time the revival of the *cena recta*, or regular meal (Suet. *Dom.* 7 ; Mart. iii. 7).

12. The conditions necessary to a valid gift were minutely investigated by the Roman lawyers. A gift was a mode of acquisition by delivery arising out of a particular motive. It must be such as to increase the property of the donee and to diminish that of the donor, and must not, therefore, be confounded with a grant of freedom or of citizenship. But, when the lawyers endeavoured to distinguish the strict legal meaning of *donatio* from its looser acceptation in popular phraseology, they were often inconsistent. Thus it is denied that the surrender of an inheritance is a gift ; but an alienation made to defeat creditors is elsewhere admitted to be a form of *donatio* which is not subject to the usual provisions applicable thereto.

The suspicion with which gifts were regarded and the restrictions imposed to hinder their extension are noticeable features of Roman jurisprudence. They were, no doubt, primarily attributable to the Roman spirit of *parsimonia*, which is amusingly illustrated by the account given in Polybius (xxxii. 13) of the surprise excited by the younger Scipio's liberality towards the sisters of his adopted father—a liberality which consisted in paying down at once a sum of 25 talents to each, when he was entitled to spread the payments by instalments over three years. This niggardliness was the product of the hard conditions endured by the early agricultural population, and was unaffected by the prevalence of present-giving on particular festivals which has been mentioned above. These latter presents were generally trivial in value, and were considered as differing in kind (*munera, dona*) from voluntary benefactions. The growth of wealth and the increase of political ambition, which were the outcome of the Punic Wars, led to the passing of the *Lex Cincia de donis ac muneribus* in 204 B.C. on the proposal of the tribune M. Cincius Alimentus. This law prohibited advocates from receiving honoraria (Tac. *Ann.* xi. 5), and prescribed certain restrictions on the validity of *donationes*, if above a certain amount, and unless made in favour of a certain class of persons (*exceptæ personæ*). Outside those limits a gift must be perfected by the observance of certain formalities, as, *e.g.*, that *res mancipi* must be conveyed to the donee by *mancipatio*. It should be observed that the statute did not impose penalties or annul gifts, but prevented proceedings being taken to enforce them. In later times a form of registration (*insinuatio*) was required for any gift exceeding 200 *solidi*, but Justinian (*Inst.* ii. 7. 2) raised the limit to 500. A mere agreement to give (*pactum donationis*) was not binding until the time of Constantine, who required it to be reduced to writing. Justinian, however, made it valid whether in writing or not, requiring the donor to complete the gift by *traditio*. In Imperial times, the object of stimulating munificence had become more important than that of repressing extravagance. It was provided, however, that gifts *inter vivos* should in certain circumstances be revocable, either (1) by the donor, if he could show that the donee had been guilty of specific ingratitude ; (2) by the near relatives of the donor on a *querela inofficiosæ donationis* ; or (3) in favour of after-born children, when a childless donor had enriched his freedman.

13. A special branch of *donationes inter vivos* is that of *donationes ante nuptias*. Gifts passing between husband and wife, unless of a trivial kind like birthday-presents, were invalid. If the wife passed *in manum viri*, her property belonged to her husband ; otherwise, she retained her previous rights so far as they had not been surrendered in relation to the *dos*. The latter was the contribution to the expenses of the marriage on behalf of the wife ; and, as we have seen, it belonged to the husband, subject to an obligation to restore its value if the marriage came to an end. The custom which enjoined the making of a gift by the husband before marriage grew up in order to provide for wives who had no property of their own, and so could not contribute a *dos*. Hence the *donatio ante nuptias in dotem redacta*—a sum of money put into settlement by the intending husband, in order to provide for his wife, if she became the survivor. It was considered the property of the wife, but could not be alienated even with her consent. Justinian provided that these gifts might not only be increased, but might be first made, after marriage ; and, accordingly, that they should be styled *donationes propter* (not *ante*) *nuptias*. Dowries were placed on exactly the same footing.

14. *Donationes mortis causa* are contrasted with *donationes inter vivos* as being gifts made upon condition that, if anything happens to the donor, the donee's title shall accrue ; but, if the donee dies before the donor, the latter shall receive back the gift. The gift was always revocable at the pleasure of the donor. It differed from a legacy as being a disposition made in the lifetime of the donor, and not merely a charge on his inheritance, so that it would take effect altogether apart from the act of the *heres* on entering into possession. In other respects these gifts were placed exactly on the footing of legacies. Thus, (1) no one could make such a gift, unless he was of full testamentary capacity ; (2) the property in question remained subject to the claims of the donor's creditors ; (3) the heir could claim his Falcidian fourth from it : *i.e.*, the provisions of the *Lex Falcidia*, forbidding a testator to give more than three-fourths of his estate in legacies to the detriment of the heir, were made applicable to the property subject to the gift. The English Law has adopted the doctrine of *donatio mortis causa* from the Roman, but has still further restricted it by insisting on the necessity of delivery, and making the immediate expectation of death an indispensable condition to the validity of the gift. The provisions of the Roman law concerning gifts made under a will are described in artt. INHERITANCE and WILLS (Greek and Roman).

