they may not be unfaithful to each other;—*unfaithfulness* consisting in neglect, want of co-operation in matters relating to Duty, Wealth and Pleasure.

'*Passed through the rites*'—performed the rites of marriage.

This verse is meant to be a summing up of what has gone before, and not the injunction of any thing new.—(102)

VERSE CIII

THUS HAS BEEN EXPOUNDED TO YOU THE LAW RELATING TO HUSBAND AND WIFE, WHICH IS CONDUCTIVE TO CONJUGAL HAPPINESS,—AS ALSO THE MANNER OF OBTAINING CHILDREN IN TIMES OF DISTRESS; LEARN NOW THE PARTITION OF INHERITANCE.—(103)

Bhāṣya.

This verse shows the connection between what has gone before and what is coming next.

The two subjects—of the Duties of Husband and Wife, and the Begetting of Children—having been dealt with, it is the fit occasion for taking up the subject of the Partition of Inheritance.—(103)



SECTION (11)—INHERITANCE : EQUAL DIVISION
AMONG SONS.

VERSE CIV

AFTER THE DEATH OF THE FATHER AND OF THE MOTHER,
THE BROTHERS, BEING ASSEMBLED, SHALL DIVIDE
EQUALLY THE PATERNAL PROPERTY; WHILE THE
PARENTS ARE ALIVE, THEY HAVE NO POWER.—(104)

Bhāṣya.

‘*Shall divide*’—the affix denotes *propriety*. (*Further Bhāṣya* not available).



SECTION (12)—THE ENTIRE PROPERTY GOES TO THE
ELDEST BROTHER.

VERSE CV

THE ELDEST BROTHER ALONE MAY TAKE THE ENTIRE
PATERNAL PROPERTY; THE REST SHALL LIVE UNDER
HIM, JUST AS UNDER THEIR FATHER.—(105)

Bhāṣya.

(No *Bhāṣya* available).

VERSE CVI

BY THE MERE BIRTH OF THE ELDEST SON, A MAN BECOMES
'WITH SON,' AND (HENCE) FREE FROM THE DEBT TO
Pitrs; IT IS FOR THIS REASON THAT HE DESERVES
THE WHOLE.—(106)

Bhāṣya.

(No *Bhāṣya* available).

VERSE CVII

THAT SON ALONE TO WHOM THE MAN TRANSFERS HIS DEBT,
AND THROUGH WHOM HE ATTAINS IMMORTALITY, IS
THE 'DUTY-BORN SON;' OTHERS ARE KNOWN AS
'LUST-BORN.'—(107).

Bhāṣya.

'Others, etc.'—This is purely declamatory. If it were
taken in its literal sense, the younger brothers would
never be entitled to any property at all; and this would
be contrary to what follows.—(107)

VERSE CVIII

THE ELDEST BROTHER SHALL SUPPORT HIS YOUNGER BROTHERS, JUST AS THE FATHER SUPPORTS HIS SONS; AND THE YOUNGER BROTHERS, IN DUTY BOUND, SHALL BEHAVE TOWARDS THE ELDEST BROTHER, LIKE SONS.—(108)

Bhāṣya.

They should be supported like sons; but they shall not be deprived of wealth, on the ground of their being of younger age.

They also should look upon him as their father; this is what is meant by the sentence.—‘*They shall behave like sons.*’—(108)

VERSE CIX

IT IS THE ELDEST BROTHER WHO ADVANCES THE FAMILY, OR RUINS IT; THE ELDEST BROTHER IS WORTHY OF THE HIGHEST HONOUR; THE ELDEST BROTHER IS NEVER ILL-TREATED BY GOOD MEN.—(109)

Bhāṣya.

This is another eulogy on the eldest brother.

The right sort of eldest brother ‘*advances the family*’; and when the same is devoid of qualities, he ‘*ruins it*.’ When the eldest brother has a good character, his younger brothers also behave in the same manner. And when not possessed of good qualities, all these quarrel among themselves.—(109)

VERSE CX

IF THE ELDEST BROTHER BEHAVES AS THE ELDEST BROTHER, HE IS LIKE A MOTHER, AND LIKE A FATHER. IF HOWEVER HE DOES NOT BEHAVE LIKE THE ELDEST BROTHER, HE SHALL BE HONoured SIMPLY AS A KINSMAN.—(110)

Bhāṣya.

‘Behaving like the eldest brother’ consists (1) in treating the younger brothers with love, like that towards a son,—(2) in supporting them and looking after their property, like his own, and (3) in preventing them from wrong acts.

If he behaves otherwise, he should be honoured ‘*like a kinsman*,’—*i.e.*, like the maternal or paternal uncle; *i.e.*, the younger brothers shall stand up when they come up, and so forth. This means that they shall not be entirely subservient to his wishes.—(110)

SECTION (13).—SEPARATION OF THE BROTHERS:
PARTITION: ALLOTMENT OF SHARES.

VERSE CXI

THUS MAY THEY LIVE EITHER TOGETHER, OR SEPARATELY,
WITH A VIEW TO SPIRITUAL MERIT; BY SEPARATE
LIVING MERIT PROSPERS; HENCE SEPARATION IS
MERITORIOUS.—(111)

Bhāya.

Inasmuch as no man voluntarily incurs any responsibilities regarding the performance of the *Jyotiṣṭoma* and other sacrifices, which involves the spending of wealth,—the text proceeds to recommend 'separation,' with a view to the performance of such acts.—'*Or separately with a view to spiritual merit*'—This does not mean that non-separation is sinful; all that is meant is that Separation is meritorious, just like the *Agnihotra* and other acts.

"But since non-separation would be an obstacle to the performance of the meritorious acts, it should be sinful."

There is no force in this objection. There is sin only when a man omits to do what it is his duty to do; and one who has not separated from his brother is not entitled to the performance of the religious acts, for the simple reason that he has no independent 'Fire' of his own; as the 'Laying of Fire' has been laid down as to be done at the time of separation. In the case of the man who has married and laid his Fires during his father's life-time, he is at once entitled to the performance of the religious



acts; so that for such a man there is no 'non-separation.' But even in this case, if the man happens to lose his property, or for some reason does not possess enough wealth to enable him to perform the religious acts, he would not incur sin, if he lived with his brothers. Because, as has been already pointed out, neither 'separation' by itself, or 'non-separation' by itself, is either meritorious or sinful.

"It has been declared that 'for brothers who have not divided their property a single religious duty is performed, which shows that like husband and wife, the brothers perform their duty conjointly; and this clearly shows that before separation, their clear duty is that they should act conjointly, on account of their property being common."

This cannot be the case with the *Agnihotra* and similar acts. These are performed in the '*Āhavanīya*' and other consecrated fires; and the existence of these fires is due to certain consecratory rites. Further, as the injunction relating to these contains the verb with the *Ātmanēpada* ending, it is clear that the Fires consecrated by one man cannot be used by another; and further the pouring of oblations in Fires consecrated by another person is found to be distinctly forbidden—'one should not offer sacrifices in Fires belonging to another man.' Nor is the performance of the *Agnihotra* and other rites laid down as to be done in the household Fire kindled according to *Smārta* rites, because the very term 'household' connotes a special qualification; and the fire thus qualified could be used for certain specified purposes only; such for instance as the feeding of guests and other acts laid down as constituting the 'great sacrifices';—in such texts as—'In the marital fire should one perform his household-rites, as also the five sacrifices.' From this it is clear that in the household-fire one can perform only the *household-rites*. Consequently when a text says that 'a single duty is performed,' it clearly refers to such acts as the *Shrāddha*, the Charities and so forth.

—(111)

VERSE CXII

FOR THE ELDEST, THE ADDITIONAL PORTION SHALL CONSIST OF THE TWENTIETH PART OF THE PROPERTY, AS ALSO THE BEST OF ALL THE CHATTELS ; HALF OF THAT FOR THE MIDDLEMOST, AND THE FOURTH OF THAT FOR THE YOUNGEST.—(112)

Bhāṣya.

Some people hold the following view—"This rule regarding the *additional portions* refers to the past, and is not meant to be observed during the present time; specially because the rules laid down in the *Smṛti* always bear upon some particular time; and when the rule is put forth as to be observed, the intention of the author is that the knowledge of this may bring merit to the learner; just as it is in the case of the Prolonged Sacrificial Sessions. No one is found nowadays to perform these Prolonged Sacrificial Sessions, and yet *Brāhmaṇa* texts contain injunctions of them. It is in view of such acts that it has been declared that 'Religious duties for the Kali cycle are different *etc., etc.*' (1'85). Thus religious duties are to be understood as restricted in regard to time also, just as they are in regard to place. As a matter of fact, no religious act that has been enjoined is performed in all places; hence it is that they are declared as restricted in regard to place. If they were meant to be performed at all places, there would be no such restrictions as—"This shall be done by the learned twice-born persons *etc., etc.*' (9'66). From all this it follows that when rules regarding *Additional Portions* are put forward, they are not meant to be observed, their case being analogous to that of *Killing the cow* (for the *Madhuparka* offering)."

This view is not quite satisfactory. No such restriction regarding *time* is found laid down anywhere. Restrictions regarding *place* also that are found pertain only to 'the ground sloping towards the east' and so forth, and never to the 'Central'



or 'Eastern' or other parts of the country; as has been made clear under 8'41. As regards the Prolonged Sacrificial Sessions also, it is quite possible even nowadays to preform them; specially as it has been already shown that in connection with all this the term 'year' stands for the *day*. As for no one being found to perform these nowadays,—even though its performance has been enjoined as *necessary*,—that may be due to the fact, either that men are not possessed of the capacity necessary for their performance, or that they do not desire the results obtainable from its performance, or that they do not have sufficient faith. Then, as regards the phrase 'while Vēna was ruling over his kingdom' (9'66), which has the appearance of a restriction regarding *time*, all that it indicates is that the duties laid down have been performed from very ancient times; and not that they are restricted in regard to time.

The 'twentieth part' for the eldest; *i. e.*, the twentieth part of the entire state shall be deducted and given to the eldest brother. Half of that—*i. e.*, the fortieth part, to the middlemost brother; and to the youngest brother, the fourth part of that,—*i. e.*, the eightieth part. When all these shares have been taken out; the remainder is to be divided into three equal parts.

Further, among all the chattels, that which happens to be the best is to be given to the eldest brother.

Or, the reading may be '*dravyēṣvapi param varam*,' which means that from among all kinds of things—good, bad and indifferent,—the best of each kind shall be given to the eldest brother. For instance, if there are cows or horses, the best of these shall be given to him—absolutely—and not either in lieu of any other article, or in return for a price.

This rule regarding *additional portions* is meant only for those cases where the three brothers are possessed of special qualifications; as it is only in the case of such men that additional shares are found to be actually given.—(112)

VERSE CXIII

THE ELDEST AND THE YOUNGEST SHALL RECEIVE THEIR PROPERTY ACCORDING TO THE RULE JUST STATED; TO THOSE OTHER THAN THE ELDEST AND THE YOUNGEST, WOULD BELONG THE MIDDLEMOST SHARE.—(113)

Bhāṣya.

In a case where a man dies leaving more than three sons, the eldest and the youngest shall receive their shares in the manner just stated, if they are duly qualified; and (a) the 'fortieth part' which has been ordained 'for the qualified middlemost' in the preceding verse, shall be divided among the several middle ones; but (b) when all the middle ones are qualified, each of them shall receive the 'fortieth part' of the property. Both these methods of division are indicated by the words of the text—'to them *would belong the middlemost share*'—i. e., (a) the middlemost share allotted to the middle brothers shall be given to all the middle brothers conjointly; or (b) every one of them shall get it, in accordance with their relative ages. The former of these would be most proper in the case of all the middle brothers being unqualified; as these do not deserve much property; and the latter method should apply to the case where all are duly qualified.—(113)

VERSE CXIV

AMONG THE GOODS OF EVERY KIND, THE FIRST-BORN SHALL TAKE THE BEST; AS ALSO ANYTHING THAT MAY BE PARTICULARLY GOOD; AS WELL AS THE BEST OF TEN ANIMALS.—(114)

Bhāṣya.

The first half of the verse only reiterates what has been said above regarding the eldest brother taking the best of the chattels.



The term '*jāta*' is synonymous with '*jāti*,' 'kind'; or it may mean 'variety.'

'*First-born*'—eldest.

'*Best*'—most excellent.

'*Anything particularly good*;'—such as a piece of cloth or an ornament.

'*Best of ten*.'—He shall take the best one among the ten. That is, if there are ten cows or horses, he shall take the best among these. The term 'ten' is used in the sense of a group consisting of ten.

Others explain '*dashatah*' as ending in the '*tasi*' affix, which has the reflexive sense, and hence meaning '*ten*' (not 'from among ten'); and according to this they read '*varān*' in the plural (for '*varam*'); and the sense in this case is that he should take *ten good animals*.

Others again declare that the term refers to a particular kind of animals; those that have single hoofs, for instance(?).

—(114)

VERSE CXV

BUT THERE IS TO BE NO ADDITIONAL SHARE 'OUT OF TEN,'
IF ALL THE BROTHERS ARE EFFICIENT IN THEIR
OCCUPATIONS; SOME LITTLE THING HOWEVER SHALL
BE GIVEN TO THE ELDEST, AS A MARK OF RESPECT.
—(115)

Bhāṣya.

'*Out of ten*'—animals.

'The additional share,' mentioned in the preceding verses,
—there is to be none,—when the brothers are all '*efficient*'
—particularly excellent—'*in their occupations*'—of learning,
study and so forth.

Some people take the term '*dashasu*,' 'out of ten,' as purely illustrative;—the sense being that there is to be none

of the additional shares that are mentioned in the text which speaks of 'the best of ten;' and the reason given for this explanation is that the text lays down 'efficiency in occupations' as the ground.

Even in such cases however, the other brothers should give to the eldest brother '*some little thing*'—some present—as a mark of respect.—(115)

VERSE CXVI

AFTER THE 'ADDITIONAL SHARE' HAS BEEN THUS DEDUCTED, EQUAL SHARES SHALL BE ALLOTTED. BUT IF NO ADDITIONAL SHARE HAS BEEN DEDUCTED, THE ALLOTMENT OF SHARES SHALL BE IN THIS (FOLLOWING) MANNER.—(116)

Bhāṣya.

'*Deducted*'—set apart.

'*Uddhāra*'—additional share.

'*Equal shares shall be allotted*'—out of the property that remains after the deduction.

If no additional share has been set apart, the allotment of shares shall be in the manner going to be described below.—(116)

VERSE CXVII

THE ELDEST SON SHALL TAKE ONE SHARE IN EXCESS; THE ONE BORN NEXT TO HIM A SHARE AND A HALF; AND THE YOUNGER ONES ONE SHARE EACH; SUCH IS THE SETTLED LAW.—(117)

Bhāṣya.

The eldest brother shall take '*one share in excess*' of his own; that is, he shall take *two* shares.



The brother born next to him '*a share and a half*,'—this being the second brother's share.

'*The younger ones*'—born after the second; all these shall receive one share each,—nothing more or less.—(117)

SECTION (14).—SHARES OF UNMARRIED SISTERS.

VERSE CXVIII

TO THE MAIDENS OF THE SAME CASTE, THE BROTHERS SHALL EACH SEVERALLY GIVE THE FOURTH PART OF HIS SHARE; THOSE NOT INCLINED TO GIVE WOULD BE OUTCASTS.—(118)

Bhāṣya.

The term '*kanyā*' is, as a rule, used in the sense of the *unmarried girl*; as we find in the case where a son is called '*kānīna*' (which means *born of a kanyā*, i.e., of an unmarried woman). In another *Smṛti* text, '*anūḍhā*' ('unmarried') is the actual word used. From this it is clear that the share here laid down pertains to the unmarried girl.

'*Of the same caste.*'—Each of the brothers should give to the sister of the same caste as himself the fourth part of his own share. That is to say, in a case where the father has left several unmarried girls, the share allotted to each of them should be the fourth part of the portion of the brother belonging to the same caste as himself.

The upshot therefore comes to be this:—Three parts of the property shall be taken by the sons and the fourth part by the daughter.

Some people have held the following view:—Three parts of the property shall be taken by the sons and the fourth part by the daughter.

Others have held the following view:—"Truly a great benefit is derived by the daughter from her father:



If the father is alive they have their marriage performed at tremendous expense, and if he is dead, she obtains a share in the property."

But the same may be said of the son also. Further, why should there be such objections against what is distinctly laid down by the words of the text?

If the idea of the objector is that, according to custom, the only benefit to which the girl is entitled is that her marriage should be performed,—then our answer is that the direct assertion of the *Smṛti* is infinitely more authoritative than custom. As a matter of fact however, the custom referred to is by no means universal; so that when it is only limited in scope, the right course is to adopt the course laid down in the *Smṛti* text.

Some people have held the view that—"all that need be given to the girl is what is necessary for her marriage, and not quite the *fourth part* as mentioned in the text."

But to such people we address the following remarks:—There is no restriction upon gifts in connection with marriage, as there is in connection with the sacrificial fee, which is fixed at 'twelve hundred.' The gift in connection with marriage however is not precisely fixed. For it is said.—'The father shall marry the girl, clothed and adorned, and he may also give her a dowry;' and as ornaments are of various kinds, made of gold, jewels, pearls, corals and such substances, it cannot be definitely ascertained how much wealth is to be given on that account, or what sort of ornament is to be given. So that even for the purpose of precisely defining what shall be given, it is only right to say that the brother shall give the fourth part of his share. Nor does this militate against either any scriptural injunctions or reason.

This same view is supported by other *Smṛti* texts also: 'The brothers who have already had their sacramental



rites performed, should perform the same for the unmarried girls; and sisters should receive from their brothers the fourth part of their share' (*Yājñavalkya* 2124); and again—'Until marriage has not been performed, she shall received a share; after marriage she shall be maintained by her husband.'

What this last text means is as follows:—When the property left for the brother and the sister is small, and the fourth part of the brother's share is not sufficient for the sister's maintenance,—in such a case the sister shall enjoy a share equal to her brother's, until her marriage; after which she shall receive the fourth part of the share, even though it be small. And in answer to the question as to how that would maintain the girl, the answer is that 'after marriage she shall be maintained by her husband.'

The term 'brother' in the present text has been explained as standing for the *uterine brother*. But what is the purpose of adding this explanation? As a matter of fact, the term 'brother' without a prefixed qualification is always directly applied to the *uterine brother*. And the term '*severally*' in the text is also indicative of the same idea.

But in that case the girl that has no *uterine brother* would have to go without a share in the property; nor could there be any chance for any dowry being provided for her. It might be argued that her step-brother would provide for her. But in the absence of some other text laying down (such a gift), he may not give it.

As a matter of fact, however, the term 'brother' is found to be applied to the sons of the same father and several mothers; and it is only to cousins, maternal and paternal, that the term is applied figuratively. If this view is accepted, it saves us from the contingency of attributing several denotations to the single word 'brother.'



The rule laid down in other Smṛti-texts also supports the allocation of shares set forth in the present text. We read there as follows—‘What remains of the ancestral property, after the father’s debts have been paid off, shall be divided; other necessary payments also being made out of it, such for instance as the gift to the unmarried girls.’ Here we do not find the words ‘brother’ and ‘sister,’ which might give rise to the doubt (as to the *uterine* or other kinds of brother being meant).

As regards the term ‘*severally*’ (in the text),—it has been added with a view to guard against the possible interpretation that the fourth part of the share of a single brother should be divided among all the sisters.

It might be argued that—“all that this means is that the brothers would incur sin by not giving out of their shares; and there is nothing to force them to give it.” Hence it is added—‘*Those not inclined to give would be outcasts.*’ A man is spoken of as ‘taking’ a thing only when he is its owner, and no one speaks of such a thing as ‘to be *given* to him;’ hence it is that no one speaks of the brothers *giving* to a brother (both being *owners*); and whenever the word ‘giving’ is used, it is only when the recipient is not the *owner* of the property concerned.—(118)



SECTION (15)—NON-PARTITION OF THE ODD CATTLE.

VERSE CXIX

ONE SHALL NOT DIVIDE AN ODD GOAT, OR SHEEP, OR AN ANIMAL WITH UNCLEFT HOOFS ; THE ODD GOAT OR SHEEP IS DECLARED TO BELONG TO THE ELDEST.—
(119)

Bhāṣya.

'*Animal with uncleft hoofs ;*'—such as the horse, the mule, the ass etc. When the number of cattle available do not admit of division in equal numbers, then the odd animal should be given to the eldest brother ; and its value shall not be made good by giving (to the other brothers) other things, nor shall the animal be sold and its value distributed among the brothers equally.

'*Ajāvikam ;*'—the singular form is justified on the ground of its being a copulative compound standing for animals.—(119)



SECTION (16) —DETAILED LAWS OF PARTITION AMONG SONS.

VERSE CXX

IF THE YOUNGER BROTHER BEGETS A SON ON THE WIFE
OF THE ELDER, THE DIVISION IN THAT CASE SHALL BE
EQUAL; SUCH IS THE SETTLED LAW.—(120)

Bhāṣya.

This verse precludes the idea that the son of the elder brother begotten by the method of 'authorisation' is entitled to the 'preferential share' that would have been his father's.

'*The division in that case shall equal.*'—That is, there shall be no 'preferential share;' nor shall the eldest receive 'one more' (as laid down in 117), or the 'some trifle' (laid down in 115).

It shall be equal:—equal to whom? To that of his begetter—his younger uncle.

The son born without 'authorisation' is not entitled to any share,—as is going to be declared later on.

This text is indicative of the rule that when the brother is not alive, the division shall be between the surviving brother and his nephew.

VERSE CXXI

THE SECONDARY CANNOT RIGHTLY BE (EQUAL TO) THE
PRIMARY; BECAUSE IN PROCREATION, THE FATHER
IS THE PRIMARY, THEREFORE HE (THE SECONDARY)
SHOULD BE TREATED ACCORDING TO THE LAW
(STATED BEFORE).—(121)

Bhāṣya.

The 'Secondary'—subsidiary *i.e.*, the 'kṣētraja' son;—
'to the primary'—to the legitimate, 'body-born,'
'aurasa' son,—'cannot be equal'—this has got to
be supplied,—'rightly,' according to law. Hence this
cannot be right. That is, it is only the 'legitimate'
son of the elder brother who is entitled to the 'pre-
ferential share,' which would have been his father's; while
the son in question, the 'kṣētraja' is only a 'secondary'
son.

"Therefore he should be treated according to law."—
The rule of partition stated before.

"But if the son in question also happens to be the
eldest, wherefore cannot he obtain exactly what would go to
the 'legitimate' son?"

The reason for this is stated:—'*In procreation the father
is the primary.*'—The term 'father' here stands for the
actual *progenitor*; he is the principal factor in the act of
begetting the son. The 'kṣētraja' son, therefore, being
begotten by the younger brother, is *secondary*.

The verse can be explained only by supplying the words
'is not equal to.'

This verse is purely declamatory, supplementing the fore-
going prohibition of the 'preferential share;' and since it is
declamatory, it may be explained, by attributing any meaning
to the terms 'primary' and 'secondary.'

Others read '*tasmād dharmēṇa tam tyajēt.*' ('Therefore
one should rightly abandon him).'

