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λαοὶ βασιλικοί, whose status may be described as 'ascription to the glebe' (Rostowzew, *Gesch. des röm. Kolonates*, p. 256 ff.).

LITERATURE.—Some of the original texts of Greek law have been preserved for us in inscriptions—*e.g.*, the laws of Gortyn in Crete, and Drakon's law as to homicide in a copy made in 409–408 B.C. A selection of texts and of legal instruments of different kinds, with an excellent commentary, is presented in the *Recueil des inscriptions juridiques grecques*, ed. R. Dareste, B. Haussoulier, and T. Reinach, Paris, 1892–95. Other collections are **W. Dittenberger**, *Sylloge Inscriptionum Græcarum*, 3 vols., Leipzig, 1898; *CIG*, Berlin, 1873, etc.; **H. Collitz** and **F. Bechtel**, *Die griech. Dialekt-Inschriften*, Göttingen, 1883 ff.; **P. Cauer**, *Delectus Inscriptionum Græcarum*, Leipzig, 1883; **E. S. Roberts** and **E. A. Gardner**, *Introduction to Greek Epigraphy*, Cambridge, 1887–1905. As to laws and acts preserved in papyri, see **L. Mitteis** and **U. Wilcken**, *Grundzüge und Chrestomathie der Papyruskunde*, Juristischer Teil, Leipzig and Berlin, 1912. A rather antiquated collection of the principal notices as to Athenian law is that of **J. B. Télfy**, *Corpus Juris Attici*, Budapest and Leipzig, 1868. The speeches of Attic orators pleading before the Courts afford, of course, a copious source of information; see especially the speeches of **Demosthenes**, and also the translations, with instructive notes and appendices, by C. R. Kennedy, of orations against Leptines, Meidias, etc. (London, 1877), orations against Timokrates, Aristogeiton, etc. (do. 1871), and Select Speeches (Cambridge, 1841); **R. Dareste**, *Les Plaidoyers civils de Démosthènes*, 2 vols., Paris, 1875; *The Speeches of Isæus*, ed. William Wyse, Cambridge, 1904, with a commentary remarkable for its learning and acumen as well as for its exaggerated criticisms of Athenian legal practice; **R. Dareste** and **B. Haussoulier**, *Les Plaidoyers d'Isée*, Paris, 1898; and the speeches of Antiphon, Andokides, Lysias, Isokrates, Deinarchus, Lykurgus, Æschines, and Hyperides. The lexicographers—Harpokration, Hesychios, Pollux, etc.—have preserved many fragments of Greek laws. In the writings of the philosophers there is much information about Greek doctrines of jurisprudence; see especially **Xenophon**, *Memorabilia*; **Plato**, *Republic*, *Laws*, *Protagoras*, *Gorgias*, *Theætetus*; **Aristotle**, *Ethics* (particularly bk. v.), *Politics*, *Rhetoric*, *The Constitution of Athens*, and other fragments of the work on *Constitutions* (πολιτεῖαι). Theophrastos's treatise on laws has been lost, with the exception of one or two fragments.

General works on Greek law are **R. Dareste**, *Nouvelles Études d'histoire du droit*, Paris, 1889, *La Science du droit en Grèce*, do. 1893; **T. Thalheim**, *Die griechischen Rechtsalterthümer*, Freiburg i. B. and Tübingen, 1884; **B. W. Leist**, *Altarisches Jus Civile*, Jena, 1892–96, *Altarisches Jus Gentium*, do. 1889; **Fustel de Coulanges**, *La Cité antique*[3], Paris, 1870.

On the general jurisprudence of the subject: **R. Hirzel**, *Themis, Dike und Verwandtes*, Leipzig 1907; **K. Hildenbrand**, *Geschichte und System der Rechts- und Staatsphilosophie*, do. 1860; **R. L. Nettleship**, *Lectures on the Republic of Plato*, London, 1898; **G. Grote**, *Plato and the other Companions of Socrates*, do. 1875, and *Aristotle*, do. 1872; **T. Gomperz**, *Griechische Denker*, Leipzig, 1896–1909, Eng. tr., London, 1901–12; **M. Voigt**, *Die Lehre von Jus Naturale, Æquum et Bonum, und Jus Gentium der Römer*, Leipzig, 1856, vol. i.; and general works on the history of Greek philosophy by **E. Zeller**, **W. Windelband**, **F. Ueberweg**, **R. Heinze**, etc.

Procedure and judicial organization: **M. H. E. Meier**, **G. F. Schömann**, and **J. H. Lipsius**, *Der attische Process*, Berlin, 1881; **G. Gilbert**, *Beiträge zur Entwicklungsgesch. des griech. Gerichtsverfahrens und des griech. Rechtes*, Leipzig, 1896.

Public law: **G. Perrot**, *Essai sur le droit public et privé de la république athénienne*, Paris, 1867; and the handbooks on *Alterthümer* by **G. F. Schömann** (Berlin, 1861–63), **C. F. Hermann** (Freiburg i. B., 1882–84), **G. Gilbert** (Leipzig, 1881–85), **G. Busolt** (Munich, 1893); **Coleman Phillipson**, *The International Law and Custom of Ancient Greece and Rome*, London, 1911.

Private law: **L. Beauchet**, *Histoire du droit privé de la république athénienne*, Paris, 1896; **J. Partsch**, *Griech. Bürgschaftsrecht*, Leipzig, 1909; **E. Caillemer**, *Le Droit de succession légitime à Athènes*, Paris and Caen, 1879, and several important articles on sale, lease, etc.