LITERATURE.—On the legal aspect of gifts, see **L. Beauchet**, *Hist. du droit privé de la république athénienne*, Paris, 1897, iii. 122 ff. ; **O. Karlowa**, *Röm. Rechtsgesch.* ii. [[Leipzig, 1892] 584 ff. ; **H. Burckhard**, *Die Stellung der Schenkung in Rechtssystem*, Würzburg, 1891 ; and for *congiarium* and *donativum* : **J. Marquardt**, *Röm. Staatsverw.*[2] ii. [Leipzig, 1881–1884] 132 ff. See also the articles 'Congiarium,' 'Donatio,' 'Donativum,' 'Dos,' and 'Dosis,' in Pauly-Wissowa, and the corresponding articles in Smith's *Dict. of Gr. and Rom. Ant.*[3], London, 1890. For birthday customs, see **Wilhelm Schmidt**, *Geburtstag im Altertum*, Giessen, 1908. A. C. PEARSON.

**GIFTS** (Hindu). — Gifts, especially religious gifts to Brāhmans, form an important subject with the early legislators of India. The receipt of gifts, according to the Sanskrit lawbooks, is one of the principal sources of income of a Brāhman. What has been once promised to a Brāhman may be claimed by him like an outstanding debt. Their greatest means of support consisted in the grants of land, including sometimes houses, tanks, gardens, etc., given in perpetuity to gods or the priests. There is no lack of special Sanskrit treatises on the subject of *dāna*, *i.e.* gifts to the Brāhmans. The gift of a man's weight in gold or silver, called *tulāpuruṣa*, was considered specially meritorious. Thus Chaṇḍeśvara, a minister of Mithilā (Tirhut), presented in A.D. 1314 an assembly of Brāhmans with his own weight in gold. Royal grants of land on copper-plates have been found in great numbers all over India, and have furnished many interesting historical dates. The

land was generally granted rent-free, and with other privileges. Many *agrahāras*, or villages occupied by Brāhmans, held either rent-free under special grants, or at a reduced rate of assessment, are still in existence. There is a rule that *devottar*, landed property, *i.e.* lands dedicated to an idol, to a temple, to the maintenance of Brāhmans, or to other religious purposes, cannot be subjected to payment of Government revenue, if they were so dedicated before A.D. 1765. Funeral ceremonies were a special occasion for making gifts to Brāhmans, likewise a marriage, a thread-girding, and other family festivals and religious celebrations.

LITERATURE.—G. Bühler and J. Jolly's translations of Sanskrit lawbooks in *SBE*, vols. ii. vii. xiv. xv. xxxiii.; J. Jolly, 'Recht und Sitte,' in Bühler's *Encyclopedia of Indo-Aryan Research*, Strassburg, 1896; H. H. Wilson, *A Glossary of Judicial and Revenue Terms*, Lond. 1855; H. Cowell, *Hindu Law*, Calcutta, 1870; *Epigraphia Indica*, Calcutta, 1892-94.

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**GIFTS, SPIRITUAL.**—See CHARISMATA.

**GIFTS TO THE DEAD.**—See ARYAN RELIGION, ii. 20; DEATH, iv. 429, 469.

**GILDS.**—There exist among many barbarous peoples certain systems of confraternity and association which are analogous to the gilds of mediæval Europe. The concurrence is inevitable in social evolution, but actual continuity cannot be established, as, for instance, it can be established in the case of the State or of marriage. An attempt has been made to trace the Teutonic gild to the blood brotherhood of the ancient Scandinavian peoples, in which occurred the ceremony of mingling the blood of the parties in a footprint.[1] This would connect the system continuously with the various methods of forming the brotherhoods which are a feature of the lowest wild societies (see BROTHERHOOD [Artificial]). But the thread is too slender.[2] Similar social impulses acting in different conditions and in different ages will produce similar forms of union. An earlier hypothesis has been discredited, viz. that the gild originated in the drinking feasts of the ancient Teutons.[3] Herbert Spencer traced the origin of the gild system to customs of paternal inheritance;[4] Maine, to customs of adoption.[5] But it is merely analogous to these, as it is to the family itself. Alone among peoples other than the Western, the Chinese and Hindus possess a similar system. The comparison of the three groups suggests that the gild belongs to particular types of humanity at a particular stage of social evolution. It is generalizing somewhat too broadly to say that 'the conception of the gild belongs to no particular age and to no particular country.'[6] The gilds of mediæval Europe were a growth from the crossing of Teutonic and Græco-Roman ideas and institutions. In this connexion it is to be noted that intercourse between the peoples of Europe and their knowledge of one another was, in spite of relative slowness and difficulty of communication, not less, but probably more, than it is to-day. Half a century later than the Code of Justinian, which takes cognizance of the classical *collegia opificum*, a craft gild of soapmakers was established at Naples, and in 7th cent. England the 'Laws of Ine' illustrate the conception of the frith gild. It has been suggested that the *corps des métiers* of early France were directly continuous with the Roman *collegia*.[7] On the other hand, the influence of the Christian Church is to be taken into account;[1] for an essential characteristic of the gild is the religious conception of brotherhood.