But this is not right; since everywhere the 'kṣētraja'
son has been declared to be entitled to an equal share with
the other sons.

Then again, since this passage is purely declama-
tory, it could not be taken as setting forth an optional
alternative (to the 'equal share' laid down in other
texts).—(121)



VERSE CXXII-CXXIII

‘IN CASE THE YOUNGER SON IS BORN OF THE ELDER WIFE, AND THE ELDER ONE OF THE YOUNGER WIFE,—HOW WOULD THE PARTITION BE MADE?’—IF SUCH A DOUBT ARISES,—THE SON BORN OF THE ELDER WIFE SHALL TAKE ONE BULL AS HIS ‘PREFERENTIAL SHARE;’ THE OTHER BULLS, WHICH ARE NOT SO GOOD, SHALL BELONG TO THOSE WHO ARE JUNIOR TO HIM, ON ACCOUNT OF THE POSITION OF THEIR MOTHERS.—(122-123)

Bhāṣya.

‘*Elder wife*’—married first:—‘*younger wife*’—one who was married later.

As between the sons born of these wives, the question arises whether ‘seniority’ shall be determined by the order in which their mothers have been married?—or, by the order in which they were themselves born? Having raised this question, the author answers it in the next verse;—this method being adopted with a view to making the rule more easily comprehensible.—(122)

‘*Pūrvajāḥ*’—he who is born of the ‘*pūrvā*,’ the elder, wife, though himself *younger* (in age)—is entitled to one excellent bull.

The other bulls that there may be,—‘*which are not so good*’—shall be allotted to the other several brothers, one to each.

Hence the ‘preferential share’ laid down for the son born of the eldest wife consists of the *best bull*;—the superiority of his share consisting only in the *quality* of the bull, not in the *number*.

‘*Those who are junior to him*’—i.e., to the son born of the eldest wife.—Junior by what?—‘*On account of the position of their mothers*’—i.e., according to the order of

their marriage. Thus the seniority among the sons is determined by the seniority of their mothers, and not by their own age.—(123)

VERSE CXXIV

THE ELDER SON BORN OF THE YOUNGER WIFE MAY TAKE (FIFTEEN COWS WITH) A BULL AS THE SIXTEENTH; THE OTHERS MAY TAKE SHARES ACCORDING TO THE SENIORITY OF THEIR MOTHERS; SUCH IS THE SETTLED RULE.—(124)

Bhāṣya.

This verse puts forward another alternative regarding the 'preferential share' in the case of sons spoken of in the preceding verses.

If the elder son is born of the younger wife, he shall take *fifteen cows*, and a bull as the sixteenth. That the fifteen are meant to be *cows* is indicated by the mention of the *bull*;—the bull needs the cow as its companion.

The '*others*'—the remaining sons—shall take the cows—'*according to the seniority of their mothers*';—*i.e.*, he whose mother is senior shall take a better cow than the one that is taken by him whose mother is junior.

Or, the verse may be taken as laying down an additional 'preferential share' for the *son born of the elder wife*,—in addition to what has been laid down in the preceding verse. In this case, there would be no '*a*' before the word '*jyēṣṭhāyām*' (which, in the former explanation has been taken as '*ajyēṣṭhāyām*').

It would appear to be necessary to consider what is exactly meant by the expression '*according to the seniority of their mothers*.' But, inasmuch as the two verses (in which the phrase occurs) are purely declamatory, we make no attempt to find out its exact meaning.

What has been said hitherto is only by way of a preface; the settled conclusion is going to be stated now (in the following verse).—(124)

VERSE CXXV

AMONG SONS BORN OF EQUAL WIVES,—IF THERE IS NO OTHER DISTINCTION,—THERE IS NO SENIORITY ON ACCOUNT OF THEIR MOTHERS; SENIORITY IS DECLARED TO BE BY BIRTH ONLY.—(125)

Bhāṣya.

'Equal'—of the same caste.—(125)

VERSE CXXVI

IN THE *Subrahmanyā* TEXT ALSO, THE INVOCATION HAS BEEN DECLARED AS TO BE DONE BY THE SON WHO IS ELDEST BY BIRTH. BETWEEN SONS CONCEIVED AS TWINS, SENIORITY HAS BEEN DECLARED TO BE DEPENDENT UPON BIRTH.—(126)

Bhāṣya.

This is a declamatory text, supporting the view that seniority is to be determined by birth.

The '*Subrahmanyā*' is the name of a *mantra*—text recited by the *Chhandogas* at the *Jyotiṣṭoma* sacrifice,—occurring in the *Aitarēya Brāhmaṇa* (6·3). The plural number in '*Subrahmanyāsu*' is due to the multiplicity of verses.

In connection with this mantra, the 'eldest son' addresses the invocation to the father—'Devadatta's father offers the sacrifice.' (Where it is the eldest brother who names himself).

Thus it is 'seniority' by birth that is *real* 'seniority' in the true sense; the 'seniority' based upon the position of the mother is only secondary, figurative.

'*Between sons conceived as twins*,'—those that have been simultaneously conceived—seniority is determined by birth.—(126)



SECTION (17)—PROPERTY OF ONE WHO HAS NO
MALE ISSUE : THE 'APPOINTED DAUGHTER'

VERSE CXXVII

HE WHO HAS NO SON MAY MAKE HIS DAUGHTER
AN 'APPOINTED DAUGHTER' IN THE FOLLOWING
MANNER: [HE SHALL MAKE THE DECLARATION]—
'THE CHILD THAT MAY BE BORN OF HER SHALL
BE THE PERFORMER OF MY FUNERAL RITES'.—
(127)

Bhāṣya.

'The child that may be born of this girl shall be
the performer of my funeral rites.'—The term '*svadhā*,'
stands for the *Shrāddha* and the other after-death rites;
it is not necessary that this shall be the exact formula uttered.
Says Gautama (28·18)—'The father, having no son, shall
offer sacrifices to Agni and Prajāpati, and shall give away
the appointed daughter, stipulating that *the child shall be
for me*.'—The opinion of some people is that the
daughter becomes *appointed* by mere intention, (28·19);
from which it is clear that the daughter becomes
'appointed' even without the pronouncement of any
definite formula.

"In the absence of a distinct stipulation, even though
the intention may be present in the father's mind, yet,
until it has been clearly declared, the son-in-law may
not agree (to surrender the child)."

It is in view of this that the text says—
'*Shall make his daughter an appointed daughter*.'—
(127)

VERSE CXXVIII

IN ANCIENT TIMES *Dakṣa Prajāpati* HIMSELF MADE
 'APPOINTED DAUGHTERS' IN THIS SAME MANNER,
 FOR THE PURPOSE OF MULTIPLYING HIS RACE.—
 (128)

Bhāṣya.

Prajāpati Dakṣa, who was fully conversant with the law relating to the procreation of offspring, is here cited as an example.

This is a declamatory assertion of the nature of '*Parakṛti*,' 'Tradition' of Practice.—(128)

VERSE CXXIX

HE GAVE TEN TO DHARMA, THIRTEEN TO KASHYAPA, AND
 TWENTY-SEVEN TO KING SOMA,—HAVING HONOUR-
 ED THEM WITH AN AFFECTIONATE HEART.—(129)

Bhāṣya.

'*Having honoured*'—This act of 'honouring' is what is enjoined here.

People have held that the mention of 'ten' and more daughters is indicative of the fact that one may have more than one 'appointed daughter.'—(129)

VERSE CXXX

THE SON IS AS ONE'S OWN SELF, AND THE DAUGHTER IS
 EQUAL TO THE SON; HENCE SO LONG AS SHE IS THERE
 IN HER OWN REAL CHARACTER, HOW CAN ANYONE
 ELSE TAKE HIS PROPERTY?—(130)

Bhāṣya.

It has been said that the father shall declare—'The child that is born of her shall be mine;' and a man's

child inherits his property; so that at the time that the father dies, if the daughter has got no child, it would seem that she cannot inherit his property; it is in view of this that the present text lays down that she shall inherit it.

'So long as she is there in her own real character'—of being meant to provide a son.

Or, it may mean—'while the father's own self is there, in the shape of the daughter.'

'The daughter is equal to the son.'—Though the text uses the generic term 'daughter,' yet from the context it is clear that it is the 'appointed daughter' that is clearly meant.—(130)

VERSE CXXXI

WHATEVER MAY BE THE SEPARATE PROPERTY OF THE MOTHER IS THE SHARE OF THE UNMARRIED DAUGHTER ALONE; AND THE DAUGHTER'S SON SHALL INHERIT THE ENTIRE PROPERTY OF THE MAN WHO HAS NO SON.—(131)

Bhāṣya.

The term '*yautaka*' is applied to the separate property of a woman; of which she alone is the sole owner.—Others apply it to only what she receives at marriage, and not to all that belongs to her; as it is only over the former that she has an absolute right; as it is said that 'women become their own mistresses, on obtaining presents at their marriage.'

Others again hold that the term '*yautaka*' applies to the savings that the young woman makes out of what she receives from her husband for her clothing and ornaments, and also for the daily household expenses.



'Is the share of the unmarried daughter only.'—Since the text adds the qualification 'unmarried,' it is clear that what is said here does not apply to one who has been married. Further, the term '*eva*,' 'only,' referring to what is well known, sets aside the implications of the context; consequently, what is said here (regarding the mother's property) cannot apply to the 'appointed daughter' (who would be *married*).

Gautama—after having declared that 'the woman's property descends to her children' (28'24)—adds—'To her daughters who are unmarried and unsettled;' where 'unsettled' stands for those who, though married, are childless, and without any property of their own, not having obtained a footing in the house of their husbands.

'The grandson alone is to inherit'—the entire property of the man who dies without a legitimate son. What would be the share of the grandson, when the man dies leaving a legitimate son, shall be declared later on.

The term '*grandson*' stands for *the son of the appointed daughter*, in the present sentence only, not throughout the context; as it is only in connection with the 'mother's separate property' (mentioned in the first half of the verse) that there is any authority for rejecting the implications of the context (which refers to the *Appointed Daughter*).—(131)

VERSE CXXXII

THE DAUGHTER'S SON SHOULD INHERIT THE ENTIRE PROPERTY OF THE SONLESS FATHER; HE SHALL ALSO OFFER TWO CAKES—TO THE 'FATHER' AND TO THE 'MATERNAL GRANDFATHER.'—(132)

Bhāṣya.

That the son of the Appointed Daughter shall inherit the entire property of the father having been already laid down in the foregoing verse, the present verse has been explained by some people as laying down the necessity of offering the two cakes, with reference to the said 'daughter's son.' And according to these people the reading is '*harēd yadi*,' 'if the son of the Appointed Daughter inherits, etc., etc.'

According to this view, the offering of the cakes would be incumbent only in the event of the man inheriting the entire property; so that he need not offer the cakes in the event of his receiving an 'equal share' (as laid down under 134 below). If this were not the meaning, then there would be no point in the injunction, if the *offering of cakes*, which would be already indicated by the general law that 'one shall make offerings to him from whom he receives anything.' And in that case any reference to the inheriting of the '*entire* property' would be absolute purposeless.

This explanation however cannot be right. What is meant is that he 'shall inherit the property of the sonless father;' and '*aputrasyā pitur harēt*' is the long-accepted reading also. The term 'father' also is known to apply to the actual *progenitor*, and not to the *maternal grandfather*. Hence what is meant is that 'if the husband of the *appointed daughter* has no son from any other wife, but has one from the *appointed daughter*, then this same son shall be the son for his own father, as also for his mother's father.' If however, the progenitor has sons from his other wives, then the son born of the 'appointed daughter' shall neither inherit the property of, nor offer cakes to, him;—even though he may be born of a mother belonging to the same caste as his father. The relation of the 'progeny and progenitor' is different from that of 'father and son.' Even though the 'fathers' of '*Kṣētraja*' and some other kinds of son, are not their 'progenitors,' yet they are regarded

as having those as their 'issue'; while the fathers of the 'purchased,' and the 'abandoned' sons, even though their actual 'progenitors,' are not regarded as having them as their 'issue'; as happened in the case of Ajigarta and other persons (who sold their sons to other persons). In the definition of the '*Aurasa*' 'legitimate,' son (9.166), we find the words '*in his own soil*'; and in the case of the 'appointed daughter' the 'soil' belongs to her father;—her husband being only one who has wedded her and as such, is entitled to obedience and service.

For these reasons, the conclusion should be as follows:—In a case where the husband of the 'appointed daughter' has no other sons, the son of the 'appointed daughter' shall inherit his entire property, and also offer funeral cakes to him. If however the father has sons from other wives, him the son of the 'appointed daughter,' shall not offer cakes to his father.

Such a son is called '*daughter's son*,' i. e., the son of the *appointed daughter*. In the case of the grandfather also, the same principle applies as that in the case of the father;—that is, he shall offer the cake to him whose property he inherits; and not in any other case. As a matter of fact, the injunction that 'he shall offer the cakes when he inherits the entire property' does not necessarily imply that there should be no offering in other cases. Because there being no reference to the father and the grandfather, any such implication would be of the nature of 'preclusion.' If there were an implication, even in the absence of such a reference, the deduction would be that offerings should be made to both. So that the meaning would be that—'just as cakes are offered to the father and the maternal grandfather, so should they be offered also to the paternal grandfather and the maternal great-grandfather, the two ancestors above the former two respectively.

—(132)

VERSE CXXXIII

IN THIS WORLD, BETWEEN THE SON'S SON AND THE DAUGHTER'S SON THERE IS NO DIFFERENCE, IN LAW; FOR THE FATHER AND MOTHER OF EACH OF THEM WERE BOTH BORN OF HIS OWN BODY.—(133)

Bhāṣya.

This is a declamatory supplement to what has gone before: "Why is there no difference?"

'Because the father and mother etc., etc.'—(133)

VERSE CXXXIV

BUT IF A SON HAPPEN TO BE BORN AFTER THE DAUGHTER HAS BEEN 'APPOINTED,' THE DIVISION MUST BE EQUAL; AS THERE IS NO SENIORITY FOR THE WOMAN.—(134)

Bhāṣya.

The division shall be equal,—there shall be equal shares, with the son thus born.

This precludes the 'preferential share.'

'There is no seniority for the woman.'—The 'seniority' precluded is in regard to the share of inheritance only, and not in regard to the treatment to be accorded to her.—(134)

VERSE CXXXV

IF THE APPOINTED DAUGHTER HAPPEN TO DIE WITHOUT A SON, THE HUSBAND OF THAT APPOINTED DAUGHTER MAY, WITHOUT HESITATION, TAKE THAT PROPERTY.—(135)

Bhāṣya.

So far it would appear that the husband of the Appointed Daughter who has had no issue, has nothing to

do with the property in question; hence the present text lays down his connection with it.

In this connection there arises the question:—"Does the Appointed Daughter become 'sanctified' by marriage or not? If she *is* sanctified, then she becomes a *wife*; as 'marriage' consists in 'making a wife.' And in that case her property naturally reverts to her husband (?). If, on the other hand, she is *not* sanctified by the marriage,—then, as she would still continue to be a *maiden*, her husband's intercourse with her would be of the nature of having intercourse with an unmarried maiden, and would be a direct contravention of the rule that one should always remain attached to his own wife."

You may take it any way you choose. (?)

"But in that case the present verse becomes meaningless."

There is no force in this objection. In order to complete the usefulness of the verse, it should be taken as meant to set aside the notion that 'just as the child born of the Appointed Daughter does not belong to her husband, so would her property also not be inherited by him.' As a matter of fact, again, there are several verses in the work of Manu that are purely declamatory.

Or, (for the sake of argument) it may be said that the Appointed Daughter is *not* sanctified by Marriage. Even so, intercourse with her would not mean intercourse with a maiden.—"How so?"—Because all that is meant is that the child born of her shall belong to its mother's father; and any consideration of extraneous matters is entirely out of place.(?) Then again, the act of the husband of the Appointed Daughter is not among those that make one an 'outcaste' (as it would, if it meant intercourse with a maiden).

Further, is the argument that 'it means intercourse with a maiden' urged on the understanding that the name



'maiden' stands for the *remarried widow*? As a matter of fact, there are three kinds of 'maidens'—(1) one who has had no sexual intercourse with a male, (2) one who has dedicated herself to lifelong service of temples, and (3) one who is still a child. Now, if the objector understands the term 'maiden' as standing for one who has had no sexual intercourse, then, the first intercourse that the husband has with his married wife would also be 'intercourse with a *maiden*.' In the present treatise, the term '*kanyā*,' 'maiden,' is generally used in the sense of 'one who has had no sexual intercourse with a male.'

If the term 'maiden' be taken to stand for *one for whom the sacraments have not been performed*,—that cannot be right; as words expressive of that would be forthcoming at the very outset (?) In fact, it is only on the strength of other authorities that the term is taken figuratively as standing for the said person (?) It has been said that—'all the sacred texts used at marriage are applicable to maidens only, and never to non-maidens, because the latter are such as have fallen off from all religious rites' (8.226); and the mention of 'falling off from religious rites' is clearly indicative of the fact that the girl who has had intercourse with man is a 'non-maiden'; and obviously, she who has not had such intercourse is a 'maiden.' In all these cases the 'rites' referred to are those that are done in accordance with the direct signification of the term 'maiden.' Now the question arises whether this is so in the case of all 'rites,' or only in those in regard to which there are other authorities? Now, as regards the son called '*maiden-born*' '*Kāṇīna*,' the very name indicates that the girl is still under her father and is devoid of the sacramental rite (of marriage). If the name indicated only *the absence of religious rites*,—i.e., if the name 'maiden-born' applied to the child not born of lawful wed-lock,—then the son of the *married* woman also, begotten by men other than her husband, would be 'maiden-born.' On the other hand, if the name indicated the *ownership of the*

father only, then the daughter of the Appointed Daughter also would come to be called 'maiden-born'.

It has been said above that intercourse with the 'maiden' involves the transgression of the law that one should have intercourse with his '*wife*' only. But this law does not mean that 'one should not have intercourse with women other than his wife,' or that 'he should not love another woman or another wife.' Because if it meant that, then all this prohibition being already contained in this law, any separate prohibition of 'intercourse with the wives of others' would be entirely superfluous. What the said law does mean is that 'the man shall cherish love for his wife,'—the cultivating of the feelings of love being conducive to great happiness. (?) The passage—'One should not cherish desire for any woman, nor the wife of another man, as by avoiding this he falls not off from virtue'—is a mere reiteration. Or, it may only mean the injunction that 'while remaining attached to his own wife, one should avoid intercourse with her on the sacred days.' Even so, the injunction would be only supplementary to another. Nor would the case in question fall within the prohibition of intercourse with '*another's wife*'; because so long as she has not been married, she cannot be called 'wife.'

Now what is the right course to adopt?

The right course is that the girl (Appointed Daughter) should not be wedded by any person. There are eight forms of marriage; they have been styled '*Brāhma*' and the rest, in accordance with the nature of the manner of acceptance involved in each; and in the case of the Appointed Daughter, there is no acceptance (or *making own*); as in her case, the ownership of the girl's father does not cease. Further, the very prohibition regarding the marrying of a brotherless girl implies that one should not marry the 'Appointed Daughter.' It is said for instance that—'one should not marry a brotherless girl, as her son belongs to her father' (*Gautamā*, 28.20). This prohibition occurs in a special context; and the transgression of this



would make the marriage lose its true sacramental character; just as the marrying of a *Shūdra* girl by a *Brāhmaṇa* deprives his 'fire' of the '*Āhavanīya*' (sacrificial) character.

Mere prohibition however of a certain marriage does not necessarily deprive it of its sacramental character. In many cases, for instance, people marry the 'tawny girl,' and several such others as are forbidden; and with the assistance of those wives they do carry on their religious duties. But if the girl belongs to the same *Gotra* or *Pravara* as her husband's, then, even though she has been '*married*,' she cannot fulfill the duties of the 'wife' for him. It is in view of this fact that in connection with the rule that—'one should not marry the tawny girl etc., etc.,'—some people have held that the prohibition, pertains to the *visible* disabilities, and hence it does not stand on the same footing as the prohibition of the marrying of a '*sapinda*' girl; though both the prohibitions occur in the same context.

"Wherefore then is there any prohibition as to the case of the Appointed Daughter falling under Marriage?"

Because as a supplement to the said prohibition, there is the assertion 'because the child belongs to the father.'

Thus then, it is only in so far as the obtaining of children is concerned that the Appointed Daughter cannot be one's 'wife'; she is fully entitled to assist as 'wife' in all that relates to sacred duties, property and pleasure.

This may be so; yet, inasmuch as she cannot become the man's *own*, there can be no real *marriage* (which implies *ownership*).

"In that case the son of the Appointed Daughter would be 'maiden-born.' Because he would not belong to his progenitor; he being the child of parents not lawfully wedded. If however, the marriage of the Appointed Daughter is of the nature of a 'sacrament,' the child fulfills both conditions—that of belonging to his progenitor and being born of duly hallowed wed-lock. And if he fails

in only one of those two conditions, he is still different from the 'maiden-born.'"

Our answer to the above is as follows:—The character of the 'maiden-born' son is not present in the son of the Appointed Daughter.

The definition of the 'maiden-born' is thus stated—'A son whom a maiden secretly bears in her father's house, one should call *maiden-born* by name; and the child born of the maiden belongs to the man who marries her' (9.172). And the meaning of this is as follows.—'If a son fulfills these conditions, he shall be regarded in this treatise as *maiden-born*; and the question arising as to the person to whom such a son belongs, the text adds, as an additional sentence, that 'the child born of the maiden belongs to the man who marries her.' Or, this text may be taken not as defining the particular kind of son, but simply as declaring his *relationship*;—the sense being that 'the maiden-born son should be regarded as related to the person who marries the girl'; so that the whole text forms one connected sentence. As a matter of fact, relationship varies with variations in the persons concerned and the attendant circumstances,—such for instance, as while the one (the maiden-born) is begotten *secretly*, the other (that of the Appointed Daughter) is begotten openly.

Thus the idea that the text quoted supplies the definition of the 'maiden-born' son should be regarded as repudiated. It only points out that the child is 'maiden-born'....(?)

Others, however have declared that the *Smṛti* text itself has a special bearing; the name 'maiden-born' is not applied to every child of an unmarried 'maiden'; it applies only to such a child as has been defined by Manu.

This view also we accept. (??)—(135)



VERSE CXXXVI

EITHER APPOINTED OR NOT APPOINTED, IF A DAUGHTER BEARS A SON TO A HUSBAND OF EQUAL STATUS, THROUGH THAT SON DOES THE MATERNAL GRANDFATHER BECOME ENDOWED WITH A 'SON'S SON'; HE SHALL OFFER THE FUNERAL CAKE AND INHERIT HIS PROPERTY.—(136)

Bhāṣya.

By duly considering what has gone before and what follows next, it is clear that the present verse also refers to the Appointed Daughter.

It has been said that the son of the *unappointed* daughter also is entitled to the property of his maternal grandfather; how much more so is the son of the Appointed Daughter entitled to it?—This is the idea meant to be expressed. The verse cannot be taken as laying down the title of the grandson to the property of the maternal grandfather; for if such a general principle were recognised, then there would be no need for the institution of the 'appointed daughter' at all.

"But in another Smṛti text it is found to be laid down that it is incumbent upon every daughter's son to offer the cake to his maternal grandfather:—'so also on behalf of the mother's fathers' (*Yājñavalkya*, 1.228). And in the present verse also, if we ignore the fact of its occurring in a context dealing with the 'appointed daughter,' and bear in mind the words of the text itself, it appears only reasonable to take, as pertaining to every daughter's son, the injunction regarding 'the offering of cakes and the inheriting of property. In another text also, it has been declared that 'the *daughter's son* shall take the entire property etc., etc.' (*Manu*, 9.132)."

Our answer to the above is as follows:—In the text quoted from Yājñavalkya, we find the term 'mother's fathers'

in the plural; now does this refer directly to the individual 'father,' or indirectly to the 'mother's *grandfather*' and other ancestors? In the former case, it would mean that the offering is to be made to the *maternal grandfather* only, just like the ordinary '*Shrāddha*' and other offerings; and this would be wrong, after the '*Sapinḍikarāṇa*' has been done (which has unified the mother's father with her grandfather and great-grandfather); since it has been declared that 'after the *Sapinḍikarāṇa* one shall offer cakes to all the three.' If it be held that the *Sapinḍikarāṇa* rite itself may not be performed. But this also could not be; as the performance of it is nowhere forbidden. As for 'indirect' indication, it can be justified only under very special circumstances; and then too it must be in consonance with the direct declaration of *Śruti* texts. And it is only in very special circumstances that a text can be entirely separated from the context in which it occurs; as is found to be the case in regard to the 'Twelve Upasāds.' (*Mīmā. Sū.* 3.3.15—16).

As for the epithet '*not appointed*,' it has been already explained that it means something quite different.

For all these reasons, the verse must be taken as referring to *the son of the Appointed Daughter* only.—(136)

VERSE CXXXVII

THROUGH THE SON ONE CONQUERS THE WORLDS,
THROUGH THE GRANDSON HE OBTAINS IMMORTALITY,
AND THROUGH THE SON'S GRANDSON HE ATTAINS
THE REGIONS OF THE SUN.—(137)

Bhāṣya.

'*Through the son*'—when born,—i.e. through the help rendered by him—'*one conquers*'—wins—'*the worlds*'—the ten 'sorrowless regions,' Heaven and the rest. That is he becomes born in those regions.

Similarly '*through the grandson, he obtains immortality*'—i.e., long residence in those regions.

'*Through the son's grandson he attains the regions of the Sun*,'—i.e., he becomes effulgent and is not bedimmed by any sort of darkness.—(137)

VERSE CXXXVIII

BECAUSE THE SON DELIVERS HIS FATHER FROM THE HELL CALLED 'PUT,' THEREFORE HAS HE BEEN CALLED 'PUTRA,' 'DELIVERER FROM PUT,' BY THE SELF-EXISTENT ONE HIMSELF.—(138)

Bhāṣya.

This is a declamatory supplement to the Injunction of begetting children.

'*The hell called Put*'—is the name given to the four kinds of elemental life on the Earth. And from this is the father delivered by his son, as soon as he is born; which means that he is born next in a divine life.

It is for this reason that he is called '*Putra*,' 'Deliverer from Put.'—(138)

VERSE CXXXIX

BETWEEN THE SON'S SON AND THE DAUGHTER'S SON THERE IS NO DIFFERENCE IN THE WORLD; SINCE THE DAUGHTER'S SON ALSO, LIKE THE SON'S SON, SAVES THE MAN IN THE NEXT WORLD.—(139)

Bhāṣya.

Here also the term 'daughter's son' is to be understood as standing for the *son of the Appointed Daughter*.

'*The daughter's son, like the son's son, saves the man in the next world*';—this is purely declamatory;—the fact having been already enjoined before (in 133).

Between these two '*there is no difference*';—in the case of one (the son's son), it is the mother, while in that of the other (the daughter's son) it is the father, that belongs to another family. Hence the daughter's son also delivers one from the aforesaid *Put-hell*.—(139)

VERSE CXL

THE SON OF THE APPOINTED DAUGHTER SHALL OFFER THE FIRST CAKE TO HIS MOTHER, THE SECOND TO HER FATHER AND THE THIRD TO HIS FATHER'S FATHER.
—(140)

Bhāṣya.

It has been declared (132) that 'he shall offer the cake to his father and to *his maternal grandfather*'; where the offering of the cake by the son of the Appointed Daughter to his maternal grandfather has been enjoined; and this is a totally different kind of offering laid down for him.

'*The first cake he shall offer to his mother*,'—the second to her father.

Some people read '*pitustasya*,' '*his (not her) father*.' And those who accept this reading offer the cake to the Appointed Daughter, and then to the *progenitor*, and then the third to the progenitor's father.

In accordance with this view there would be no offering laid down for the maternal grandfather.—(140)

SECTION (18)—ADOPTION.

VERSE CXLI

IF ONE HAS AN ADOPTED SON ENDOWED WITH ALL GOOD QUALITIES, HE SHALL INHERIT HIS PROPERTY, EVEN THOUGH HE MAY HAVE COME FROM ANOTHER FAMILY.—(141)

Bhāṣya.

Under 9.185, it is said—‘Sons, and not brothers or fathers, are the inheritors of the father’s property’—where all sons are declared to be entitled to inheritance. So long as the ‘legitimate’ son is alive, the ‘*Kṣētraja*’ and other sons are entitled to maintenance only:—‘The legitimate son alone is the sole master of the entire paternal property; for the others he shall, as an act of kindness, provide for subsistence,’—says Manu (9.163). Thus then the fact of the adopted son inheriting the father’s property is already established; the present text therefore is meant to indicate that he is so entitled, even when the legitimate son is there. If it did not mean this, there would be no point in the verse at all.

The question that arises is—what shall be the share of the adopted son?

Some people hold that, since nothing particular has been laid down, the share shall be equal to that of the legitimate son.

This however is not right. If shares had been meant to be equal, then this would have been clearly stated, as it has been in the case of the son of the Appointed Daughter (under 9.134). Hence it follows that, as in the case of the *Kṣētraja* son, so here also, the share shall be the sixth or eighth part (of that of the legitimate son).

In this connection there is something to be said. Just as the author has declared the share of the *Kṣētraja* son to be 'the sixth part' (9. 164), that of the 'adopted' son also would have been prescribed (if it were so intended).

Thus then, the real purport of the reiteration contained in the present verse has got to be found out.

Our revered teacher explains as follows:—The idea provided by the present verse is that, inasmuch as no particular share has been specified, the share of the adopted son should be understood to be less than that of the *Kṣētraja*; and he cannot go without a share; nor is he entitled to a share equal to that of the *legitimate son*, or to that of the *Kṣētraja* son.—(141)

VERSE CXLII

THE ADOPTED SON SHALL NOT TAKE THE FAMILY-NAME OR THE PROPERTY OF HIS PROGENITOR; THE CAKE FOLLOWS THE FAMILY-NAME AND THE PROPERTY; FOR HIM THEREFORE WHO GIVES AWAY HIS SON THE FUNERAL OFFERINGS CEASE.—(142)

Bhāṣya.

It is only right that the adopted son should have a share in his adoptive father's property; since he does not inherit either the family-name or the property of his progenitor; and this for the simple reason that he has gone out of the family.

Inasmuch as he does not inherit the family-name and the property of the progenitor, he does not offer cakes to him; since '*the cake follows the family-name and the property*';—that is, a son offers the funeral cakes etc., to that person whose family-name and property he inherits.

'*Ceases*'—drops away from him.

'*Svadhā*';—this syllable stands for that which makes the use of the syllable '*svadhā*' possible;—i. e., the *Shrāddha*



and other offerings. And when a man gives away his son to another man, these offerings cease for him; that is, they should not be offered to him.

This law applies to the 'made' and other kinds of sons,—i.e., 'the' one conceived before marriage, the 'cast off,' and 'the one who benefits both.'

Others construe '*harēt*' as implying the causal form '*hārayēt*', 'should deprive'; which means that the adopted son shall benefit both fathers.

But the fact of the matter is that the verse opens with the *relinquishing of privileges*; so that consistently with that, the latter half also should mean that 'no cake shall be offered'; i.e., the father also shall relinquish his privilege of receiving the cakes.

In the face of these facts, some authority will have to be found for attributing a different meaning to the words ('*harēt*' and the rest).—(142)

SECTION (19)—SONS NOT ENTITLED TO A SHARE IN THE PARENTAL PROPERTY

VERSE CXLIII

THE OFFSPRING OF A WIFE NOT 'AUTHORISED,' AND
THE OFFSPRING OBTAINED FROM HER YOUNGER
BROTHER-IN-LAW BY A WOMAN WHO HAS ALREADY
GOT A SON,—BOTH OF THESE ARE UNDESERVING
OF A SHARE; ONE BEING BORN OF AN ADUL-
TERER, AND THE OTHER BEING THE PRODUCT OF
LUST.—(143)

Bhāṣya.

It has been declared above that, when the husband dies without male issue, the wife should obtain the sanction of her elders for the begetting of a son. And this same declaration is reiterated here.

If a woman is '*not authorised*' by her elders, and yet being anxious for a son, begets one,—under the impression that she being the 'soil' of her husband, the son born of her would be his '*Kṣētraja*' son and thus entitled to inherit his property,—a son born in this manner shall not inherit his father's property; because a son is called '*Kṣētraja*' only when he is born in the manner expressly laid down in the scriptures; and it is only then that he inherits the property of the 'owner of the soil' (his dead father). It is for this reason that the present verse denies the *inheriting capacity* of the son born of the woman not duly 'authorised;' but it does not forbid the offering of the funeral cake; even though the son is one born of an 'outcast' woman.

Narada (13'19 *et. seq*) lays down a special rule—
 'Those that are born from an unauthorised woman, either by one or by several men, are not entitled to the property of their father; being, as they are, the sons of the persons from whose seed they have been born;— they shall offer the cake to the person from whose seed they are born, specially if the mother has been obtained by the payment of the nuptial fee; if however the mother has not been obtained by the payment of the fee, they shall offer the cake to the person who had wedded their mother.'

The text uses the term '*suta*,' '*offspring*' (instead of '*putra*' son), because the child referred to is not born in accordance with the law relating to the 'adopted' and other sons, and is, on that account, not mentioned among 'sons.' Among the twice-born people the issues of one's mere 'seed' (and not of lawful wedlock) are entitled to mere subsistence, and not to the inheritance of property; specially as in connection with all kinds of sons it has been declared that 'on the death of their father the sons shall divide among themselves the property of their father, left over after the performance of the necessary religious rites; and they are all entitled to maintenance.' Thus it is the duty of the Legitimate son to provide for the maintenance of the unlawfully-begotten sons; but these latter are not entitled to any inheritance in the property; specially because inheritance has been declared to belong to those particular kinds of sons that have been specially enumerated: We read (in 9'162) of 'the *two* heirs' (where only *two* sons are spoken of as 'heirs').

From what is said here it follows that 'the issue of the unauthorised woman,' not entitled to the property of his lawful father, does become a sharer in that of the person from whose seed he is born; and the share in this case would be just enough for his subsistence.

Then again, as the woman has been obtained at a price, she is a 'slave,' and the son 'slave-born;' and as such, he is entitled not to a share in the property, but to mere subsistence.

Others have held that, even though the woman may not be a regular 'slave' (in the technical sense), she is a servant all the same, since the servant is always employed for doing a definite work; e.g., the bath-man, the toilet-man, the cook and so forth; the woman kept for pleasure also is employed for a definite work,—and is fed and clothed; and hence she is as good as a servant.

Similarly also in the case of the woman who has already got a son, if the son is alive, and yet she obtains a son from her younger brother-in-law, even on 'authorisation.'

"But how can there be 'authorisation' in the case of a woman who has already got a son?"

It is the brother-in-law who may be 'authorised' for the purposes of pleasure, under the pretext of begetting a son.

As a matter of fact, both of these are 'born of an adulterer;' the one born of a woman who has already got a son is, in addition, also 'the product of lust.' In the case of the former the action is prompted entirely by a longing for a son, and not by lust.—(143)

VERSE CXLIV

THE MALE CHILD OF AN 'AUTHORISED' WOMAN, IF NOT BEGOTTEN IN THE PRESCRIBED MANNER, IS NOT ENTITLED TO THE PATERNAL PROPERTY; AS HE IS PROCREATED BY OUTCASTS.—(144)

Bhāṣya.

'Not in the prescribed manner;'—i.e., not wearing the white dress and observing such details.

He is not entitled to the property; i.e., he shall not be treated as the 'Kṣētraja' son.



The brother-in-law and the sister-in-law are both rightly regarded as 'outcastes,' on account of their having not obeyed the restrictions, in the begetting of the son; since what is permitted by the scriptures is only such intercourse as is done in strict accordance with the rules laid down.—(144)



SECTION (20)—STATUS OF THE SON BORN BY
'AUTHORISATION'

VERSE CXLV

THE SON BORN OF THE 'AUTHORISED' WOMAN SHALL INHERIT, LIKE THE 'LEGITIMATE' SON; AS LEGALLY THAT SEED IS OF THE OWNER OF THE SOIL AND THE OFFSPRING BELONGS TO HIM.—(145)

Bhāṣya.

'*Like the legitimate son*';—this has been enjoined here with a view to permit the 'preferential share' ordained for the eldest brother; as no other 'equality' is possible (between the two kinds of sons). What the present rule permits is the 'preferential share' for the '*Kṣētraja*' son born of the eldest wife. To this extent, this is an exception to 'the equal shares' laid down in verse 121. And since both the rules are equally authoritative, they must be treated as optional alternatives,—the adoption of the one or the other being dependent upon the qualifications of the persons concerned. Apart from this there would be no purpose in this verse; as all that is herein stated has been already laid down elsewhere.

'*That seed is of the owner of the soil*,'—because it serves his purposes. This is purely commendatory; hence it is added '*legally*'—*i.e.*, according to the law.

Another reason for this lies in the fact that the '*child*'—which is the visible embodiment of the seed—belongs to the owner of the soil.

This verse is purely declamatory.—(145)



VERSE CXLVI

HE WHO PROTECTS THE WIFE AND PROPERTY OF HIS DEAD BROTHER SHALL BEGET A CHILD FOR THAT BROTHER AND GIVE HIS PROPERTY TO THAT CHILD.
—(146)

Bhāṣya.

This rule refers to the case where the dead brother was one who had separated from the surviving brother; while the preceding verse was meant for that where the two brothers lived together. This is the only difference between this and the foregoing rules.

‘*Shall beget a child for that brother*’—i.e., by the mode of ‘authorisation.’

‘*Shall give the property to that child*’;—nor to its mother.

It is in accordance with this principle that women are entitled to *maintenance*, and not to *ownership* of properties; as they are taken care of in other ways.

‘*His property*’—i.e., the property of the separated brother.—(146)

VERSE CXLVII

IF A WOMAN, WITHOUT BEING ‘AUTHORISED,’ BEARS A SON EITHER TO HER BROTHER-IN-LAW OR TO SOME OTHER PERSON, THAT SON THEY DECLARE TO BE ‘LUST-BORN,’ ‘INCAPABLE OF INHERITANCE’ AND ‘BORN IN VAIN.’—(147)

Bhāṣya.

Before ‘*niyuktā*,’ there should be an ‘*ā*’ (coalescing with the ‘*ā*’ in ‘*yā*’); for otherwise (if the word meant ‘authorised’) the present verse would be contrary to what has gone in the preceding verse. It might be argued that with ‘*anīyuktā*,’ ‘not authorised,’ this would be a needless repetition of what



has gone before. But such superfluity can be, and has been, explained.

The older writers however do not accept the reading '*anīyuktā*,' 'not authorised.' And according to them the text is to be explained as meaning that 'the son born of the *authorised* woman also is not entitled to the paternal property.'

'*Lust-born*,'—even when the man acts under 'authority,' there is always a certain amount of '*lust*' involved, hence the child is called '*lust-born*.'

'*Born in vain*;'—this means that he is incapable of accomplishing the purpose for which he was begotten.

This verse turns out (according to the older writers) to be a denial of the title to inheritance declared before (in 147); and hence an option has been accepted in this case.

Our revered teacher however declares that if we read '*anīyuktā*,' 'not authorised,' the two texts become reconciled.—(147)

VERSE CXLVIII

THIS RULE SHOULD BE UNDERSTOOD AS APPLYING TO PARTITION AMONG SONS BORN OF WIVES OF THE SAME CASTE; LISTEN TO THAT APPLYING TO THAT AMONG SONS BORN TO ONE MAN OF SEVERAL AND DIVERSE WIVES.—(148)

Bhāṣya.

'*Sons born of the wives of the same caste*.'—Sons born of mothers of the same caste as the father are entitled to inherit the whole property.

'*Born of diverse wives*;'—i.e., of wives belonging to diverse castes.

This is what is now going to be expounded.

'*Several*'—this is a mere reiteration.



Others however attach special significance to this epithet ('several') also ; the sense being that in the case of partition among sons born of *several* wives belonging to diverse castes, the rule is as going to be set forth (in 153),—*viz.*, 'The Brāhmaṇa son shall take four shares etc., etc.' As for a *single* wife of a *different* caste,—no man ever has recourse to any such ; hence she does not count in the present connection.—(148)

SECTION (21)—SHARES OF SONS BORN OF MOTHERS OF DIVERSE CASTES

VERSE CXLIX

IF TO A *Brāhmaṇa* THERE BE FOUR WIVES IN DUE ORDER,—FOR PARTITION AMONG THE SONS BORN OF THESE, THE RULE HAS BEEN DECLARED TO BE AS FOLLOWS.—(149)

Bhāṣya.

‘*Order*;’—this refers to what has been said in Discourse III.

This verse also is a brief indication of what follows.—(149)

VERSE CL

THE PLOUGHMAN, THE BREEDING BULL, THE CONVEYANCE, THE ORNAMENT, AND THE HOUSE SHALL BE GIVEN AS THE ‘PREFERENTIAL SHARE’ TO THE *Brāhmaṇa*, AS ALSO ONE PRINCIPAL SHARE.—(150)

Bhāṣya.

‘*Kīnāsha*, ‘*ploughman*’,—the slave who tills the soil. Says the *mantra text*—‘*Indra āsīt surapatiḥ, kīnāshā āsan-marutaḥ, yathāsutam kīnāshā abhiyantu vāhaiḥ*’

‘*Conveyance*’—cart and the rest.

‘*Ornament*’—the ring or some such ornament worn by the father.

‘*House*’—the principal apartment.

‘*One principal share*’;—among the several shares into which the property may be divided, the most important of these shall go to the *Brāhmaṇa* son.



All this should be set aside as the 'preferential share' for the 'eldest' son, and the rest of the property should be divided according to the rule going to be laid down.
—(150)

VERSE CLI

OUT OF THE ESTATE THE *Brāhmaṇa* SHALL TAKE THREE SHARES; THE SON OF THE *Kṣattriya* MOTHER TWO SHARES; THE SON OF THE *Vaiśhya* MOTHER A SHARE AND A HALF; AND THE SON OF THE *Shūdra* MOTHER ONE SHARE.—(151)

Bhāṣya.

Though the text has used the singular number throughout, yet the rule here laid down applies also to the case where there are two or more sons of each caste, who are entitled to equal shares. In a case however where the number of sons of the different castes is not the same, the rule is as set forth in the next verse.—(151)

VERSE CLII

THE MAN KNOWING THE LAW SHALL DIVIDE THE ENTIRE ESTATE INTO TEN PARTS, AND THEN MAKE AN EQUITABLE DIVISION ACCORDING TO THE FOLLOWING RULE.
—(152)

Bhāṣya.

'*Estate*'—property.

'*Equitable*'—in accordance with law.

On the strength of the declaration contained in the forthcoming verse some people do not accept the division mentioned above.—(152)

VERSE CLIII

THE *Brāhmaṇa* SHALL TAKE FOUR SHARES, AND THE SON OF THE *Kṣattriya* MOTHER THREE SHARES; THE SON



OF THE *Vaishya* MOTHER SHALL TAKE TWO SHARES,
AND THE SON OF THE *Shūdra* MOTHER SHALL
TAKE ONE SHARE.—(153)

Bhāṣya.

Though the shares of the *Kṣattriya* and other sons have been set forth here in an unqualified form, yet in another *Smṛti*, in connection with certain particular kinds of property, we find a totally different form of division :—(1) 'The land acquired from gifts shall not be given to the son of the *Kṣattriya* mother, and (2) if any such land happen to have been given by the father to these, it shall be taken by the *Brāhmaṇa* son on the father's death.'

Since this specifies the land 'acquired from gifts,' that acquired by purchase and other means do not become similarly excluded. Elsewhere again we read— 'The son born to a *Brāhmaṇa* from his *Shūdra* wife is not entitled to a share in landed property,' which precludes the *Shūdra* son from all kinds of lands.

All this restriction should be understood to apply to those cases where there are other forms of property also; otherwise, we would be faced by the law relating to 'the tenth part of a share.' If there were no other property, the sons in question would be left without any subsistence.

What I hold however is that, though the allotment of shares (under the circumstances mentioned in the *Smṛti* texts quoted) is negatived, provision for subsistence does not thereby become precluded.

If it be asked, 'What is the difference between these two?'—our answer is that if the said sons were entitled to regular 'shares,' they would be entitled to make gifts of, or sell, the property inherited, while what they get for subsistence, of that they can only take the usufruct.



“As for the grains necessary for his subsistence, these the *Shūdra* son shall receive from the *Brāhmaṇa* son; so that there would be no point in allotting any land to him for that purpose. Says Gautama (28-39)—‘He obtains his subsistence, in the manner of a pupil.’”

True; but provision for his subsistence has got to be made, in consideration of the fact that the property under division is his father's; and if such provision were not definitely made at the time of division, it is just possible that the twice-born brothers might lose the property, either by misconduct or by some such act as selling and the like; and in that case he would be left without subsistence. If, on the other hand, some land has been definitely allotted for his subsistence, the other brothers could not appropriate it to other uses, without his consent.—(153)

VERSE CLIV

WHETHER A *Brāhmaṇa* HAS A SON OR NO SON,
HE SHALL NOT, ACCORDING TO LAW, ALLOT MORE
THAN THE TENTH PART TO THE SON OF THE
Shūdra WIFE.—(154)

Bhāṣya.

‘*Has a son*’—has any son; or the son meant may be that born of the *Brāhmaṇa* wife, and not that of any of the ‘twice-born’ wives. So that if there is no son born of the *Brāhmaṇa* wife, even if there are sons of *Kṣattriya* and *Vaishya* wives, the son of the *Shūdra* wife shall receive the *eighth* part; while if there is only a son of the *Vaishya* wife, he shall get the *third* part.

Others, however, explain the phrase ‘*no son*’ to mean the absence of a son of any twice-born wife. And according to this view, the residue of the property left

after the tenth part has been made over to the *Shūdra* son shall go to the *Sapindas* (Collaterals).