'When,' says Gross, 'the old kin-bond or *mægth* was beginning to weaken or dissolve and the State did not yet afford adequate protection to its citizens, individuals naturally united for mutual help.'[2]

The reference is to England in the 5th and 6th centuries, and we may compare the fact that the first mention of Continental gilds is in the Carolingian Capitularies of A.D. 779, and that Charlemagne regarded these 'conspirations' as dangerous to the State. It might be said that the early Christians were the first gildsmen.

Three classes of gilds are distinguished: (1) *social and benevolent*, often described incorrectly as 'religious' (religious gilds proper, such as were formed from the clergy, are a sub-species of the social); (2) *gilds merchant*; (3) *craft and trade gilds*. Roughly, this order represents the order of development. The second and third classes are not prominent until the 12th century. Even these, as perhaps may be said of every mediæval institution, had a strong religious element, and possessed the functions of social and benevolent gilds.

In the O.E. and O.N. terms several formations have apparently coalesced.[3] The O.E. *gild* or *gyld* has the meaning both of 'payment' and of 'gild,' and also of 'offering' and of 'idol.' O.N. *giald* is 'payment'; Goth. *gild* is 'tribute.' The decision of the earliest meaning of the root is difficult; it involves the question whether gildsmen were originally those who contributed to a common fund or those who worshipped and feasted together.[4] The question is perhaps irrelevant; in all likelihood the distinction was never made either in theory or in practice. The one function involves the other in all 'societies' formed in early Europe from classical times onward.

It is convenient to bear in mind the analogy already suggested of the Christian Church, while tracing the history of the gilds. They were its microcosms. In gilds of the social class, life generally, in its social aspect, was the main object. In other gilds other objects preponderated, such as the furthering of commerce, or of a craft; in short, livelihood was the main object.

A gild, in general, is 'a confraternity, brotherhood, or association formed for the mutual aid and protection of its members, or for the prosecution of some common purpose.'[5] It is for Europe essentially a mediæval institution; other applications of the term are secondary or metaphorical; in several cases, as in Scottish burghs, the modern use is directly continuous with the mediæval. Such a confraternity in its social aspect performed functions similar to those of modern burial clubs, benefit, insurance, and friendly societies, the most important of the last-named being direct descendants of the mediæval type. The earliest included the payment of the *wergild*; all included the saying of Masses, and the holding both of religious services and of an annual feast. The majority had a saint as patron. In the commercial and craft gilds, the religious and social functions of the benevolent gild were retained, though the worldly ideal was predominant. This in the *gild merchant* was the best use of the monopoly of the town's commerce; in the craft gild it was the furtherance of the art or trade in question, the maintenance of good work, the fixing of a reasonable price, and the organization of employment on the system of apprenticeship. The gild was essentially a local institution; its members were neighbours.

The gild had a master and various officials. Each member took an oath, and paid an entrance

1 M. Pappenheim, *Altdän. Schutzgilden*, p. 18 ff.
2 K. Hegel points out that this brotherhood did not exist among the Franks and Anglo-Saxons, where gilds first appear (*Städte u. Gilden d. german. Völker im Mittelalter*, i. 250–255).
3 C. Gross, *The Gild Merchant*, i. 175.
4 *Principles of Sociology*, 1879, ii. 559.
5 *Early History of Institutions*, London, 1875, lect. viii.
6 F. A. Hibbert, *Influence and Development of English Gilds*, p. 7.
7 Hibbert, *l.c.*

1 Gross, *s.v.* 'Gilds,' in *EBr*11. 2 Gross, p. 14*b*.
3 *OED*, *s.v.* 'Guild.' 4 *Ib.* 5 *Ib.*