The most unobjectionable principle of division, however, would be as follows:—If the property is a large one, and there is no son of any higher caste, the *Shūdra* son shall receive only the tenth part; if, however, the property is just enough for the maintenance of a few men only, then, the whole shall go to the *Shūdra* son.

In the case of *Kṣatriyas* and others, another *Smṛiti* has laid down the following rule in connection with sons born of the same and different castes:—‘Sons of a *Kṣatriya* are entitled to three, two and one shares; those of the *Vaiśya* to two and one’ (*Yājñ.* 2.125). That is, sons of the *Kṣatriya* from the *Kṣatriya* wife shall each receive three parts, those from the *Vaiśya* wife two parts, and from the *Shūdra* wife one part; so that *Shūdra* sons receive the sixth part of the property of the *Kṣatriya* father and the third part of the *Vaiśya* father.

Others again explain the sense of the present text as follows:—When he is going to give some property to the *Shūdra* son at all, the father shall collect the entire property and give to him the tenth part of it,—even, though he be free to do as he likes; as it is going to be declared (in the next verse) that ‘whatever his father shall give to him, that shall be his.’

According to this view, it would be much more reasonable to construe the text as ‘the man having a son shall give, etc. etc.,’—‘*dadyāt*,’ ‘shall give,’ being construed with ‘*saputrah*,’ ‘having a son’; otherwise, the construction would be—‘the person, whose father has a son or no son, shall give, etc.,’—which shall be a most difficult one. As in this case, the term ‘having a son’ shall stand for the dead-father, while the nominative of the verb ‘shall give’ shall be the living son or other *Sapinda* relations.



Thus, then, in a case where there are only *Brāhmaṇa* and *Shūdra* sons, and no *Kṣattriya* or *Vaiśhya* ones, the *Shūdra* one is entitled, not to the tenth part, but to something less, never more.

If there are ten cows, the *Brāhmaṇa* son shall receive four cows, the *Shūdra* one cow,—the remaining ones being divided between the *Kṣattriya* and *Vaiśhya* sons. When, however, these latter two do not exist, then, these five cows also shall be divided, on the aforesaid principle, between the *Brāhmaṇa* and *Shūdra* sons. When, however, the *Brāhmaṇa* son takes the entire property, he cannot be called either a 'share-holder' or 'a receiver of four shares.' Hence, in this case what has been said (in 153) regarding the *Brāhmaṇa* taking 'four shares' would apply to a case where there are four brothers. The *Shūdra* also receives the 'tenth share' only when there are four brothers;—this share to be correspondingly increased if there are two or three brothers only.—(154)

VERSE CLV

OF THE *Brāhmaṇa*, THE *Kṣattriya* AND THE *Vaiśhya*, THE SON BORN OF A *Shūdra* WIFE IS NOT AN INHERITOR OF PROPERTY; HIS PROPERTY SHALL CONSIST OF WHATEVER HIS FATHER MAY GIVE TO HIM.—(155)

Bhāṣya.

The son born of the *Shūdra* wife of the twice-born persons is not an 'inheritor of property.'—Is that so always?—No; '*whatever his father may give to him*'—i.e., the 'tenth part' which the father may have allotted to him—that shall be his property; and he obtains nothing more out of his paternal property.

In this connection, it has been declared by Śaṅkha—'The son of the *Shūdra* wife is not entitled to inheritance;—his share consists of whatever his father gives him; *at the time of partition, however, his brothers may give him a pair of*

bullocks in addition;—this latter sentence forming a subsequent addition.

Others hold that what is said in the present text refers to the son of the *unmarried Shūdra* woman;—their argument being that there is nothing in the text indicative of the woman being one that has been duly married,—all that the term '*Shūdra*' denotes is the particular caste. Hence, the meaning is that for the son of such a woman, '*whatever the father gives him*,'—that is, the provision that his father makes for his maintenance, or any share that he may have allotted to him for his maintenance during his life-time,—that shall be his property,—and his brothers need not give him anything. Says Gautama in the section dealing with the son of a *Shūdra* wife—'As regards the sons of unmarried wives, they shall, if they are obedient, receive enough for subsistence, in the manner of pupils.' (28—39)

According to the view of these men, however, the sons born of unmarried *Kṣattriya* and *Vaiśhya* wives would be entitled to inheritance; and it is not known to what share these would be entitled.

It might be asserted that—"Their share shall be the same as that of the sons of married wives; since there is no word, either directly or indirectly indicative of the fact that the mothers shall be *married* wives. For all that is said is that—'the legitimate son alone shall inherit the property' (163); which distinctly mentions the 'legitimate' son, born of the legally married wife; and the qualities of the 'legitimate' son can never be present in those born of *unmarried* wives, and further, it has been declared that 'the son of the unauthorised woman is not entitled to any share' (143). It might be urged that this last passage refers to the *brothers wife*; as it is only in connection with her that 'authorisation' has been sanctioned; so that when the text used the term 'unauthorised' it must be taken as referring to her alone."

But in the present case also, there is clear indication of the fact that sons become entitled to 'subsistence' as soon as they are born (irrespective of all other conditions). Hence, the term 'unauthorised' also refers in general to the wives of other persons. And all these sons (of married or unmarried wives) are entitled to subsistence.—(155)

VERSE CLVI

OR, ALL THE SONS OF TWICE-BORN MEN, BORN OF WIVES OF THE SAME CASTE, SHALL DIVIDE THE PROPERTY EQUALLY, AFTER THE OTHERS HAVE GIVEN TO THE ELDEST HIS 'PREFERENTIAL SHARE.'—(156)

Bhāṣya.

In the absence of any other alternative, the term 'or' can be explained only as referring to what is here stated.

Whether the wives belong to the same caste or to different castes, it is only the *Shūdra* son that has been precluded from inheriting the entire property; hence, what is asserted here must be understood to apply to *twice-born* sons only. Consequently, the sense is that if a *Brāhmaṇa* has no son born of his *Brāhmaṇa* wife, his sons born of the other wives, inherit his entire property. Similarly, the son of the *Vaiśhya* wife of the *Kṣātriya* father.

The text cannot mean that 'after the preferential share has been given to the eldest brother, all the sons born of wives of different castes shall divide *equally*,—with those born of the wives of the same caste.' As this would be contrary to what has been said before (in 153) regarding each son of the lower caste receiving one share less than that of the higher caste.

It has been argued that—"This equality would be right in a case where the sons of the wife of the same caste are devoid of qualities, while those of the lower castes are duly qualified; specially in view of what has

been declared by Gantama (28-40)—according to same people, a son of the wife of the same caste does not inherit, if he is misbehaved.”

This, however, is not right. Because, the caste of the son is the most important consideration. In fact, the revered teachers have declared that as soon as the son (of the wife of the same caste) has been born, he becomes the owner of the entire property.

Thus, the rule on this subject should be as that when there are no sons of the wife of the same caste, even those sons that are born of wives of different castes should give to the eldest brother of the same caste as themselves, his preferential share and divide the rest equally.—(156)

VERSE CLVII

FOR THE *Shūdra* IS ORDAINED A WIFE OF HIS OWN CASTE ONLY, AND NO OTHER; AND ALL THE SONS BORN OF HER SHALL BE ENTITLED TO EQUAL SHARES, EVEN IF THERE BE A HUNDRED SONS.—(157)

Bhāṣya.

For the *Shūdra* there is no irregular wife of the 'ascending' degree.

This is only a reiteration of what has been said before.

'Other sons born of her shall be entitled to equal shares.'

It is in view of there being no fifth caste that the text has said that 'for the *Shūdra* there is a wife of the same caste, and no other.'—(157)

SECTION (22)—THE RELATIVE STATUS OF THE TWELVE KINDS OF SONS.

VERSE CLVIII

AMONG THE TWELVE KINDS OF SONS THAT MANU SPRUNG
FROM THE SELF-EXISTENT ONE HAS MENTIONED,—
SIX ARE KINSMEN AS WELL AS HEIRS, AND SIX
ARE KINSMEN, NOT HEIRS.—(158)

Bhāṣya.

This is a brief indication of what follows.

The term '*bandhu*' stands for '*bāndhava*,' 'kinsman.'

Six inherit the man's 'family-name' as well as
'property'; while with the remaining six, the case is
the reverse of this.

What the true view is regarding this point, we
shall explain later on.—(158)

VERSES CLIX-CLX

(1) THE '*Aurasa*,' 'BODY-BORN,' (2) THE '*Kṣētraja*,'
'SOIL-BORN,' (3) THE '*Datta*,' 'GIVEN' (ADOPTED),
(4) THE '*Kṛtrima*,' 'APPOINTED,' (5) THE '*Gūḍhot-*
panna,' 'SECRETLY BORN,' AND (6) THE '*Apaviddha*,'
'CAST OFF,'—THESE SIX ARE BOTH HEIRS AND
KINSMEN.—(159)

(1) THE '*Kānīna*,' 'MAIDEN-BORN,' (2) THE '*Sahodha*,'
'RECEIVED ALONG WITH THE WIFE,' (3) THE '*Kṛta*,'
'BOUGHT,' (4) THE '*Paunarbhava*,' 'BEGOTTEN ON
A REMARRIED WOMAN,' (5) THE '*Svayan-datta*,'
'SELF-OFFERED' AND (6) THE '*Shaudra*,' '*Shūdra*-
BORN,'—THESE SIX ARE ONLY KINSMEN, NOT HEIRS.
—(160)

Bhāṣya.

These two verses enumerate the twelve kinds of sons, for the purpose of indicating the two classes mentioned above.—(159-160)

VERSE CLXI

THE MAN WHO TRIES TO CROSS THE GLOOM WITH THE HELP OF BAD SONS OBTAINS RESULTS SIMILAR TO THOSE OBTAINED BY ONE WHO TRIES TO CROSS THE WATER WITH THE HELP OF UNSOUND BOATS.—(161)

Bhāṣya.

The 'Kṣētraja' and other sons having been mentioned along with the 'legitimate' son, people might think that all of them stand on the same footing; it is with a view to set aside this notion that the author adds this verse. The sense is that the 'Kṣētraja' and other, 'bad sons' are not capable of rendering the same assistance that is rendered by the 'legitimate' son.

Even though the text does not mention anything definite, yet people have explained it to mean this, on the basis of the context. Others, however, have explained the 'bad sons' to mean 'sons of unauthorised women.'

The sense is that even though people have these 'bad sons,' they should not regard themselves as having sons, they should still continue to make efforts to obtain a 'legitimate' son.

'Gloom'—of the other world, due to the man's past misdeeds, in the shape of not having paid off the debts to his *Pitrs*,—which could be cleared off only by means begetting offspring.—(161)

VERSE CLXII

IF THE 'SOIL-BORN' AND THE 'BODY-BORN' SONS ARE BOTH ENTITLED TO INHERIT THE SAME PROPERTY, EACH SHALL RECEIVE THAT PROPERTY WHICH



BELONGS TO HIS OWN FATHER, AND NOT THE OTHER.
—(162)

Bhāṣya.

An impotent man having obtained a son from his 'authorised' wife through another man, according to the method described under 167, may happen to have his impotence cured by medicines and then himself beget his own 'legitimate,' 'body-born' son; and in this case, the former son would receive the property of his *progenitor*, who may be called his 'father' on the ground of his being the cause of his birth; and on the same ground the child would be called his 'son' only figuratively; since in reality he is the '*Kṣētraja*' son of the other man, just as he is referred to in this verse.

If, however, the progenitor happens to have a 'legitimate' son of his own,—and if the father, moved by his great love, does not happen to have made over all his property to that son,—and further, if there are no other *Sapinda* relations—under such circumstances, the '*Kṣētraja*' son may inherit the property of that progenitor. The sons of 'unauthorised' women also inherit the property of their progenitor, if there are no '*Sapinda*' relations.

Others explain the verse to mean as follows:—While the rightful 'heir' is already there, if a '*Kṣētraja*' son happen also to be born, this latter shall inherit the property of his progenitor, and not that of the 'owner of the soil' (his mother's husband),—if there is a 'legitimate' son of the latter. In the presence of the legitimate son, what the share of the '*Kṣētraja*' son shall be is laid down in verses 165 and 164.

The next two verses show how the two sons become entitled to the same property.—(162)

VERSE CLXIII

THE 'LEGITIMATE' (BODY-BORN) SON IS ALONE THE OWNER OF THE PATERNAL ESTATE; BUT IN ORDER TO

AVOID UNKINDNESS, HE SHALL PROVIDE SUBSISTENCE FOR THE REST.—(163)

Bhāṣya.

If the legitimate son is there, all the others '*Kṣētraja*' and the rest—are not 'heirs;' and they shall receive a subsistence allowance only from the legitimate son 'Avoidance of unkindness'—avoidance of sin. That is the man would incur sin if he did not make the said provision.—(163)

VERSE CLXIV

WHEN THE LEGITIMATE SON IS DIVIDING THE PATERNAL ESTATE, HE SHALL GIVE TO THE '*Kṣētraja*' SON ONE-SIXTH OR ONE-FIFTH PART OF THE FATHER'S PROPERTY.—(164)

Bhāṣya.

It being possible for men to entertain the notion that, like the 'bought' son, the '*Kṣētraja*' ('soil-born') son also is entitled to subsistence only,—the text lays down the optional alternative that he may receive a share out of the property. What the exact share shall be shall depend upon the man's qualifications.--(164)

VERSE CLXV

THE 'BODY-BORN' AND THE 'SOIL-BORN' ARE ENTITLED TO INHERIT THE FATHER'S PROPERTY; WHILE THE OTHER TEN INHERIT THE 'FAMILY-TITLE' AND A SHARE IN THE PROPERTY, ACCORDING TO THEIR ORDER.—(165)

Bhāṣya.

The first half of this verse is only a reiteration of what has been enjoined before, and not a distinct injunction; specially because the 'soil-born' son does not stand on an equal footing with the 'body-born' son.



The other sons inherit the 'family name,' and they inherit also '*a share in the property*;' and it has been already explained that this 'share' consists of *mere subsistence*. But the case of the 'adopted' son stands on the same footing as that of the 'soil-born' one. In support of this view people quote other *Smṛti-texts*.

'According to *their order*.'—The 'body-born' and the 'soil-born' sons are entitled to inherit simultaneously; but among the rest, the succeeding one inherits only in the absence of the preceding one.

"If only six of the sons are 'heirs,' and the other six are *not* heirs,—according to the distinction into 'heirs' and 'non-heirs' made (in 158), it cannot be right to declare all these to be *inheritors* of property."

As a matter of fact, those that have been described as 'non-heirs' are so only in the presence of the 'body-born' son; all that is meant by the distinction is that the first six are larger beneficiaries than the second six. Among the first group, all except the 'body-born' are equal beneficiaries, and less than these latter are the six in the second group; these latter are all equal, and there is no difference among themselves, due to these being mentioned earlier or latter.—(165)

SECTION (23)—THE TWELVE KINDS OF SONS DEFINED.

VERSE CLXVI

HIM WHOM A MAN HIMSELF BEGETS IN HIS OWN SANCTIFIED 'SOIL,'—ONE SHALL KNOW AS THE 'BODY-BORN' (LEGITIMATE) SON, (DECLARED) TO BE THE FIRST IN ORDER.—(166)

Bhāṣya.

The term 'own' here denotes *ownership*, and not *the character of belonging to the same caste*. Thus, the meaning is that the 'body-born' son is one born from the woman '*sanctified*' (married) by the man himself. If this were not meant by 'own,' then the epithet '*sanctified*' would only exclude the *unmarried* woman; so that the son begotten on a woman *married* by another person would also come to be known as one's 'body-born' son. And further, if the word is interpreted as we have pointed out, the sons of the *Kṣattriya* wife also would be 'body-born' (for the *Brāhmaṇa* father); these latter do not fall within any other class of sons.

Others take the epithet '*prathamakalpita*' as qualifying 'body-born' [and meaning 'of the principal kind'], and hold that the sons born of the *Kṣattriya* wife are not 'body-born' in the fuller sense.

Under this explanation, however, as the son begotten on one's own *married* wife would not be 'body-born' in the full sense, he would be as good as born of an *unmarried* wife. And even if the sons of the *Kṣattriya* and other wives are not called 'body-born,' what does it matter? They still remain the man's 'sons' and entitled to inherit their limited shares in his property.



The following argument might be put forward—"If the son in question does not fulfill the conditions of the 'body-born,' the 'soil-born,' or any of the twelve kinds of sons,—and there are only these *twelve* kinds of sons,—how can he be regarded as a 'son' at all?"

The answer to this is as follows:—What is the use of any definitions? The application of the same depends upon actual usage. As a rule, when a child is born of a man, he is called his 'son'; and obviously, if the child is not born of a man, they do not regard that man to be his 'father'; and they tell him—"this is not your father, you are not born of him." From these two affirmative and negative propositions, it follows that the progenitor is the 'father' and the person born is the 'son'; and it is only for the purpose of indicating the peculiar characteristics that definitions are set forth. In the case of the 'soil-born' son, it is true that the person called his 'father' is not his progenitor; but that is only with a view to a special purpose; the child being called the man's 'son,' for, even though not his 'son,' he fulfills for him the functions of a son.

As a matter of fact, the mere fact of a person being born of a man does not make him his 'son'; as this has been expressly denied. It is for this reason that such sons have been called 'substitutes' (in 180). Further, if the mere fact of being born of a man were to make one his 'son,' then there would be no difference in the 'sonship' of the 'body-born son,' 'the son born of a remarried woman' and 'the son of an unauthorized woman,' since the fact of being *born* is common to all of them. Then again, if the mere fact of *serving the purposes of a son* were the sole condition of one being a 'son,' then no one in the world would be 'sonless.' As regards the common usage (regarding the use of the name 'son') mentioned above, it cannot be regarded as

universally true, since it is found that in many cases the name 'father' is not applied to the actual *progenitor*.

Thus then, notwithstanding ordinary usage, the actual application of the name 'son'—as in the case of such titles as 'wife' and the like—should be determined by the scriptural texts, which lay down the various ways in which a 'son' may be begotten; and it is only the signification of the names that may be learnt from ordinary usage; just as in the case of such titles as 'Indra' and the like.

"But as regards the declaration that the 'body-born' son is '*the first in order*,' it is ordinary usage on which this is based."

Not only on ordinary usage, but also upon the nature of the benefits (conferred by this particular kind of son);—the meaning of the declaration being that 'the body-born son is in a position to confer the greatest benefits upon his fathers.' Thus, the other sons are called 'substitutes' only on the ground of the lessening degrees of benefits conferred by them. As a matter of fact, however, these other sons cannot be 'substitutes' in the real sense of the term; because, it is only when a substance is used as a subsidiary accessory in the completing of an act already begun with a certain substance (which is no longer found)—that the former substance comes to be called a 'substitute;' in the case in question however, the son is not the 'subsidiary accessory' of any act, the act of begetting the son being itself only a subsidiary act. Hence, what is meant by calling the other sons, 'substitutes' is that though the 'soil-born' and others are also 'sons,' it is the 'body-born' one that is most praiseworthy; just as we find in the Vedic passage—"The cow and the horse are the only cattle, animals other than the cow and the horse are not cattle,"—where the assertion that the other animals are not 'cattle' means that the cow and the horse are praiseworthy.



Further, it has been shown in the *Mahābhārata* that sons do not always belong to the person from whose seed they are born: e.g., Pāṇḍu, Dhṛtarāṣṭra and Vidura, though born from the seed of Vyāsa, are not spoken of as 'sons' of Vyāsa.

It has already been explained by us what useful purpose is served by our regarding as 'body-born' or 'legitimate,' the sons of the *Kṣattriya* and other wives also.

"As regards the 'son of the Appointed Daughter,' if this were regarded as a 'son,' the number of sons would exceed *twelve*."

What is the harm if it does? This may be the *thirteenth* kind of son. In fact, he has not been separately mentioned, because, the useful purpose served by him is the same as that by the 'body-born' son, which fact makes him equal to this latter. That is why another Smṛti text has declared—'Equal to him (the Body-born son) is the son of the Appointed Daughter.' (*Yājñavalkya*, 2.128).—(166)

VERSE CLXVII

IF A SON IS BORN OF THE WIFE OF A MAN, EITHER DEAD OR IMPOTENT OR DISEASED, BY ONE WHO HAS BEEN DULY 'AUTHORISED,'—THAT SON IS DECLARED TO BE '*Kṣētraja*,' 'SOIL-BORN.'—(167)

Bhāṣya.

'*Diseased*'—i.e., suffering from some incurable disease, such as : consumption and the like.

The rest is quite clear.—(167)

VERSE CLXVIII

WHEN IN TIMES OF DISTRESS, THE MOTHER OR THE FATHER AFFECTIONATELY GIVES AWAY, WITH WATER-LIBATIONS, A WORTHY SON,—THAT SON IS CALLED 'GIVEN' (ADOPTED).—(168)

Bhāṣya.

It would be more reasonable to read '*cha*,' 'and,' instead of '*vā*,' 'or'—'The father *and* the mother'; the child belongs to both the parents, and cannot be given away, if either of them is unwilling.

Or, we may accept the reading '*vā*' 'or'; according to another text, which says—'The father or the mother may give the child'; but when the father is spoken of as the *superior* of the two parents, this *superiority* pertains to other matters.

"Since there is the mother's ownership also over the child, the father cannot have the sole right to give away the son."

True; but there are texts declaring that in the absence of the parents (?) the child belongs to the owner of the seed. It is for this reason that the 'father' has been mentioned. Vasiṣṭha also has declared—'The woman shall neither give away nor adopt a son.'

'*Worthy*';—this refers, not to *caste*, but to the presence of qualifications in conformity with the family concerned. Thus, it is that the Brāhmaṇa can adopt sons of the *Kṣattriya* and other castes also.

'*Affectionately*.'—This has been added with a view to preclude *greed* and such motives for the giving away of the child.—(168)

VERSE CLXIX

WHEN ONE APPOINTS A SON WHO IS WORTHY, CAPABLE OF DISCERNING RIGHT AND WRONG, AND ENDOWED WITH FILIAL VIRTUES,—THAT SON IS TO BE KNOWN AS 'APPOINTED.'—(169)

Bhāṣya.

Here also the epithet '*worthy*' refers to *qualities*.

Some people, however, explain it to mean 'belonging to the same caste'; but if this were meant by the author,

the proper reading would have been '*sajātiyam*' (in place of '*sadrshantu*'). And we have already pointed out above that the 'worthiness' meant in the present context is not with reference to *caste*.

'*Capable of discerning right and wrong.*'—Some people have explained this to mean that no one shall be so 'appointed' until he has attained his majority; as until then he is not in a position to discern right and wrong; all that he knows is that he is 'the son' of the man who has begotten him and who is maintaining him at the time. So that he would not be able to realise his 'appointment' as the son of any other man. For this reason, the 'appointment' should be made only when he is able to understand his position.

In reality, however, there is no difference between the two cases. (?)—(169)

VERSE CLXX

IF A SON IS BORN IN A MAN'S HOUSE, AND IT IS NOT KNOWN WHOSE HE IS,—THIS SON 'SECRETLY BORN' IN THE HOUSE SHALL BELONG TO HIM OF WHOSE WIFE HE IS BORN.—(170)

Bhāṣya.

If the mother were not known, then the caste also of the child would not be known; as it has been declared by the ancients that 'the caste of the child whose progenitor is not known can be ascertained from his mother.'

The rule here laid down refers to a case where there is no suspicion regarding the progenitor being of a lower caste. In the event of such suspicion, there would be likelihood of an 'admixture in the reverse order'; and in that case, the son would not be entitled to perform the functions of a 'son.'—(170)

VERSE CLXXI

IF A MAN TAKES UP A SON DESERTED BY HIS PARENTS, OR BY EITHER OF THEM, HE IS CALLED THE 'CAST OFF SON.'—(171)

Bhāṣya.

A child may be deserted by the parents, either because they have many children whom they are unable to support by reason of poverty, or because the particular child has some such defect as disaffection towards his parents and the like.

But the child should not have been openly deserted; as in that case it would not be entitled to being received as a son,—as has been shown elsewhere.

This desertion may be by either one of the parents.

'Takes up'—with a view to making him his son,—and not to only supporting him.—(171)

VERSE CLXXII

IF A MAIDEN SECRETLY BEARS A SON IN HER FATHER'S HOUSE, THAT SON, BORN OF A MAIDEN, SHOULD BE DECLARED AS 'MAIDEN-BORN' BY NAME, AND TO BELONG TO THE MAN WHO MARRIES HER.—(172)

Bhāṣya.

This verse has been already explained before, and the shares to be allowed to him, along with the 'adopted,' 'appointed' and 'cast off' sons have already been described before (under 132—135).—(172)

VERSE CLXXIII

IF ONE MARRIES, KNOWINGLY OR UNKNOWNLY, A PREGNANT MAIDEN, THE CHILD IN HER WOMB BELONGS TO HIM WHO MARRIES HER, AND IS CALLED 'RECEIVED ALONG WITH THE WIFE.'—(173)



VERSE CLXXIV

IF A MAN BUYS A BOY, WORTHY OR UNWORTHY, FROM HIS FATHER AND MOTHER, WITH A VIEW TO MAKING HIM HIS SON, THAT SON IS CALLED 'BOUGHT.'—(174)

VERSE CLXXV

IF A WOMAN ABANDONED BY HER HUSBAND, OR A WIDOW, OF HER OWN ACCORD, MARRIES AGAIN AND BEARS A SON, THAT SON IS CALLED 'THE SON OF A RE-MARRIED WOMAN.'—(175)

VERSE CLXXVI

IN CASE SHE BE STILL A VIRGIN, OR HAVING GONE AWAY COMES BACK,—SHE IS FIT TO UNDERGO RE-MARRIAGE WITH HER SECOND HUSBAND.—(176)

VERSE CLXXVII

IF A BOY, BEING DEPRIVED OF HIS PARENTS, OR BEING ABANDONED BY THEM WITHOUT CAUSE, OFFERS HIMSELF TO A MAN,—HE IS CALLED THE 'SELF-OFFERED SON.'—(177)

VERSE CLXXVIII

IF A *Brāhmaṇa*, THROUGH LUST, BEGETS A SON ON A *Shūdra* WOMAN, HE IS AS A CORPSE, EVEN THOUGH LIVING, AND HENCE CALLED THE 'LIVING CORPSE.'—(178)

Bhāṣya.

[The *Bhāṣya* on these verses is not available in any of the manuscripts.]

VERSE CLXXIX

IF A SON IS BORN TO A *Shūdra* FROM A FEMALE SLAVE, OR FROM THE FEMALE SLAVE OF A SLAVE, HE SHALL, WHEN PERMITTED, RECEIVE A SHARE; SUCH IS THE SETTLED LAW.—(179)

Bhāṣya.

In the case of a *Shūdra*, the child born from an unmarried woman, or from an unauthorised woman, is a 'son.'

From the text, it is clear that if a slave were to beget a child upon a female slave belonging to another slave, that child would belong to the former, and not to the latter.

'*When permitted*'—by his father—'*shall receive a share*'—equal to that of the 'legitimate' son; when the partition is done during the father's life-time, or when the father has declared to his sons that 'this child is entitled to a share equal to yours.'

If, however, the father does not permit it, what should be done has been declared in another *Smṛti*—'The son born to a *Shūdra* from a female slave shall receive a share according to the wish—[of his father, *i.e.*, as much as his father permits him to take],—*but on the father's death, his brothers shall allot to him a half-share*; [that is, they shall give him half of their own share; if they themselves take two shares each, they shall give him one];—if he has no brothers, he shall take the entire property, except when there are daughter's sons;—*i.e.*, in the absence of 'legitimate' sons, he shall inherit the whole property, but only if there is no daughter's son; if the daughter's son is there, this latter shall be treated like a 'legitimate' son; because, nothing else is mentioned in connection with the daughter's son, and it is he that is presented to the mind by the context.

In the case of the *Brāhmana* and other castes, the sons of slave-girls are entitled to mere subsistence.

Such is the law.—(179)

VERSE CLXXX

THESE ELEVEN, THE 'SOIL-BORN' AND THE REST, AS HERE DESCRIBED, THE WISE ONES CALL 'SUBSTITUTES OF A SON,'—TAKEN WITH A VIEW TO THE FAILURE OF A RELIGIOUS DUTY.—(180)

Bhāṣya.

'*Substitute*'—when the 'principal' is not there; which means that these other sons are to be taken only in the absence of the 'legitimate' son.

In other *Smṛtis*, these sons have been mentioned in a different order; e.g., the 'secretly born' occupies the fifth place in one text, while the sixth in another. But no significance attaches to the order in which these are mentioned; this is what is indicated by the fact that there is no uniform order adopted by the *Smṛtis*. Even though no special significance attaches to the order, yet a distinctly useful purpose is served by it; as we shall explain later on.

These sons are taken '*with a view to*'—on account of—'*the failure of a religious duty*'; i.e., with a view to prevent the transgression of the injunction that 'one shall beget a child.' This injunction is an obligatory one, and as such, must be acted up to by the Householder. The principal method of doing this consists in begetting a 'legitimate' son; but in the absence of that, he may have recourse to the others here described.—(180)

VERSE CLXXXI

THOSE SONS BORN OF THE SEED OF STRANGERS THAT HAVE BEEN DESCRIBED HERE BY THE WAY, BELONG TO HIM FROM WHOSE SEED THEY ARE BORN, AND NOT TO ANY OTHER PERSON.—(181)

Bhāṣya.

Some people explain this to mean the denial of the injunction regarding the other sons, even in the absence of the 'legitimate' son; the sense being that—'those that have been described as substitutes to be appointed in the absence of the legitimate son, should not be appointed, because, being born of the seed of another man, they are the sons of that man, and of none other; *i.e.*, they cannot be the 'sons' of the man that appoints them.'

Thus, the foregoing texts having sanctioned the appointing of such sons, and the present text forbidding it, there should be *option*; and this option shall be restricted to the inheriting of property. So that the 'maiden-born,' the 'one received along with the wife,' the 'son of the remarried woman' and the 'secretly born' son are not entitled to inherit property; the 'adopted' and the rest are entitled to inherit only in the absence of the 'legitimate' son, while the 'maiden-born' and the rest are not to inherit the father's property even in the absence of the 'legitimate' son; they are entitled to food and clothing only, whether the 'legitimate' son is there or not; since it has been declared (in 202 below)—'It is only fair that the wise man should give to all food and clothing according to his means; if he does not give it at all, he would become an outcast.'—(181)

VERSE CLXXXII

AMONG BROTHERS, BORN OF THE SAME FATHER, IF
EVEN ONE HAVE A SON, MANU HAS DECLARED
ALL OF THEM TO BE 'WITH SON,' THROUGH
THAT SON.—(182)

(No Bhāṣya available.)



VERSE CLXXXIII

AMONG ALL THE WIVES OF ONE MAN, IF ONE HAVE A SON, MANU HAS DECLARED ALL OF THEM TO BE 'WITH SON,' THROUGH THAT SON.—(183)

(No Bhāṣya available.)

VERSE CLXXXIV

ON THE FAILURE OF EACH SUPERIOR KIND OF SON, EACH NEXT INFERIOR ONE IS ENTITLED TO INHERITANCE; IF THERE BE SEVERAL OF THE SAME CLASS, ALL SHALL SHARE THE PROPERTY.—(184)

(No Bhāṣya available.)



SECTION (24) — INHERITANCE.

VERSE CLXXXV

SONS ALONE SHALL INHERIT THE FATHER'S PROPERTY, NOT BROTHERS OR FATHERS; BUT THE FATHER AND BROTHERS SHALL INHERIT THE PROPERTY OF ONE WHO DIES SONLESS.—(185)

(No Bhāṣya available.)

VERSE CLXXXVI

TO THREE SHOULD WATER-LIBATION BE OFFERED; TO THREE IS THE CAKE OFFERED; THE FOURTH IS THE GIVER OF THESE OFFERINGS; THERE CAN BE NO FIFTH.—(186)

(No Bhāṣya available.)

VERSE CLXXXVII

THE PROPERTY SHALL ALWAYS DEVOLVE UPON HIM WHO IS NEAREST TO THE (DECEASED) '*Sapinda*'; AFTER THESE EITHER A '*Sakulya*'; OR THE SPIRITUAL PRECEPTOR, OR THE PUPIL.—(187)

(No Bhāṣya.)

VERSE CLXXXVIII

BUT ON THE FAILURE OF ALL, THE PROPERTY SHALL BE TAKEN BY *Brahmanas*, LEARNED IN THE VEDAS, PURE AND SELF-CONTROLLED; IN THIS MANNER THE LAW WOULD NOT BE VIOLATED.—(188)

(No Bhāṣya.)



VERSE CLXXXIX

THE PROPERTY OF THE *Brāhmaṇa* SHOULD NEVER BE TAKEN BY THE KING,—SUCH IS THE LAW; BUT IN THE CASE OF OTHER CASTES, THE KING SHALL TAKE THE PROPERTY, IN THE ABSENCE OF ALL HEIRS.
—(189)

(No Bhāṣya.)

VERSE CXC

IN THE CASE OF A MAN DYING CHILDLESS, IF AN ISSUE IS RAISED FROM A MEMBER OF THE SAME FAMILY, ALL THE PROPERTY THAT THERE MAY BE SHALL BE DELIVERED TO THAT CHILD.—(190)

(No Bhāṣya.)

VERSE CXCI

BUT IF TWO SONS, BORN OF TWO MEN, CONTEND FOR THE PROPERTY IN THE MOTHER'S POSSESSION, EACH SHALL TAKE, TO THE EXCLUSION OF THE OTHER, WHAT BELONGED TO HIS OWN FATHER.—(191)

(No Bhāṣya.)

VERSE CXCH

WHEN THE MOTHER HAS DIED, ALL THE UTERINE BROTHERS AND UTERINE SISTERS SHALL DIVIDE THE MOTHER'S PROPERTY EQUALLY.—(192)

(No Bhāṣya.)

VERSE CXCHH

EVEN TO THE DAUGHTERS OF THOSE DAUGHTERS SOMETHING SHALL BE LOVINGLY GIVEN, AS IS QUITE PROPER, OUT OF THE PROPERTY OF THEIR MATERNAL GRANDMOTHER.—(193)

(No Bhāṣya.)

SECTION (25)—STRĪ-DHANA

VERSE CXCV

(1) WHAT IS GIVEN BEFORE THE FIRE, (2) WHAT IS GIVEN AT THE TIME OF DEPARTURE, (3) WHAT IS GIVEN IN TOKEN OF LOVE, AND WHAT IS RECEIVED FROM (4) THE BROTHER, (5) THE MOTHER AND (6) THE FATHER,—HAS BEEN DECLARED TO BE '*Strī-dhana*' (THE EXCLUSIVE PROPERTY OF THE WOMAN.)
—(194)

(No Bhāṣya.)

VERSE CXCV

ALSO THE GIFT THAT IS SUBSEQUENTLY MADE TO HER BY HER LOVING HUSBAND, SHALL GO TO HER OFFSPRING, IF SHE DIES WHILE HER HUSBAND IS LIVING.
—(195)

(No Bhāṣya.)

VERSE CXCVI

IT IS ORDAINED THAT THE PROPERTY OF WOMEN MARRIED BY THE '*Brāhma*,' THE '*Daiva*,' THE '*Ārṣa*,' THE '*Gāndharva*,' OR THE '*Prājāpatya*' FORM, SHALL GO TO HER HUSBAND ALONE, IF SHE DIES CHILDLESS.—(196)

(No Bhāṣya.)

VERSE CXCVII

BUT THE PROPERTY GIVEN TO A WOMAN ON THE '*Āsura*' OR OTHER (INFERIOR) FORMS OF MARRIAGE,



HAS BEEN HELD TO BELONG TO HER PARENTS, UPON
HER DYING CHILDLESS.--(197)

(No Bhāṣya.)

VERSE CXCVIII

THE PROPERTY THAT MAY HAVE BEEN GIVEN TO A
WOMAN BY HER FATHER-SHALL BE TAKEN BY THE
DAUGHTER OF THE *Brāhmaṇa*-CASTE; OR IT SHALL
BELONG TO THE CHILD OF THAT DAUGHTER.--(198)

(No Bhāṣya.)

VERSE CXCIX

WOMEN SHALL NEVER MAKE A HOARD OUT OF THE
FAMILY-PROPERTY COMMON TO MANY, NOR OUT OF
THEIR OWN PROPERTY, WITHOUT THE HUSBAND'S
PERMISSION.--(199)

(No Bhāṣya.)

VERSE CC

THE ORNAMENT WORN BY THE WOMAN DURING HER
HUSBAND'S LIFE-TIME, HER HEIRS SHALL NOT
DIVIDE; IF THEY DIVIDE IT, THEY BECOME OUT-
CASTS.--(200)

(No Bhāṣya.)



SECTION (26) — DISQUALIFICATIONS TO
INHERITANCE

VERSE CCI

EUNUCHS AND OUTCASTS, THOSE BORN BLIND OR DEAF,
IDIOTS AND THE DUMB, AS WELL AS THOSE DEFICI-
EIENT IN ANY ORGAN, ARE ENTITLED TO NO SHARES.
—(201)

(No Bhāṣya.)

VERSE CCII

BUT IT IS FAIR THAT THE WISE MAN SHALL GIVE
EVEN TO ALL THESE FOOD AND CLOTHING TO THE
BEST OF HIS ABILITY; IF HE DOES NOT GIVE IT AT
ALL, HE BECOMES AN OUTCAST.—(202)

Bhāṣya.

'*All these*'—Eunuchs and the rest.

'*At all*'—throughout life.

'*Food and clothing*'—being necessary for the
keeping of the body; it is implied that he should pro-
vide enough to enable them to engage the necessary
servants and other attendants; specially because in the
case of the blind and the rest, living would be im-
possible without a servant. Those again for whom
marriage is permitted, the provision made should include
that for their wives also.

'*To the best of his ability*'—the food and clothing
provided shall be in accordance with the man's own
wealth.

'*Outcast*'—this is purely declamatory.—(202)



VERSE CCIII

IF THE EUNUCH AND THE REST SHOULD SOMEHOW HAPPEN TO HAVE LONGING FOR A WIFE, THE CHILD OF SUCH OF THEM AS HAVE ISSUE IS ENTITLED TO INHERITANCE.—(203)

Bhāṣya.

'*Longing*'—desire to meet, with a view to sexual intercourse. When there is such longing, the man shall marry. And if there is issue from the marriage, the '*child*'—whether a son or a daughter—'*is entitled to inheritance*'—to a share in the property.

The share to which a daughter is entitled has already been explained.

"In the case of the eunuch of the '*airy*' (infructuous) '*semen*,' the desire for sexual intercourse is there; but, how could he have any '*issue*'?"

It has already been declared above (167) that—'if a son is born to the wife of a dead man, a eunuch, an invalid, etc.' (which shows that such men can have a '*soil-born*' son, and this is possible only if they have wives).

Or, the verse may be taken as indicating that in the case of such men, marriage could only be prompted by lust. If marriage were prompted entirely by religious motives, how could there be any marriage for the men mentioned, being as they are not entitled to the performance of any religious rites? Then again, the person born blind, the lame, and the eunuch of the '*airy semen*,' have been declared to be fit for the Initiatory Ceremony; the lunatics and others of that kind however are not fit for that ceremony; how then can there be any marriage in the case of these latter?

'*And the rest*'—stands for only those already mentioned above (*i.e.*, the *invalid*, etc.); but if the phrase '*and*



the rest were taken as including *all*, then the '*outcast*' also would become included, which, being contrary to Law, would be undesirable.

Or, the present rule may be taken as referring to the case where the man becomes *insane* or otherwise disabled, after he has been 'initiated' and 'married.'

"But the clause '*if they happen to have longing for a wife*'—could not apply to the case of those who are already married."

Not so; '*longing for a wife*' (which has been explained as meaning *desire for sexual intercourse*) is quite possible in the case of married men.

The older writers have found in the present rule something that is usefully applicable to the case of also such marriages as are contracted for purely religious purposes. So that for the eunuch also,—who is entitled to the performance of such rites as are prescribed by *Smṛtis*—it is only right that there be marriage, even in the absence of sexual desire. As for the rites prescribed in *Śhrutis*, it is only one who has already got a son that is entitled to the '*laying of fire*' (which is a necessary accompaniment for those rites); so that the eunuch can never be entitled to them. And it has been already explained what really prompts the marriage in such cases.—
(203)



SECTION (27)—PROPERTY OF BROTHERS, AND THEIR
MUTUAL RELATIONSHIP.

VERSE CCIV

WHATEVER PROPERTY THE ELDEST BROTHER ACQUIRES
AFTER THE DEATH OF THE FATHER, A SHARE OF THAT
SHALL BELONG TO THE YOUNGER BROTHERS, IF
THEY ARE DEVOTED TO LEARNING.—(204)

Bhāṣya.

If the eldest brother acquires more property, either through some hereditary friend, or from the king or his ministers or his priests, or out of the farm, by the employment of special methods,—such property shall be common to all the brothers; and the eldest brother shall not entertain any such notion as that—‘this property, which was not acquired by our father, has been acquired by me, through my own efforts, and hence it is mine only.’

‘*Devoted to learning*’;—this shows that the rule here laid down pertains to mechanics, artisans and others who subsist by learning; such as physicians, dancers, musicians and so forth.—(204)

VERSE CCV

BUT IF ALL OF THEM ARE UNLEARNED, AND THE PROPERTY IS ACQUIRED BY THEIR LABOUR,—THE DIVISION IN THAT CASE SHALL BE EQUAL, THE PROPERTY BEING NOT ANCESTRAL. SUCH IS THE SETTLED RULE.
—(205)

Bhāṣya.

‘*Unlearned*’—i.e., devoted to agriculture, trade, service of the king and so forth.

In this case no attention is to be paid to the larger or smaller amount of property acquired by them. But even so, if some one of them happens to acquire a very large property, that of course is not to be divided among others.

This verse is in reality meant to be prohibitive of the 'preferential share' of the eldest brother.

If the difference in the properties acquired by them is small, the shares shall be equal.

'*The property being not ancestral*';—the addition of this reason clearly indicates that this same rule applies also to the case of the property of a childless person.—(205)

VERSE CCVI

THE GAINS OF LEARNING SHALL BE THE SOLE PROPERTY OF THE MAN BY WHOM THEY HAVE BEEN ACQUIRED; AS ALSO FRIENDLY PRESENTS, MARRIAGE—PRESENTS, AND PRESENTS RECEIVED IN CONNECTION WITH THE 'HONEY—MIXTURE.'—(206)

Bhāṣya.

'*Learning*'—teaching, etc., as also proficiency in an art.

'*Friendly presents*'—Presents received from friends.

'*Marriage—presents*'—in the shape of dowry and the like.

'*In connection with the honey-mixture*'—i.e., in consideration of priestly functions. Though this also is a 'gain of learning,' yet it has been mentioned separately, because it is obtained by means of the special kind of work of officiating at sacrifices.

'*Marriage—presents*'—stand for all that is received from the father-in-law's house. Others explain it to mean any presents that are made to one in connection with his marriage.—(206)



VERSE CCVII

AMONG BROTHERS, IF ANY ONE, BEING QUITE COMPETENT THROUGH HIS OWN PROFESSION, DOES NOT DESIRE THE PROPERTY, HE SHALL BE DEBARRED FROM HIS SHARE, AFTER A LITTLE HAS BEEN GIVEN TO HIM BY WAY OF MAINTENANCE.—(207)

Bhāṣya.

When several brothers are living together, and jointly manage their ancestral property by cultivation and other means, if any one of them does not help in the management,—it is the debarring of such a brother that is declared here.

‘He shall be debarred’—set aside—*‘from his share’*—in the nett profits of the estate. These profits shall not be given to the said brother; he however is not to be debarred from the main ancestral estate. But the profits also shall not be wholly taken away from him; a part of his share of the profits shall be taken by the others, in exchange for their own labour, and the remainder shall be given to him *‘by way of maintenance’*.

Or *‘nirbhājyaḥ’* may mean *‘shall be separated,’* *‘not allowed to live jointly.’* Because, it is just possible that after some time he may acquire more property and become entitled to an equal share (?) In such a case what the allotment of shares shall be has been indicated by Nārada, whose declaration shows that the man is to have a larger share in the property named, and only a small share in what is not so named. (?)—(207)

VERSE CCVIII

IF ONE OF THEM ACQUIRES SOMETHING BY HIS OWN EFFORT, WITHOUT INTERFERING WITH THE PATRIMONY,—THAT PROPERTY, BEING ACQUIRED BY HIS

OWN LABOUR, HE NEED NOT GIVE TO OTHERS, UNLESS HE HIMSELF WISHES IT.—(208)

Bhāṣya.

It has been already declared that a man need not give what he acquires by his learning; this verse lays down that he need not give what he himself acquires by agriculture and other means.

“This verse alone would have been enough: ‘the man need not give, unless he wishes it, what he acquires by his own labour’; what was the need for the other verse making special mention of the ‘gains of learning’?.

The answer to this is that there is no individual ‘effort’ or ‘labour’ involved in the case of ‘friendly presents,’ ‘marriage presents,’ and the like; hence it was necessary to have a distinct verse referring to these.—(208)

VERSE CCIX

IF THE FATHER RECOVERS A LOST ANCESTRAL PROPERTY, HE SHALL NOT, UNLESS HE SO WISHES, SHARE IT WITH HIS SONS,—BEING, AS IT IS HIS SELF-ACQUIRED PROPERTY.—(209)

Bhāṣya.

If in addition to what he has inherited, the father recovers such ancestral property as had become lost, he shall not, unless he wishes it, share it with his sons, even after these latter have attained their majority.

“But what would be the occasion for partition among sons while the father is still alive?”

The answer to this is that such an occasion would arise when the father himself proceeds to make the division among his sons. This is what has been thus declared (by *Gautama*, 28.2)—‘When their mother has ceased to menstruate, and when the father, though living, desires it, the sons shall divide the property’;—and



again 'When the father has ceased to have any longings, and when he has ceased to have intercourse with his wife' (*Nārada* 13. 3).

As a matter of fact, if there were no such restrictions, the son would become entitled to their grandfather's property as soon as they were born; as it has been declared that—'over the property movable or immovable, that has been left by the grandfather, both the father and the son have the same right.' Having this right, all the sons are entitled to equal shares in their grandfather's property; since *shares* only follow the *right*.

The father, after the birth of his son, shall not invest his ancestral property in mortgages or purchases; but using it for the proper maintenance of his family however has been permitted. In actual practice, even though, under the circumstances, the sons have a right over the ancestral property, yet from the deprecatory assertion—'the sons who divide the property against their father's wish are to be deprecated'—it follows that the sons who force the partition on their father incur a sin. Such as even though one may acquire property by receiving constant gifts, yet the act of acquiring such property is blameworthy. Similarly, even though the property (thus shared with the unwilling father) is the hereditary property of the sons, yet it is open to censure. For this reason, so long as they have any other means, the sons should never ask their father for a partition; as such asking would be immoral.

As a matter of fact, even in the case of the father's self-acquired property, he himself divides it among his sons as soon as they have attained their majority and he finds them duly qualified. It has also been declared that—'when the father has reached old age, he shall himself divide the property among his sons, allotting to the eldest a preferential share, and equal shares to the rest,' (*Nārada*, 13. 4). This, however, does not apply to the property that may have

been left by the grandfather ; because, out of that, the father has no power to allot any 'preferential share'—the right of both parties over it being equal.

As for the declaration—'unequal division has been declared to be legal, when made by the father' (*Yājñavalkya*, 2. 116),—this has been taken to apply to a certain extent to the grandfather's property also. In a case where there are no two full shares, there would be an exception, in the case of self-acquired property. (?)—(209)

VERSE CCX

IF BROTHERS, LIVING TOGETHER, AFTER HAVING DIVIDED ONCE, HAPPEN TO MAKE A SECOND PARTITION, THE DIVISION IN THAT CASE SHALL BE EQUAL; IN SUCH CASES THERE IS NO 'PRIMOGENITURE.'—(210)

Bhāṣya.

The meaning of the verse is quite clear. It is meant to forbid the 'preferential share' which would appear to be the standing rule in connection with all partition; specially in view of what has been said above (205) regarding 'the property being not acquired by the father' (205). It is only out of all kinds of property *acquired by the father* that there is to be a 'preferential share.' In the present case, however, the property might in a sense be regarded as 'acquired by the father,' and hence, the possibility of the 'preferential share,'—which, therefore, has had to be expressly denied.—(210)

VERSE CCXI

IF THE ELDEST OR THE YOUNGEST OF THE BROTHERS SHOULD BE DEPRIVED OF HIS SHARES,—OR IF EITHER



OF THEM DIES,—HIS SHARE DOES NOT BECOME LOST.—(211)

Bhāṣya.

If among the brothers, '*the eldest or the youngest*' brother '*should be deprived of his share*'—by being found to be debarred on account of having become an out-cast or some such disability,—or '*if he dies*'—'*his share does not become lost*';—how this share shall be disposed of is explained in the following verse.—(211)

VERSE CCXII

HIS UTERINE BROTHERS, COMING TOGETHER, SHALL DIVIDE IT EQUALLY ; AS ALSO THE UNITED BROTHERS AND CONSANGUINEOUS SISTERS.—(212)

Bhāṣya or (212).

The property shall be taken by those '*uterine brothers*' who may have been '*united*' with him in property ;— also '*consanguineous sisters*'—*i.e.*, those that are unmarried ; it is only these that are called '*consanguineous, sanābhi*' (which is the term used in the text) ; those that are married go over to the '*family*' of their husbands, and hence no longer remain '*consanguineous*' to their brothers.

'*And those brothers that are united*'.—The particle *cha*, 'and,' includes the '*sisters*' also.

This should not be taken to mean that the property shall be taken 'by the uterine brothers, and also *by such brothers as may be united*.' As in that case those others also who are *not uterine*, but *united*, would be entitled to a share in the property. Among the *uterine* brothers, there may be some that are *united* and others that are *not united* ; and where there are *uterine* brothers, *united* and *not united*, it is these that would divide the property among themselves.

Nor would this militate against the following text—
 ‘A brother born of another mother, even though united, shall not take the property of his half-brother; while a uterine brother, even though not united, shall take it, but not the brother born of a different mother.’ (*Yājñavalkya*, 2.139). The meaning of this is as follows:—‘Even though united, the half-brother does not receive the property, if a uterine brother is there, even though not united; while among the uterine brothers, he alone shall receive it who is *united*, and not any other, notwithstanding his uterine character.’ This is what has been declared in the text—‘Of one who is united with another brother, this united brother shall receive the property; and the uterine brother that of another uterine brother.’ (*Yājñavalkya*, 2.138). When, however, there are no *uterine* brothers at all, then the property shall be taken by such half-brothers as may be united, and none others. Among uterine brothers, even when separated, there is always some sort of ‘proximity,’ due to their living near one another; so that the function of the *uterine* brother would, in a general way, be accomplished by even those that may have separated. Hence it is that, among such uterine brothers also as may have separated, if one dies, his property shall go to the other uterine brother, whose share in the property can never totally disappear.

It would not be right to argue against this that—“at the time in question the share of the separated brother can never come up at all, and hence there is nothing that would disappear or not disappear.” Since it has been declared that ‘the son becomes the owner of the property as soon as he is born’ (so that the ownership of all brothers over the ancestral property is innate in them);—but so long as the parents are alive, they have no mastery over it’ (9.104); which shows that all the sons acquire ownership immediately after the father’s death.—(212)



VERSE CCXIII

IF AN ELDEST BROTHER, THROUGH AVARICE, DEFRAUDS THE YOUNGER ONES, HE SHALL LOSE HIS 'SENIORITY' AND HIS SHARE, AND SHALL ALSO BE PUNISHED BY THE KING.—(213)

Bhāṣya.

'*Defrauding*' consists in cheating them out of their share in the property, as also that of the honours etc., that may be conferred by the king.

'*Loses his seniority*';—i.e., is to be treated as an ordinary kinsmen (as laid down in 110). This does not preclude all that is due to him as the eldest brother.

He loses also his '*share*'—i.e., the 'preferential share' due to him as the eldest brother.

'*Punished.*'—As the special form of punishment to be inflicted has not been specified, he shall be reprimanded or censured or fined, in accordance with the exact nature of his offence.—(213)

VERSE CCXIV

ALL BROTHERS ADDICTED TO EVIL DEEDS ARE UNWORTHY OF HAVING PROPERTY; AND THE ELDER BROTHER SHALL NOT HAVE A SEPARATE HOARD WITHOUT MAKING A CONTRIBUTION TO HIS YOUNGER BROTHERS.—(214)

Bhāṣya.

'*Addicted to evil deeds*'—doing such acts as are forbidden.

When all the brothers are working for the benefit of the whole family, if the eldest brother surreptitiously takes possession of and invests the property, under the impression that he would show them the 'principal' if they ask for it,—then he should be made to hand over to all the brothers, the principal along with the interest that may have accrued to it. But if at the very outset, he lays the whole property before

his brothers and says openly—‘Here is the property, each of you take your share, I shall separate mine and earn interest on it,’—then they are not entitled to the interest thus earned; which belongs exclusively to the eldest brother, and forms his ‘special hoard.’ —(214)

VERSE CCXV

AMONG UNDIVIDED BROTHERS, IF THERE IS A JOINT CONCERN,—THE FATHER SHALL, ON NO ACCOUNT, MAKE AN UNEQUAL DIVISION AMONG HIS SONS.—(215)

Bhāṣya.

It has been said (*yājñavalkya*, 2.116) that—‘an unequal division has been declared to be legal, if made by the father’; —it is this that is denied here.

‘*Joint concern*,’—i.e., when all of them together earn something—one by agriculture, another by receiving gifts, another by service, while another takes care of what is earned by others, and invests them and uses them to the advantage of all; —all this shall be brought together and divided equally; and no excessive share shall be given to any one by the father, through his love for him.—(215)

VERSE CCXVI

IF A SON IS BORN AFTER PARTITION, HE SHALL RECEIVE THE PROPERTY OF THE FATHER ALONE; OR IF ANY OTHER SONS BE REUNITED, HE WOULD SHARE IT WITH THEM.—(216)

Bhāṣya.

After the partition has been made,—in which the father has taken two shares—if a son happens to be born, he shall receive these two shares, during the father’s life-time, if the father wishes it so, or after the death of the father, and



his brothers shall not complain—‘why should he have two shares?’ If, however, such is not father’s wish, then he shall be assigned by the others a share equal to their own.

If some of the sons become re-united with the father, after the partition has been made, then the father’s share shall go to them; and the additional property arising therefrom shall be assigned by them as the share of the other brothers. This property thus accrues to the son united with the father; also after the father’s death, he receives his share out of that same property (?),—in accordance with what has been said above under 210.

As regards the sisters, they are not entitled to any share until they have borne a child,—as declared by Vashīṣṭha.—
(216)



SECTION (28)—SON'S PROPERTY INHERITED BY
THE MOTHER.

VERSE CCXVII

THE PROPERTY OF A CHILDLESS SON SHALL BE INHERITED BY HIS MOTHER; AND IF THE MOTHER ALSO IS DEAD, HIS FATHER'S MOTHER SHALL RECEIVE THAT PROPERTY.—(217)

Bhāṣya.

The meaning of this verse has been already explained (under 185).—(217)

VERSE CCXVIII

AFTER ALL THE ASSETS AND LIABILITIES HAVE BEEN DULY DISTRIBUTED, IF SOMETHING BE DISCOVERED AFTERWARDS,—ALL THIS MUST BE DIVIDED EQUALLY.—(218)

Bhāṣya.

Through ignorance, after the property, more or less, has been divided,—if something is discovered, it shall be equally divided; and in what is discovered after the division, there shall be no 'preferential share' for the eldest brother.—(218)



SECTION (29)—IMPARTIBLE PROPERTY.

VERSE CCXIX

A CLOTH, A CONVEYANCE, AN ORNAMENT, COOKED FOOD, WATER, WOMEN, WHAT IS CONDUCTIVE TO WELFARE AND PASTURE-GROUND,—THESE THEY DECLARE TO BE IMPARTIBLE.—(219)

Bhāṣya.

The singular number in 'cloth,' 'conveyance,' 'ornament,' and 'cooked food' is meant to be significant.

'*Conveyance*'—vehicle; such as a chariot, a cart and so forth.

'*Ornament*'—the ring and so forth.

'*Cloth*'—of ordinary quality, not what is exceptionally valuable.

'*Water*'—well, tank and so forth.

'*Women*'—female slaves.

'*Yogakṣēman*'—what is conducive ('*kṣēma*') to welfare ('*yoga*'); e.g., experienced ministers, priests, councillors and so forth. These are helpful in guarding the household against thieves and others.

In another *Smṛti* it is found that 'there is no division of the dwelling-house.'

'*Pasture-ground*'—where the cattle graze.

From what is declared here it would follow that it is not absolutely true that there is nothing wrong in dividing what has been left by the father. But this denial is of that kind of which a transgression involves no sin. (?)—(219)



SECTION (30)—GAMBLING

VERSE CCXX

THUS HAS BEEN EXPOUNDED TO YOU PARTITION, AND THE APPOINTING OF THE 'SOIL-BORN' AND OTHER KINDS OF SONS IN DUE ORDER. NOW LEARN THE LAW RELATING TO GAMBLING.—(220)

(No Bhāṣya)

VERSE CCXXI

THE KING SHALL EXCLUDE FROM HIS REALM GAMBLING AND BETTING; THESE TWO EVILS BRING ABOUT THE DESTRUCTION OF THE KINGDOMS OF PRINCES.—(221)

(No Bhāṣya)

VERSE CCXXII

GAMBLING AND BETTING ARE OPEN THEFT; THE KING SHALL ALWAYS BE CAREFUL IN SUPPRESSING THEM.—(222)

(No Bhāṣya)

VERSE CCXXIII

THAT WHICH IS DONE THROUGH INANIMATE THINGS IS CALLED 'GAMBLING'; WHILE WHAT IS DONE THROUGH ANIMATE THINGS IS TO BE KNOWN AS 'BETTING.'—(223)

(No Bāṣhya)



VERSE CCXXIV

HE WHO EITHER DOES THE GAMBLING OR BETTING HIMSELF, OR HELPS OTHERS TO DO THEM,—ALL THESE THE KING SHALL STRIKE; AS ALSO THOSE SHUDRAS WHO ASSUME THE GUISE OF TWICE-BORN MEN.—(224)

(No Bhāṣya)

VERSE CCXXV

GAMBLERS, DANCERS, CRUEL MEN, MEN BELONGING TO HERETICAL SECTS, MEN ADDICTED TO EVIL DEEDS, DEALERS IN WINE,—THESE THE KING SHALL INSTANTLY BANISH FROM HIS TOWN.—(225)

(No Bhāṣya)

VERSE CCXXVI

THESE DISGUISED THIEVES, LIVING IN THE KING'S REALM, CONSTANTLY HARASS THE WELL-BEHAVED PEOPLE BY THEIR EVIL DEEDS.—(226)

(No Bhāṣya)

VERSE CCXXVII

[IN FORMER CYCLES GAMBLING HAS BEEN SEEN TO BE THE GREAT SOURCE OF ENMITY; THE WISE MAN SHALL THEREFORE NOT HAVE RECOURSE TO GAMBLING, EVEN IN JOKE.—(227)

(No Bhāṣya)

VERSE CCXXVIII

IF A MAN HAS RECOURSE, EITHER OPENLY OR SECRETLY, TO THIS (VICE), THE FORM OF PUNISHMENT IN-

FLICTED UPON HIM SHALL BE IN ACCORDANCE WITH
THE KING'S DISCRETION.—(228)

Bhāṣya

The term '*vikalpaka*' means *various forms*.

It depends entirely upon the King's wish. (?)

From the words 'learn the law relating to gambling'
(221) onwards, there are only two or three verses that are
injunctive, the others are purely declamatory.—(228)

SECTION (32)—MISCELLANEOUS PUNISHMENTS

VERSE CCXXIX

THE *Kṣattriya*, THE *Vaishya* AND THE *Shūdra*, WHEN UNABLE TO PAY A FINE, SHALL DISCHARGE THE LIABILITY BY LABOUR; THE *Brāhmaṇa* MAY PAY IT BY INSTALMENTS.—(229)

Bhāṣya

The *Kṣattriya* and the rest, when devoid of property, should not be harassed by imprisonment; they should make good the amount of fine due to the king 'by labour',—such work as may be in keeping with the character of the man, and profitable to the king.

The *Brāhmaṇa* shall be made to pay it 'by instalments'—so that his family may not suffer from want. Imprisonment, beating and such chastisements are forbidden for the *Brāhmaṇa*.

What has been laid down before pertains to the repayment of the debt to the debtor, while the present verse pertains to the payment of fines. There is thus no repetition.—(229)

VERSE CCXXX

ON WOMEN, BOYS, MEN OUT OF THEIR MINDS, THE OLD, THE POOR AND THE SICK, THE KING SHALL INFLICT PUNISHMENT WITH CREEPERS, BARKS, ROPES AND SO FORTH.—(230)

Bhāṣya

'Punishment'.—The persons meant here are such poor people as are incapable of doing labour. As these would

stand on the same footing as the 'great sinners', they shall be chastised with the creeper etc.

'*Shiphā*' is *creeper*, and '*vidala*'—*tree-bark*.—(230)

VERSE CCXXXI

IF THE OFFICERS DEPUTED TO LOOK AFTER THE BUSINESS OF SUITORS SHOULD, FIRED BY THE HEAT OF WEALTH, HAMPER THAT BUSINESS,—THESE THE KING SHALL RENDER PENNILESS.—(231)

Bhāṣya

Those officers who have been '*deputed*'—appointed—'*to look after the business*'—investigation of cases and so forth—'*of suitors*',—as representatives of the King;—if these, '*fired by the heat of wealth*'—*i.e.* having received bribes from either party—'*hamper that business*',—'*these the king shall render penniless*',—*i.e.* he shall confiscate all their property.

Though for the delinquency of officers a distinct punishment is going to be prescribed (in 234), yet what is here laid down refers to the case of repeated offences.

Other officers also—such as the commander of an army and the like—when ordered against a certain party, take bribes from him, and do not proceed to capture him;—these also shall be met with the same punishment.

Others read '*aniyukta*' (for '*niyukta*'); and in that case the meaning is—'If some persons though not appointed to any office, proceed to help one or the other party,—either on account of their considering themselves the king's favourites, or of their being very rich,—and thus prevent justice being done to the other party,—they shall be punished as here prescribed.'



In this case, the epithet '*fired by the heat of wealth*' (i. e. bribed) would not have any significance; not '*appointed*' being the most significant qualification in this case.—
(231)

VERSE CCXXXII

FORGERS OF ROYAL PROCLAMATIONS, SOWERS OF DISAFFECTION AMONG THE PEOPLE, THE SLAYERS OF WOMEN, INFANTS AND *Brāhmaṇas*, AND THOSE SERVING HIS ENEMIES,—THE KING SHALL PUT TO DEATH.
—(232)

Bhāṣya.

'*Forgers of Royal proclamations*'—give out as done by the king what is not done by him. '*Proclamations*'—royal edicts, such orders as 'No one shall eat at the house of such and such a person', 'such and such a favour has been conferred upon this man', 'such is the law that has been laid down by the king', and so forth—are always entered upon a piece of paper, written by the hand of the royal scribe, and are then known as the 'Royal proclamation'. And people may forge these—i. e., misrepresent them.

'*Sowers of disaffection among the people*',—who spread disaffection among such of the people as may have some grievance or may be too greedy and so forth;—also the slayers of woman and infants and of *Brāhmaṇas*;—'those that serve his enemies'—secretly carrying on visits to them.
—(232)

VERSE CCXXXIII

WHATEVER HAS BEEN FINALLY SETTLED AND WHATEVER PUNISHMENT HAS BEEN INFLICTED,—HE SHALL ACCEPT AS LAWFULLY DONE, AND SHALL NOT ANNUL IT—(233)

Bhāṣya.

Whenever a transaction in the King's Court has been '*finally settled*',—the root '*tīr*' (in '*tīrtam*') denoting *completion*,—*i.e.* definitely concluded,—not only verbally, but duly recorded;—as also 'when a punishment has been inflicted';—all this the king shall '*accept as lawfully done, and shall not annul it*';—except in the case of the doubling of a fine,—which is thus recommended—'the king shall revise the case with a view to inflicting a double fine'.—(233)

VERSE CCXXXIV

IF THE COUNCILLORS OR THE JUDGE DECIDE A CASE UNFAIRLY, THAT CASE THE KING HIMSELF SHALL REVISE AND FINE THEM ONE THOUSAND.—(234)

Bhāṣya.

The confiscation of property laid down above (under 231) was in connection with the taking of bribes; the present text deals with the miscarriage of justice through ignorance or such other causes.

'*Councillors*'—representatives of the King.

'*He shall fine him one thousand*';—the sentence refers to the whole set of officers; just as by the sentence 'the Gargas shall be fined one hundred', the fine falls upon the whole community of 'Gargas'.—(234)

— — —



SECTION (33)—MORTAL SINS

VERSE CCXXXV

THE SLAYER OF A *Brāhmaṇa*, THE DRINKER OF WINE,
THE THIEF AND THE VIOLATOR OF THE PRECEPTOR'S BED,—ALL THESE INDIVIDUALLY SHOULD BE
KNOWN AS MEN WHO HAVE COMMITTED HEINOUS
CRIMES.—(235)

Bhāṣya.

'*Drinker of wine*'—is a 'heinous criminal' only
when he is a *Brāhmaṇa*.

'*Thief*'—i.e., one who has stolen gold from a *Brāhmaṇa*.

This is a reiteration of what has been already said
before, made with a view to what follows.—(235)

VERSE CCXXXVI

EVEN ON ALL THESE FOUR, IF THEY DO NOT PERFORM
THE EXPIATORY PENANCE, THE KING SHALL INFLICT
CORPORAL PUNISHMENT ALONG WITH FINE, IN
ACCORDANCE WITH THE LAW.—(236)

Bhāṣya.

Even though the *Brāhmaṇa* alone becomes a heinous
criminal by drinking wine, yet even for him there is to
be corporal punishment,—though no corporal punishment
has been laid down for the *Brāhmaṇa* before this. This
follows from the force laid upon the term '*four*' in this
verse.

Others, however, have explained this ‘*corporal punishment*’ as standing for *branding*; and this would be done in the case of the Brāhmaṇa also.

Others again explain the particle ‘*api*’ as ‘*even*,’ and declare that the penalty here laid down is meant for all the *five* kinds of ‘heinous criminals;’ the construction being that—‘this punishment is to be inflicted on *even* all these four, as also on the *fifth*, in the shape of the person associating with these four.’

For the crime of ‘*Brāhmaṇa-slaying*,’ ‘corporal punishment’ has been already laid down above,—in the rule that—‘the king shall put to death those who kill a woman, an infant or a Brāhmaṇa.’

From what follows in the next verse it is clear that ‘corporal punishment’ here stands for *branding*.

‘*According to the law*,’—‘he shall make due discrimination regarding the greater or less seriousness of the crime.’
 —(236)

VERSE CCXXXVII

FOR VIOLATING THE PRECEPTOR’S BED THE SIGN OF THE FEMALE ORGAN SHALL BE BRANDED; FOR DRINKING WINE THAT OF THE TAVERN; FOR THEFT THAT OF THE DOG’S FOOT; AND FOR KILLING A *Brāhmaṇa* THAT OF A HEADLESS MAN.—(237)

Bhāṣya.

From the prohibition of branding the forehead (in certain cases, contained in 240)—‘People shall not be branded on the forehead,’—it follows that the branding here laid down is to be done on the forehead.—(237)

VERSE CCXXXVIII

DEBARRED FROM ENTERTAINMENTS, DEBARRED FROM SACRIFICES, DEBARRED FROM EDUCATION, EXCLUDED



FROM ALL RELIGIOUS ACTS, THESE SHALL WANDER
OVER THE EARTH; ABJECT AND DESPISED.—(238)

Bhāṣya.

Exclusion from 'all religious acts' including exclusion from 'entertainments' and the rest also, these latter have been separately mentioned, with a view to indicate the seriousness of the offence.

'*Entertainments*'—dinner parties, musical parties and so forth.

'*Sacrifices*'—i.e., helping them to perform sacrifices.

Similarly with 'education.'

If the reading is '*asampāthyavigarhitāḥ*'—the compound would be '*asampāthya* and *avigarhita*,' 'excluded from education and undespised.'

'*Abject*'—i.e., even though possessed of wealth, they shall live on alms, and shall be clothed in rags and so forth (?).
—(238)

VERSE CCXXXIX

BEING BRANDED, THESE SHALL BE ABANDONED BY
KINSMEN AND RELATIONS, DEPRIVED OF ALL SYM-
PATHY AND GREETINGS;—SUCH IS THE TEACHING
OF MANU.—(239)

Bhāṣya.

'*Branded*.'—This implies that branding must be done.

No sympathy shall be extended to them, even when struck by disease or other calamities. Even though they be endowed with seniority and other qualifications, they shall not be received with greetings or any marks of honour or welcome.

That such is the law is to be directly learnt from the words of the text itself.—(239)

VERSE CCXL

BUT MEN OF THE SENIOR CASTES, WHO PERFORM THE EXPIATORY PENANCES, AS PRESCRIBED, SHALL NOT BE BRANDED ON THE FOREHEAD BY THE KING ; THEY SHALL BE MADE TO PAY THE HIGHEST AMERCEMENT.
 —(240)

Bhāṣya.

‘*Senior castes*’—All castes other than *Shūdras*. If they perform the prescribed expiatory penances, there is to be no branding ; and their punishment shall consist of the ‘highest amercement ;’ that is they should be made to pay a thousand ‘*paṇas*.’—(240)

VERSE CCXLI

FOR OFFENCES COMMITTED BY THE *Brāhmaṇa* THE MIDDLE-MOST AMERCEMENT SHALL BE INFLICTED ON HIM ; OR HE SHALL BE BANISHED FROM THE KINGDOM, ALONG WITH HIS GOODS AND CHATTELS.—(241)

Bhāṣya.

The condition of expiatory penances being performed does not apply to what is asserted here.

In the case of all these offences—of *Brāhmaṇa*-slaughter and the rest—the *Brāhmaṇa* shall be fined ‘the middle-most amercement.’

The qualification ‘*unintentionally*’ of the next verse has to be construed with this also.

After he has paid the fine, he should be made to perform the expiatory penances.

‘*Along with his goods and chattels*.’—This is a special favour to be granted in the case of highly qualified *Brāhmaṇas*.

In the case of the offence being *unintentional*, he may not be banished.—(241)



VERSE CCXLII

BUT OTHERS WHO HAVE COMMITTED THESE OFFENCES UNINTENTIONALLY, DESERVE TO HAVE THE ENTIRE PROPERTY CONFISCATED ; AND DEATH, IN THE CASE OF THEIR BEING INTENTIONAL.—(242)

Bhāṣya.

'Others'—the *Kṣatriyas* and other castes,—when they have committed '*these offences*'—the most heinous crimes,— '*unintentionally*'—without actually wishing it,—should have all their property confiscated.

Some people hold that this is another punishment laid down for those who have performed the expiatory penances,—alternative to the one prescribed in the foregoing verse.

In the case of these crimes being committed '*intentionally*,' death has been prescribed as the penalty.

In the case of the *Shūdra*, if the crime has been committed intentionally, there is to be 'branding' and 'confiscation of the whole property'; and if it has been done intentionally, he shall be put to death.—(242)

SECTION (33)—DISPOSAL OF THE FINE REALISED
FROM THE WORST OFFENDERS.

VERSE CCXLIII

THE RIGHTEOUS KING SHALL NOT APPROPRIATE THE
PROPERTY OF THE MAN GUILTY OF A HEINOUS
CRIME; IF, THROUGH GREED, HE TAKES IT, HE
BECOMES TAINTED WITH THAT GUILT.—(243)

Bhāṣya.

“It has been laid down that fines constitute one of the
sources of income for the King; why then should it now be
declared that he shall not appropriate such property?”

This has been explained under the text ‘*Rājanirdhūta-
dandah etc., etc.*’—(243)

VERSE CCXLIV

HE SHALL DEPOSIT SUCH PROPERTY IN THE WATER AND
OFFER IT TO *Varuṇa*, OR BESTOW IT ON A *Brāhmaṇa*
ENDOWED WITH LEARNING AND CHARACTER.—(244)

Bhāṣya.

‘*This to Varuṇa*’—thinking thus in his mind, he shall
deposit the fine in water; or bestow it upon a *Brāhmaṇa*
equipped with learning and character.—(244)

VERSE CCXLV

Varuṇa IS THE LORD OF PUNISHMENT, AS HE HOLDS
THE SCEPTRE OVER THE KING; WHILE THE
Brāhmaṇa, WELL VERSED IN THE VEDA, IS THE LORD
OF THE WHOLE WORLD.—(245)

Bhāṣya.

This is a hortatory supplement to the foregoing injunction of the disposal of the fine.

Varuṇa is the lord of the fine imposed upon the worst offenders ; since '*he holds the sceptre over*'—is the leader, lord of,—Kings ; similarly the *Brāhmaṇa* is the lord of their property. Consequently such property shall not be appropriated by the king.—(245)

VERSE CCXLVI-CCXLVII

IN A COUNTRY WHERE THE KING AVOIDS THE INCOME OF WEALTH FROM SINNERS, MEN ARE, IN TIME, BORN TO BE LONG-LIVED—(246) THE CROPS OF HUSBANDMEN GROW, ACCORDING AS THEY ARE SOWN ; CHILDREN DO NOT DIE, AND NO MIS-SHAPED CHILD IS BORN.—(247)

Bhāṣya.

These declamatory assertions are well-known.

'*Are in time born*' ;—what is meant is also the present birth *i.e.*, persons already born, or going to be born.

'*Mis-shaped*'—devoid of eyes, or of ears and so forth—(246-247)

VERSE CCXLVIII

IF A LOW-BORN PERSON INTENTIONALLY HARASSES A *Brāhmaṇa*, THE KING SHALL STRIKE HIM WITH VARIOUS TERROR-STRIKING FORMS OF CORPORAL PUNISHMENT.—(248)

Bhāṣya.

'*Low-born person*'—*Shūdra*.

'*Harassing*' consists in taking away the property, etc.

The various forms of corporal punishment such as *beheading*, *branding*, *striking with the sword* and so forth,—all of which are '*terror striking*,' sources of long suffering—(248)

SECTION (34)—PUNISHMENT OF THE NOT GUILTY AND ACQUITTING OF THE GUILTY

VERSE CCXLIX

THE SIN INCURRED BY THE KING IN STRIKING ONE
WHO DOES NOT DESERVE IT, IS THE SAME AS THAT
IN ACQUITTING ONE WHO DESERVES TO BE STRUCK;
BUT MERIT ACCRUES TO HIM IF HE CHASTISES JUSTLY.
—(249)

Bhāṣya.

The sin incurred by the king in punishing the innocent is equal to that incurred in acquitting the guilty,—in connection with the above-mentioned crimes.

The king receives taxes for fulfilling certain duties; if he fails to do these, he incurs sin; but the due fulfilment of these does not necessarily involve spiritual merit. As for the declaration—‘*merit accrues to him if he chastises justly*’,—which speaks of merit accruing—all this is merely commendatory of the injunction regarding the fulfilment of one’s duties.

The teaching regarding ‘punishments’ is for the purpose of preventing crime; hence they shall be inflicted, according to law, by various methods of corporal punishment. The declarations made in this connection pertain to the accomplishment of all such kingly duties as are conducive to temporal ends; e.g. the punishing of the ‘haughty’, the ‘warlike’ and so forth. And as the teaching pertains to visible ends, it is not the actual *death-penalty* that shall be inflicted in all cases. Hence if the intended chastisement is secured by other means, there would be nothing wrong in this.—(249)



VERSE CCL

THIS HAS BEEN EXPOUNDED AT LENGTH-INVESTIGATION
OF SUITS BETWEEN TWO LITIGANTS, BEARING UPON
THE EIGHTEEN TITLES OF DISPUTE.—(250)

Bhāṣya.

This verse sums up the entire section on *Law-suits*.
—(250)

SECTION (35)—CONSOLIDATION AND SETTLEMENT
OF THE KINGDOM

VERSE CCLI

THE KING THUS DULY DOING HIS LAWFUL WORK, MAY
SEEK TO ACQUIRE TRACTS OF LAND NOT ALREADY
ACQUIRED, AND SETTLE THOSE ALREADY ACQUIRED.
—(251)

Bhāṣya.

*'He may seek to acquire what he has not already
acquired',—i.e., he shall not remain contented with what he
has already got.—(251)*

VERSE CCLII

HAVING DULY SETTLED HIS KINGDOM, AND HAVING
BUILT FORTS ACCORDING TO THE INSTITUTES, HE
SHALL APPLY HIS BEST EFFORTS TO THE 'REMOVAL OF
THORNS.'—(252)

Bhāṣya.

'Settlement of the country' and 'building of forts' as
described under Discourse VII.;—having done these, the king
shall remove the 'thorns'; as this also is conducive to the
'settlement' of the Kingdom.

The term 'thorn' is applied to robbers and others who
are a source of suffering to the people.—(252)

VERSE CCLIII

KINGS, INTENT UPON PROTECTING THE PEOPLE, GO TO
HEAVEN, BY PROTECTING THE WELL-BEHAVED AND
BY REMOVING THE 'THORNS'—(253)

*Bhāṣya.*

What has been indicated in the foregoing verse is now explained.

'*The well-behaved*'—those whose behaviour is right, —i.e., consists in doing what is sanctioned by the Scriptures and avoiding what is forbidden by them. The compound belongs to the '*madhyamapadalopi*'—elliptical—class. Thus are included all Vedic Scholars and the poor and destitute, who pay no taxes. So that by extending his protection over these men, it is only right that the king should go to heaven. In the case of other people, since the right of protection is purchased by the payment of taxes, the king incurs sin by neglecting it; as is going to be declared in the next verse 'he falls off from heaven'. By repaying with protection what he receives in the form of taxes, the king is only saved from sin, and he does not obtain heaven.

Or the declaration regarding heaven may be based upon the due fulfilment of his duties, as already mentioned above.

Others have held the following opinion:—The declaration regarding the king going to heaven is purely declamatory. In fact the protecting of those who pay no taxes is also included in the king's 'functions', since those people also form part of his '*kingdom*', the protecting whereof forms the chief function of the king. [So that for doing this also there can be no reward in the shape of Heaven]. Just as artisans, who ply their trade for a living, work for the king for one day during the month;—when they are made by the king to do his work, in lieu of his taxes; in the same manner the king also, who carries on his work for a living, and engages himself in protecting the people, is made by the Scriptures to protect the well-behaved people, as an obligatory duty. Again the man who has laid the fires, prompted by the declaration of rewards, engages

himself in obligatory rites, but not with a view to obtaining Heaven or any such rewards,—for the simple reason that such rites have not been prescribed as bringing about rewards; and yet they are duly performed. Exactly similar would be the case with the King's action in protecting his whole Kingdom.

Thus all the declarations of rewards that there are, are to be regarded as purely declamatory;—as has been declared by Viṣṇusvāmin (?)—(253)

VERSE CCLIV

IF A KING DOES NOT REPRESS THIEVES AND YET RECEIVES HIS TAXES, HIS KINGDOM BECOMES PERTURBED AND HE FALLS OFF FROM HEAVEN.—(254)

Bhāṣya.

'*Repression*';—the punishment of thieves and others according to rules laid down in the Scriptures—by the inflicting of corporal and other forms of punishment;—without which the protection of the people is not possible.

Hence if the king receives taxes and yet fights shy of repressing thieves, he incurs the two dangers—in this world, trouble in his kingdom, and in the next, the loss of Heaven. It is only right that blame should attach to the King who receives taxes and yet does not repay it by service.—(254)

VERSE CCLV

IF HOWEVER HIS KINGDOM, RESTING ON THE STRENGTH OF HIS ARMS, IS SECURE FROM DANGER,—IT FLOURISHES CONSTANTLY, LIKE A WELL-WATERED TREE.—(255)

Bhāṣya.

What is already known is reiterated here, with reference to thieves.—(255)



SECTION (36)—WHO ARE 'THORNS'?

VERSE CCLVI

THE SPY-EYED KING SHALL DISCOVER THE TWO KINDS OF THIEVES WHO TAKE AWAY THE PROPERTY OF OTHER MEN,—THOSE THAT ARE 'OPEN' AND THOSE 'CONCEALED'—(256)

Bhāyṣa.

Throughout the realm, hidden spies should find out all that pertains to the king's business; and hence they are spoken of as his 'eyes', and the king called '*spy-eyed*'.

Though the action of the 'open' thief does not stand on the same footing as that of the 'concealed' one—such as those who prowl about at night in forests etc.—yet both have been mentioned together for the purpose of indicating the equality of the punishment to be meted out to them.—(256)

VERSE CCLVII

OF THESE, THE 'OPEN' CHEATS ARE THOSE WHO MAKE A LIVING BY DEALING IN VARIOUS COMMODITIES, AND THE 'CONCEALED' CHEATS ARE BURGLARS, ROBBERS IN FORESTS AND SO FORTH.—(257)

Bhāṣya.

There are some traders who rob people by having recourse to false weights and measures; then there are those that evade the export and import duties; all such traders belong to the class of '*open cheats*'.

'*Concealed cheats*'—are those burglars and robbers who rob people during the night and in forests and other

desolate places. There are some again who rob people by attacking them with force.

These are not the only 'thorns'; but also those that are going to be mentioned below.—(257)

VERSE CCLVIII

THOSE WHO TAKE BRIBES, DISSEMBLERS, CHEATS AND GAMBLERS, FORTUNE-TELLERS AND PALMISTS.—(258)

Bhāṣya.

Those who are addicted to taking bribes for doing some work for people, at the royal Court or with ministers etc.

'*Dissemblers*,'—efficient in the art of dissembling; saying one thing and doing another; openly professing love and secretly doing injury. These persons do not always accept anything; they simply win the confidence of men by means of such tricks as—having come to know that a certain business of the man is going to succeed, they go to them and say 'I am going to do this work for you.' They also make use of threats sometimes.

'*Gamblers*'—who carry on gambling as a means of adding to their income.

'*Cheats*'—those who mislead people; having promised to do a certain work, they do not do it; and having approached the people of the village, they adopt various methods to cheat them out of their property. To this class belong the persons who are known as '*Shivamādhavas*'; they make Shiva or Viṣṇu the means of living.

'*Fortune-tellers*'—astrologers and foretellers;—or persons who approach rich men with such words as 'for your sake I shall win the favour of Durgā or Sūrya or such other gods and goddesses,' and making a living by it. Or, the term may stand for those who make a living by pronouncing the auspicious formula 'May this be so.'



'*Palmists*'—who read the character of men from their palms.—(258)

VERSE CCLIX

MISBEHAVING HIGH OFFICIALS AND PHYSICIANS, ART-EXHIBITORS, AND CLEVER HARLOTS.—(259)

Bhāṣya.

'*High officials*'—Such as ministers, priests and other attendants of the king ;—if they 'misbehave,' act improperly.

'*Physicians*'—Medical practitioners.

'*Art-exhibitors*'—Picture-painters, decorators, cooks and so forth ; who show before people the product of their arts, and make a living by it.

'*Clever harlots*'—Those that can stimulate love. The epithet '*misbehaving*' goes with all the terms.—(259)

VERSE CCLX

THESE AND OTHERS OF THE SAME KIND ONE SHOULD KNOW AS THE OPEN 'THORNS' OF THE PEOPLE ; AND OTHERS, WHO ARE ROGUES IN THE GUISE OF GENTLEMEN, AS 'DISSEMBLERS.'—(260)

Bhāṣya.

'*Others of the same kind*.'—It is not possible to enumerate each and every kind of rogue addicted to robbing other persons ; hence this phrase ;—*e.g.*, there is one class of men who come and tell a man who is stricken with a certain woman that she is in love with him, though in reality she hates him ; and another who, though not a servant, behaves as if he were one, and thus robs a simple-minded man of his gold ; others again who flatter the foolish rich with such words as 'you are *Brahmā*,' 'you are *Br̥haspati*' and cheat them out of their riches ; telling him—'kindly give me such and such a thing, I shall repay it in a few days' ; and as soon as their business is accomplished, they become scarce, and hitherto smooth-tongued, become harsh.—(260)

SECTION (37).—DETECTION OF CRIMINALS

VERSE CCLXI

HAVING DISCOVERED THEM THROUGH WELL-BEHAVED AND DISGUISED MEN FOLLOWING THE SAME OCCUPATIONS, AS ALSO THROUGH SPIES VARIOUSLY DISGUISED, HE SHALL EXTERMINATE THEM AND BRING THEM UNDER HIS CONTROL.—(261)

Bhāṣya.

‘Those following the same occupations.’—Persons who may have been addicted to ‘robbery’ etc., in the past, or who may be asked to do it even at the present time, with a view to become included in the gang and thereby learn their secrets and report them to the King; and also through spies variously disguised.—(261)

VERSE CCLXII

HAVING TRULY PROCLAIMED THEIR CRIMES IN CONNECTION WITH THEIR RESPECTIVE ACTS, THE KING SHALL DULY INFLICT PUNISHMENT ON THEM, IN ACCORDANCE WITH THEIR CRIMES AND CAPACITIES.—(262)

(No Bhāṣya.)

VERSE CCLXIII

THE CRIMES OF EVIL-MINDED THIEVES SECRETLY PROWLING OVER THE EARTH CANNOT BE SUPPRESSED WITHOUT PUNISHMENT.—(263)

(No Bhāṣya):



VERSE CCLXIV—CCLXVI

ASSEMBLY-ROOMS, WATER-DRINKING BOOTHS, SWEETMEAT SHOPS, BROTHELS, TAVERNS AND VICTUALLER'S SHOPS, CROSS-ROADS, TREES OF WORSHIP, FESTIVE GATHERINGS AND THEATRES ;—(264)

OLD GARDENS, FORESTS, SHOPS OF ARTISANS, UNINHABITED HOUSES, GROVES AND GARDENS ;—(265)—THESE AND SIMILAR PLACES THE KING SHALL CAUSE TO BE GUARDED BY COMPANIES OF SOLDIERS, STATIONARY AS WELL AS PATROLLING, AND ALSO BY SPIES,—IN ORDER TO KEEP AWAY THIEVES.—(266)

(No Bhāṣya.)

VERSE CCLXVII

HE SHALL DETECT AND EXTERMINATE THEM BY MEANS OF CLEVER REFORMED THIEVES, WHO ASSOCIATE WITH THEM, FOLLOW THEM AND BECOME APPRISED OF THEIR MACHINATIONS.—(267)

(No Bhāṣya).



SECTION (40).—TREATMENT OF CRIMINALS
AND THEIR PUNISHMENT

VERSE CCLXVIII

THEY SHALL BRING THEM TOGETHER BY MEANS OF OFFERS
OF FOOD AND DRINK, BY INTRODUCING TO *Brāhmanas*,
AND BY EXHIBITION OF MARTIAL FEATS.—(268)

(No Bhāṣya.)

VERSE CCLXIX

THOSE AMONG THEM WHO DO NOT COME, AND THOSE WHO
ARE CAREFUL IN THEIR DEALINGS WITH THE OLDER
MEN,—THESE THE KING SHALL ATTACK BY FORCE AND
DESTROY, ALONG WITH THEIR FRIENDS, KINSMEN AND
RELATIONS.—(269)

(No Bhāṣya.)

VERSE CCLXX

THE RIGHTEOUS KING SHALL NOT PUT A THIEF TO DEATH
UNLESS CAUGHT WITH THE STOLEN GOODS; WHEN
HOWEVER ONE IS CAUGHT WITH THE STOLEN GOODS,
AND THE IMPLEMENTS OF BURGLARY, HE MAY, WITH-
OUT HESITATION, PUT HIM TO DEATH.—(270)

(No Bhāṣya.)

VERSE CCLXXI

HE SHALL ALSO STRIKE ALL THOSE IN A VILLAGE WHO
SUPPLY FOOD FOR THIEVES OR PROVIDE ROOM FOR THE
GOODS.—(271)

(No Bhāṣya.)

VERSE CCLXXII

IF THOSE PERSONS WHO ARE ENTRUSTED WITH THE WORK OF GUARDING THE REALM, AND THOSE VASSALS WHO HAVE BEEN ORDERED TO ASSIST, SHOULD REMAIN NEUTRAL DURING THE RAIDS (AGAINST THIEVES), THE KING SHALL PUNISH THEM SPEEDILY, LIKE THIEVES.
 —(272)

(No Bhāṣya).

VERSE CCLXXIII

IF ONE WHO SUBSISTS ON RELIGION DEVIATES FROM RELIGIOUS ORDINANCES, HE SHALL PUNISH HIM SEVERELY BY A FINE,—FALLEN AS HE IS FROM HIS DUTY.—(273)

(No Bhāṣya).

VERSE CCLXXIV

IF PEOPLE DO NOT HASTEN TO ASSIST, TO THE BEST OF THEIR POWER, WHENEVER A VILLAGE IS ATTACKED, OR A DYKE IS BREAKING, OR A HIGHWAY ROBBERY IS BEING COMMITTED,—THEY SHOULD BE BANISHED ALONG WITH THEIR CHATTELS.—(274)

Bhāṣya.

If the men concerned are capable of rendering help, but desist, through laziness or some such cause,—they should be banished.

Those however who may have entered into some compact with the thieves, shall be put to death, as already laid down (under 269).

‘*Chattels*’—cows, horses and so forth. All this also shall be sent away, and not confiscated. They should not

be deprived of their cattle, though their wealth may be confiscated.—(274)

VERSE CCLXXV

THOSE WHO ROB THE KING'S TREASURIES AND THOSE WHO ARE DISAFFECTED TOWARDS HIM, AS ALSO THOSE WHO CONSPIRE WITH HIS ENEMIES,—THE KING SHALL STRIKE WITH VARIOUS FORMS OF PUNISHMENT.—(275)

Bhāṣya.

'*Treasury*'—the place where the king's riches are stored; those who rob this are to be put to death, irrespectively of the quality or quantity of the property stolen.

Those also who behave disaffectedly towards him;—for instance, those who obstruct the king's attempts to import such rare foreign articles, as the coal-black horse which is rare for Easterners, or the elephant, which is rare for the Northerners,—or try to turn his friends into enemies, and try to bring about an alliance of these with his enemies,—and thus '*conspire with his enemies*'—and egg them on;—these he shall put to death.

It has been already explained that since the penalty is meant for the accomplishment of a definite purpose of the King, it need not always be actual *death*.—(275)

VERSE CCLXXVI—CCLXXVII

IF THIEVES COMMIT THEFTS AT NIGHT, AFTER BREAKING INTO A HOUSE, THE KING SHALL CUT OFF THEIR HANDS AND HAVE THEM IMPALED ON A POINTED STAKE;—(276) ON THE FIRST CONVICTION HE SHOULD HAVE TWO FINGERS OF THE CUT-PURSE AMPUTATED; ON THE SECOND A HAND AND A FOOT; AND ON THE THIRD HE SHOULD BE PUT TO DEATH.—(277)

*Bhāṣya.*

'Cut-purse'—one who cuts out a purse; *i.e.*, the opening of knots or bundles of cloth. Or the name *'cut-purse'* may apply to those persons who are bent upon slinking away, on some pretext, with the property that has been stolen,—after loosening the knots with which he may have been bound.

When such a man has been detected in doing this for the first time, his fingers shall be cut off; on the second occasion a hand and a foot; and on the third, he shall suffer death.—(276-277)

VERSE CCLXXVIII

THE KING SHALL STRIKE LIKE THIEVES THOSE WHO PROVIDE FIRE, OFFER FOOD AND SUPPLY ARMS AND LODGING, AS ALSO THOSE WHO ABET THEIR ESCAPE.—(278)

Bhāṣya.

Those who provide for the thieves fire for warming themselves and such other purposes.

'Arms'—Cutlass and the like.

'Abettors'—Contrivers—*'of escape.'*

All these shall be dealt with like thieves.

'Those who supply arms and lodging.'—Though this has been already mentioned before, yet it has been added again by way of summing up all that is intended.—(278)

VERSE CCLXXIX

IF A MAN BREAKS OPEN A TANK, HE SHALL BE SLAIN IN THE WATER, OR BY SIMPLE FORM OF DEATH; OR, HE MAY REPAIR THE DAMAGE AND BE MADE TO PAY THE HIGHEST AMERCEMENT.—(279)

Bhāṣya.

'Tank'—has been mentioned only by way of an illustration.

The same thing applies to the 'stealing' of the water of a river also ;—say some people.

This however is not right ; because the harm done in the breaking of the tank is very great ; and it is only slight in the case of the breaking of a river-dam.

The law here laid down applies also to the case of cutting the embankments of a tank.—(279)

VERSE CCLXXX

THOSE WHO BREAK INTO A STOREHOUSE, AN ARMOURY, OR A TEMPLE, AND THOSE WHO STEAL ELEPHANTS, HORSES AND CHARIOTS,—HE SHALL PUT TO DEATH WITHOUT HESITATION.—(280)

(No Bhāṣya).

VERSE CCLXXXI

IF A MAN TAKE AWAY THE WATER OF A TANK DUG IN ANCIENT TIMES, OR CUT OFF THE SUPPLY OF WATER, —HE SHALL BE MADE TO PAY THE LOWEST AMERCEMENT.—(281)

(No Bhāṣya).

VERSE CCLXXXII

IF ONE THROWS FILTH UPON THE PUBLIC ROAD, EXCEPT IN DIRE NECESSITY,—HE SHALL PAY TWO *Kārṣāpaṇas* AND CLEAN THE FILTH IMMEDIATELY.—(282)

Bhāṣya.

'*Public road*'—the road in the village or town.

'*Filth*'—urine or excreta.

'*Throws*'—gets carried and deposited by a '*Chāṇḍāla*.'

'*Except in dire necessity*'—i.e., when he cannot check the force of his evacuation.



He shall have the filth removed either by a hired *Chāṇḍāla*, or clean it himself.—(282)

VERSE CCLXXXIII

BUT A PERSON IN URGENT NECESSITY, AN AGED PERSON, A PREGNANT WOMAN, OR A CHILD SHOULD BE REPRIMANDED AND THE FILTH SHOULD BE CLEANED;—SUCH IS THE LAW.—(283)

Bhāṣya.

‘*One in urgent necessity*’—described above.

‘*The aged person*’—and others include all those who are unable to go away out of the village.

Blood also is included under ‘*filth*.’

‘*These shall be reprimanded*’—with such words as ‘you shall not do this again,—if you do it you will be committing a great crime against the king.’ Such words said in an angry tone are what is meant by ‘reprimand.’

‘*It should be cleared*’,—this is an advice meant for the king; specially if the person who committed the nuisance cannot be discovered. In such cases, the public road shall be cleaned by *Chāṇḍālas*.—(283)

VERSE CCLXXXIV

ALL PHYSICIANS DEALING DISHONESTLY ARE LIABLE TO PUNISHMENT; IN THE CASE OF PATIENTS OTHER THAN HUMAN, THE LOWEST, AND IN THAT OF HUMAN PATIENTS, THE MIDDLEMOST AMERCEMENT.—(284)

Bhāṣya.

‘*Physicians*’—doctors.

‘*Dealing dishonestly*.’—The prescribing of medicines by dishonest practitioners may be done in two ways—(1) it may be due to the man being devoid of theoretical and practical

knowledge entirely, or (2) to negligence or greed, even though the knowledge of the science is there.

'In the case of patients other than human'—i.e., cows, horses, elephants, and so forth.

'The first'—the term 'amercement' has to be construed here.

Similarly in the case of human patients, the '*middlemost amercement*.'

But if on account of the dishonest dealing, the patient happen to die, then severe punishment shall be inflicted.—(284)

VERSE CCLXXXV

HE WHO DESTROYS A CROSSING, A FLAG, A POLE OR IMAGES,
 SHALL REPAIR THE WHOLE OF IT AND SHALL PAY
 FIVE HUNDRED.—(285)

Bhāṣya

'Crossing'—the contrivance by way of which people cross over waterways.

'Flag'—i.e., the white piece of cloth, which serves as the insignia of Royalty and of Councillors.

'Pole'—in temples ; similarly '*images*'—installed in temples.

'He shall repair it'—i.e., restore it to its original condition.—(285)

VERSE CCLXXXVI

FOR ADULTERATING UNADULTERATED COMMODITIES, AND
 FOR BREAKING OR WRONGLY BORING GEMS, THE
 PUNISHMENT SHALL BE THE FIRST AMERCEMENT.—
 (286)

Bhāṣya.

When one, with a view to making a profit, adulterates a commodity, which, by itself, is quite pure—e.g., when the dealer in grains mixes straw and dust with grains harvested quite



clean; or when one adulterates saffron and other such substances with foreign substances.

‘*Gems*’—Pearls and the rest.

‘*Breaking*’—into pieces.

‘*Wrongly boring*’—i. e., boring at a place where boring should not be done. ‘*Apavēdha*’—is also derived from the root ‘*vyadh*’, to *pierce*; the denotation of verbal roots being manifold.

Gems are classed as ‘good,’ ‘bad’ and ‘indifferent;’ and the punishment shall be regulated in accordance with the class to which the gem in question may belong; in the case of ‘indifferent’ gems, the fine shall consist of the ‘middlemost amercement,’ and in that ‘good’ ones it shall consist of the ‘highest amercement.’—(286)

VERSE CCLXXXVII

THE MAN WHO TREATS EQUALS AS UNEQUALS IN VALUE
SHOULD RECEIVE THE PUNISHMENT OF THE FIRST OR
THE MIDDLEMOST AMERCEMENT.—(287)

Bhāṣya.

In regard to certain substances it has been declared that in exchanges they shall be treated as equivalent:—*e.g.*, Sesamum and paddy have been declared to be equal; if in regard to such articles, some one treats them as *unequal*—i. e., having advanced sesamum, he receives in payment a larger quantity of paddy;—or even when there is no exchange, in the act of buying and selling, if one buys sesamum at a price higher than that given for paddy;—or in a case when one man has an upper garment for sale, and another an under-clothing, and the latter stands in need of the latter,—though the two are of equal value, yet knowing the greater need of the man with the upper garment, the latter offers to him the under-clothing, but not in equal exchange, but for a higher price,—such a man is said to ‘*treat equals as unequals*’ in value.

The punishments prescribed are for both the buyer and the seller ; since both are parties to the act of 'treating equals as unequals.'

The term 'vā', in this case is superfluous, serving only to fill up the metre.

The two alternative fines—the 'first' and the 'middlemost'—are laid down, as to be determined by the value of the commodities concerned.—(287)

VERSE CCLXXXVIII

THE KING SHALL ESTABLISH PRISONS ALL ALONG THE PUBLIC ROAD,—WHERE THE SUFFERING AND DISFIGURED OFFENDERS MIGHT BE SEEN.—(288)

Bhāṣya.

The king shall '*establish*'—place—houses of incarceration on all well-known roads,—where the '*suffering offenders might be seen* ;'—this implies that the position of the prisons shall be so arranged as to fall within such places as are passed by ordinary passers-by ; and it follows from this that various forms of torture shall be inflicted on the prisoners.

'*Disfigured*'—the condition of their body being altered by either total starving or reduced rations.

The rest is quite clear.—(288)

VERSE CCLXXXIX

HIM IN WHO BREAKS THE WALL, OR FILLS UP THE DITCH, OR BREAKS THE GATE—HE SHALL INSTANTLY BANISH.—(289)

Bhāṣya.

The penalty of banishment is to be inflicted only in the case of damages done to the walls, ditches, etc. of a fort.

'*Ditch*'—deeply dug out parts of the ground.—(289)

VERSE CCXC

IN ALL CASES OF MALEVOLENT RITES, THE FINE SHALL BE TWO HUNDRED; AS ALSO IN A CASE OF MAGIC SPELL BY PERSONS NOT RELATED, OR IN THOSE OF VARIOUS KINDS OF SORCERY.—(290)

Bhāṣya.

‘*Malevolent rite*,’—encompassing death by such superphysical means as incantations and the like. If anyone performs such a rite, he shall receive the prescribed punishment, if the person aimed at does not die off. But in the case of such rites being successful, the man cannot escape with such a simple punishment. In that case the penalty shall be the same as that for ‘man-slaughter.’

The term ‘*all*’ is meant to imply that the same punishment is to be inflicted in the case of *Vedic* as well as *non-Vedic* rites;—*Shyena* and other sacrifices being the ‘*Vedic* malevolent rites,’ and the ‘taking of the foot-dust,’ ‘pricking with a needle’ the *non-Vedic* ones.

‘*Magic spells*’—such as ‘bringing under control’ and so forth.

‘*Persons related*’ are the son, the wife and such relations of the victim; other than these are the ‘*persons not related*.’

Sorcery’ also is only a form of ‘malevolent rite,’ consisting of ‘expulsion’ and such ends as ‘bringing about feelings of disgust against friends and relations,’ ‘insanity’ and other similar magical effects brought about by means of incantations.—(290)

VERSE CCXCI

HE WHO SELLS WHAT IS NOT-SEED, OR PICKS OUT THE SEED, OR TRANSGRESSES THE BOUNDS (OF PROPRIETY) SHALL SUFFER ‘MUTILATION’ AS THE PENALTY.
 —(291)

Bhāṣya.

He who sells as 'seed' what is 'not seed,' by concealing its real character. It is after the lapse of a long term that seeds germinate in the field; so that it cannot be ascertained whether or not they are real 'seeds.'

'*He who picks out seed*'—good seed germinates quickly; the offender therefore picks out the good seed and sells the remaining bad ones. Or, the meaning may be that the man '*picks up the seeds*' that have been sown in the field and takes them away.

'*Bounds*'—rules and practices sanctioned by scriptures and usage.

'*Mutilation*'—cutting off of ears, nose etc.—(291)

VERSE CCXCII

IF THE GOLDSMITH, THE WORST OF ALL 'THORNS,' BEHAVES DISHONESTLY, THE KING SHALL HAVE HIM CUT TO PIECES WITH RAZORS.—(292)

Bhāṣya.

Of all the 'thorns' described above, the goldsmith is *the worst*.'

Question :—If what is meant is the *selection* (of the goldsmith from among the 'thorns'),—then why should not the compounding (in '*Sarvakaṇṭakapāpiṣṭham*') be avoided [in obedience to *Pāṇini* 2.2.10] ?

What is meant by his being 'the worst of sinners' is that the stealing of a small quantity of gold involves a great sin, while the stealing of gold belonging to a Brāhmaṇa involves 'the most heinous crime.'

For this reason, if the goldsmith behaves dishonestly, '*he shall be cut to pieces*.' Goldsmiths steal gold by manipulating the scales and during the processes of heating and cutting.



In this case, considerations of the quantity stolen, or the caste of the owner do not enter; repetition alone has to be taken into consideration; *e.g.*, in the case of the first offence a fine shall be substituted for the slicing of flesh with a razor.

It has already been explained that in the case of corporal punishment, the sin disappears by virtue of the punishment inflicted.—(292)

VERSE CCXCIII

FOR THE STEALING OF AGRICULTURAL IMPLEMENTS, OF ARMS OR OF MEDICINES, THE KING SHALL DETERMINE THE PUNISHMENT, AFTER TAKING INTO CONSIDERATION THE TIME AND USES.—(293)

Bhāṣya.

‘*Sītā*’—Stands for the *cultivated field*; and *implements* connected therewith are the plough, the spade and so forth. For the stealing of these punishment has to be inflicted.

Is this to be done arbitrarily? No; ‘*after taking into consideration the time and uses.*’ That is, if the time for cultivation is near at hand, the punishment shall be severe; and severer still when the field has been already cultivated and a rich harvest is in prospect.

‘*Taking into consideration,*’—having ascertained its advent. Under other circumstances, the punishment shall be in accordance with the nature of the object stolen.

Similarly in the case of ‘*arms*’—swords and the rest—if they are stolen at the time of war, the punishment shall be severe;—or in the case of ‘*medicines*’—if they are stolen at the time that they are going to be actually administered,—and the chances are that if the medicine is stolen and not administered, the patient shall suffer great pain;—and no other medicine is available at the time,—and even if available,

MANU-SMṚITI: DISCOURSE IX

it requires a long time for its preparation;—all these circumstances have to be taken into consideration when determining the punishment.

In the case of 'arms', if they belong to the king,—or to persons who are in constant dread of enemies and robbers (and hence need the arms for self-defence),—the punishment shall be severe; but if they are some small things, it shall be simple.—(293)



SECTION (41).—THE SEVEN ‘LIMBS’ OF THE KING-
DOM AND THEIR RELATIVE IMPORTANCE.

VERSE CCXCIV

THE MASTER AND THE MINISTER, THE CAPITAL CITY, THE
PEOPLE, THE TREASURY AND THE ARMY, AND THE ALLY,
—THESE ARE THE SEVEN CONSTITUENTS; AND THE
KINGDOM IS DESCRIBED AS HAVING ‘SEVEN LIMBS,’
—(294)

Bhāṣya.

The ‘Removal of Thorns’ having been dealt with, the author now proceeds to describe such duties of the king as bear entirely upon the administration of the kingdom. If the administration is carried on in this manner, the kingdom is safe; so also there is safety in the kingdom if law-suits are justly disposed of and thorns are effectively removed. Then again, in most cases the ‘thorns’—*i.e.*, the worst criminals—consist of persons attached to the Queen or to the Princes, to the king’s favourites or to the commanders of armies and so forth; and it is possible that the king may not remove this, being guided by some such notion as—‘In the event of a dangerous upheaval among the people I shall have great need for the army-commander, or for the tributary chief,—why should I punish him, simply for some offence against the people?’—and it is in view of this that the author is proceeding with the subjects of the ‘constituents’ of the kingdom. And from what follows, it is clear that the *People* stand on the same footing as the *King* himself,—being as much a ‘constituent’ of the kingdom as the latter; though there may be some difference in the degree of their relative importance. For instance, if there is disturbance among the people due to some act of the *Minister*,

this should be suppressed ; because the people are of greater importance than the *Minister* ; or, the king may desist from hasty action, and try to find out the 'thorn' and remove him. It is for this reason that portions of the teachings contained in Discourse VII are extracted and set forth in the present connection.

'*Master*'—i.e. the King himself.

'*Minister*'—the Councillor, the Priest, the Army-Commander.

'*Capital City*'—the city containing the king's residence.

'*People*'—the public.

'*Treasury*'—store of gold and silver and other valuables.

'*Army*'—consisting of elephants, horses and foot-soldiers.

'*Ally*'—one having the same end in view ; as has been described 'next to him comes the Ally.'

These are the '*constituents*'—causes, components—of the kingdom ; in the same manner as the potsherds are of the jar.

Or the term '*prakṛti*' may be taken as standing for '*svabhāva*,' 'nature ;' the sense in that case would be that the kingdom is of the nature of these.

It is these seven that have been divided into seventy-two parts, the details of which have been already described.—(294)

VERSE CCXCV

AMONG THESE SEVEN CONSTITUENTS OF THE KINGDOM
 STATED IN DUE ORDER, INJURY TO EACH PRECEDING
 ONE IS TO BE REGARDED AS MORE SERIOUS.—(295)

Bhāṣya.

That is to say, any harm coming to the King's own army is more serious than that of the Ally. If he is himself fully fit, the King can go to the rescue of his Ally.

Similarly as between the Treasury and the Army,—injury to the Treasury means positive injury to the Army.

And between 'Treasury' and the 'People,'—if the People are injured, whence would the 'Treasury' derive its existence? Similarly when the whole People are in danger, all effort should be concentrated on the saving of the 'Capital City,' as it is there that all the accessories of the kingdom can be brought together. The 'Minister' again is more important than the 'Capital City;' as the destruction of the Chief Minister may bring destruction to the entire kingdom.—(295)

VERSE CCXCVI

YET IN THE KINGDOM CONSISTING OF THE 'SEVEN LIMBS' INTERLACED LIKE THE 'TRIPLE STAFF,'—SINCE THEIR QUALITIES ARE MUTUALLY HELPFUL,—NO ONE OF THEM IS SUPERIOR.—(296)

Bhāṣya.

An example is cited—'*interlaced like the Triple Staff*;'—i.e., each is dependent upon the other. This same idea is further emphasised—'*since their qualities are mutually helpful*;'—inasmuch as they are helpful to one another, there can be no distinction among them; just as there is none among the soil, the seed and the water, in the process of cultivation.

From this it follows that special attention is to be paid to every one of the seven limbs.

There certainly is some difference in their relative importance; what then is meant by the assertion that '*no one of them is superior*' is that due care should always be taken in the guarding of the Ally and other 'limbs' also (which, in the preceding verse, have been declared to be of minor importance). Because the destruction of the Ally also would eventually lead to the destruction of the King's own kingdom, specially when the attack upon the former comes from a powerful quarter; even though the danger may be not so imminent.—(296)

VERSE CCXCVII.

EACH 'LIMB' IS PARTICULARLY QUALIFIED FOR THE FULFILMENT OF A DISTINCT PURPOSE; AND HENCE EACH IS DECLARED TO BE THE MOST IMPORTANT IN REFERENCE TO THAT PURPOSE WHICH IS FULFILLED BY ITS MEANS.—(297)

Bhāṣya.

There is nothing that is not helpful to the King; there may be some purpose that is served by an inferior agent, and not by a superior one. Hence every one of the 'constituents' should be carefully attended to; that is, the People should not be harassed by unfair punishments, and they should be always guarded against robbers and other dangers.

Thus it is that the present section is connected with the subject of the 'Removal of Thorns.'—(297)

VERSE CCXCVIII

THE KING SHALL CONSTANTLY ASCERTAIN HIS OWN AND HIS ENEMY'S STRENGTH THROUGH SPIES, THROUGH DISPLAY OF ENERGY AND ALSO THROUGH THE ACTUAL CARRYING OUT OF UNDERTAKINGS.—(298)

Bhāṣya.

The King shall always keep himself informed of his own and his enemy's strength. He should find out—'What does he intend to do?'—'What is he able to do against me?'—'What am I able to do against him?'

"How is all this to be ascertained?"

(a) 'Through spies'—as described under Discourse VII;—(b) 'Through display of energy,'—when a King rewards men they are happy and become imbued with energy, and carrying on their agricultural operations successfully, reap rich harvests [and this shows the King's power].—(c) 'Through the actual carrying out of undertakings;'—such

undertakings as the disposition of armies and so forth, which are indicative of the enemy's strength; as all these are signs of material prosperity, and from this is all strength derived.—(298)

VERSE CCXCIX.

THE KING SHALL BEGIN OPERATIONS AFTER HAVING TAKEN INTO CONSIDERATION ALL CALAMITIES AND VICES, AND THEIR RELATIVE IMPORTANCE.—(299)

Bhāṣya.

'*Calamities*'—such as famine, drought, rats, locusts, thunderstorms and so forth.

'*Vices*'—due to lust, anger and so forth.

In addition to this, he shall take into consideration also the doings of his sons;—he shall not always display energy; nor always show discontent; he shall also take into consideration the 'six accessories' of kingship, his daily income and expenditure, and all that may be going on in his kingdom, which he may have learnt from his spies.

The actions of men may also be ascertained by noting their tendencies towards dancing, music and such entertainments.—(299)

VERSE CCC

TIRED AND TIRED, OVER AGAIN HE SHOULD BEGIN HIS OPERATIONS; FOR FORTUNE FAVOURS THE MAN WHO UNDERTAKES OPERATIONS.—(300)

Bhāṣya

'*Man*'.—This shows that it is not only the King, but also the ordinary man who attains prosperity by exerting himself. This is what is meant by the saying—'Even at the hands of death one should seek prosperity.'—(300)

SECTION (42)—PERSONAL BEHAVIOUR OF THE KING.

VERSE CCCI

THE ACTIONS OF THE KING CONSTITUTE THE '*Kṛta*', THE '*Trētā*', THE '*Dvāpara*' AND THE '*Kali*' CYCLES; AS IT IS THE KING THAT IS CALLED THE 'CYCLE.'—(301)

Bhāṣya.

For this reason also the King should be always exerting himself:—Want of exertion represents '*Kali*;' as it constitutes a great evil. The King should not argue that—'*Kali* being a particular personage known in history, how can I be *Kali*?'—because the King's own acts constitute the several 'cycles.'—This is further explained in the following verse.—(301)

VERSE CCCII

ASLEEP, HE REPRESENTS '*Kali*;' AWAKE, THE '*Dvāpara*' CYCLE; READY TO ACT, THE '*Trētā*'; AND ACTUALLY ACTING, THE '*Kṛta*' CYCLE.—(302)

Bhāṣya

When he is '*asleep*', inactive, he represents '*Kali*.'
'*Awake*',—i.e., while knowing the means of his advancement, if he does not actually exert himself,—he is '*Dvāpara*.'

When he has made up his mind to act he is '*Trētā*.'

When he actually acts with a view to attaining success, in accordance with the scriptures, he is '*Kṛta*'.—(302)

VERSE CCCIII

THE KING SHALL EMULATE THE ENERGETIC ACTIVITY OF *Indra*, OF *Arka*, OF *Vāyu*, OF *Yama*, OF *Varuṇa*, OF *Chandra*, OF *Agni* AND OF *Prithvī*.—(303).

Bhāṣya

‘*Energy*’—strength, capacity to act.—(303)

VERSE CCCIV

AS INDRA SHOWERS RAIN DURING FOUR MONTHS OF THE YEAR, SO SHALL THE KING, ACTING LIKE INDRA, SHOWER BENEFITS ON HIS PEOPLE.—(304)

Bhāṣya.

The actual limitation regarding the *four months* is not meant to be emphasised in the present connection. What is meant is that during the four months, the Cloud rains *constantly*, and hence the King also shall confer benefits upon his people *constantly*. That is to say, he shall so act that his people may become attached to him.—(304)

VERSE CCCV

JUST AS DURING EIGHT MONTHS, *Āditya* DRAWS UP WATER WITH HIS RAYS, EVEN SO THE KING SHALL DRAW TAXES FROM THE PEOPLE,—THIS BEING THE FUNCTION OF ARKA.—(305)

Bhāṣya.

The sun draws water gently, little by little,—and the King also shall realise his taxes gently, little by little. This is the meaning of the simile.—(305)

VERSE CCCVI-CCCVII

AS *Vāyu* MOVES ABOUT, ENTERING ALL BEINGS,—EVEN SO SHALL THE KING PENETRATE EVERYWHERE THROUGH HIS SPIES;—THIS IS THE FUNCTION OF *Vāyu*.—(306).

AS YAMA, AT THE APPROACH OF THE PROPER TIME, RESTRAINS BOTH FRIENDS AND ENEMIES, EVEN SO SHALL ALL MEN BE RESTRAINED BY THE KING; THIS IS THE FUNCTION OF YAMA.—(307)