Criminal law: **J. J. Thonissen**, *Le Droit pénal de la république athénienne*, Paris, 1876; **G. Glotz**, *La Solidarité de la famille dans le droit criminel en Grèce*, do. 1904.

The law of the Hellenistic period: there are many notes on particular questions in the various editions of Egyptian papyri —*e.g.*, **J. P. Mahaffy** and **B. F. Grenfell**, *The Revenue Laws of Ptolemy Philadelphus*, Oxford, 1896; **B. P. Grenfell**, *Oxyrynchus Papyri*, London, 1907; **B. P. Grenfell** and **A. S. Hunt**, *Tebtunis Papyri*, do. 1907; **M. Rostowzew**, *Studien zur Gesch. des röm. Kolonates*, Leipzig, 1910; **S. Waszynski**, *Die Bodenpacht*, Leipzig and Berlin, 1905; **L. Mitteis**, *Reichsrecht und Volksrecht*, Leipzig, 1891; **Mitteis** and **Wilcken**, *Grundzüge der Papyruskunde*, Juristischer Teil, Leipzig and Berlin, 1912; *Dikaiomata*, ed. Græca Halensis, Berlin, 1913.

Most valuable contributions on various questions of law are to be found in the great Encyclopædias of Pauly-Wissowa and Daremberg-Saglio; cf. **W. Smith's** *Dictionary of Greek and Roman Antiquities*[3], London, 1890–91.

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LAW (Hindu).—Law in India is closely connected with religion. Thus the so-called Code of Manu contains a great deal more about *āchāra*, 'established practices,' *i.e.* observances of caste, domestic ceremonies, funeral rites, oblations to the *manes* and to the gods, rules of diet, and other religious questions, including purely religious and philosophical discussions, than on the subject of secular laws (see CUSTOM [Hindu]). Hence, after an exordium in the first book on the creation of the world, the four stages in the life of a Brāhman form the principal if not the only subject treated in the 2nd to the 6th book. The 7th book contains the rules of government, including the art of war. The 8th book—the longest of all, it is true—and the 9th are the only ones which deal with law in the proper sense of the word (*vyavahāra*). The last three books (10–12) treat of the duties of the various castes, of penances, and of transmigration. The legal portion of the Code does not amount to more than one-fourth of the whole. Nor do the other law-books (*Dharmaśāstras*) differ from Manu in this respect; most of the Codes do not deal at all with positive law, but confine their attention to penances, purification, and other religious topics. Forensic law is arranged under 18 heads in the Code of Manu (viii. 4–7), viz. non-payment of debt, deposit and pledge, sale without ownership, concerns among partners, resumption of gifts, non-payment of wages, non-performance of agreements, rescission of sale and purchase, disputes between the owner of cattle and his servants, disputes regarding boundaries, assault, defamation, robbery and violence, adultery, duties of man and wife, partition of inheritance, gambling and betting. The *Dharmaśāstra* of Nārada divides the 18 titles into 132 branches. Thus, *e.g.*, the first title, the law of debt, is said to consist of the following 25 divisions: (1) which debts have to be paid, and which not; (2) debts; (3) property; (4) subsistence of a Brāhman in times of distress; (5) modes of proof; (6) lending money at interest; (7) usurers; (8) sureties; (9) pledges; (10) documents; (11) incompetent witnesses; (12) witnesses for the plaintiff; (13) witnesses for the defendant; (14) where no witnesses are required; (15) validity of testimony; (16) false witnesses; (17) exhorting the witnesses; (18) valid evidence; (19) invalid evidence; (20) proceedings on failure of both documents and witnesses; (21) ordeal by balance; (22) ordeal by fire; (23) ordeal by water; (24) ordeal by poison; (25) ordeal by sacred libation. It appears that the law of evidence and judicial procedure, including ordeals, in general is here mixed up with the law of debt, pointing thus to the special importance of debt which may be considered the principal reason for going to law in a primitive state of society. A creditor is, however, allowed to recover a debt from his debtor privately, by force or by fraud. The rate of interest is extremely high; it is generally paid in kind.

As regards deposits, we can understand that the insecurity of property led to the entrusting of valuable articles for safety to the keeping of others. The habit of concealing such articles somewhere accounts for the prominence of the subject of treasure-trove in the Indian law-books (see TREASURE-TROVE [Hindu]). All purchases and sales are to be effected in open market, secrecy being considered a sign of dishonesty. The public fixing of market rates and the enforcement of them correspond to modern practice. When a man repents of a bargain, he is at liberty to annul it within ten days. The rules regarding concerns among partners refer, particularly, to societies of priests; and by 'gifts' are meant, in the first place, religious gifts to Brāhmans (see GIFTS [Hindu]). A herdsman is to receive a tenth part of the milk of his cows in place of wages. The detailed rules regarding the boundaries of fields

show that the arable land was already held in severalty.

In the family laws, the institution of marriage is improved by prohibiting purchase of a wife, and declaring a contract of marriage, if once concluded, to be irrevocable. Nevertheless, the position of women is one of absolute inferiority to the male sex. Thus a wife is liable to be chastised by her husband; and, even when he is unfaithful to her, she must worship him like a god. A woman is declared to be never fit for independence, and has to live under the perpetual tutelage of her father, husband, and sons. Polygamy is allowed, and seems to have been very common in rich and noble families. Infant-marriage is recommended, and the re-marriage of widows prohibited or discouraged. As regards proprietary right (*strīdhana*), women are said to be incapable of holding any property (except their *strīdhana*, or peculiar property); nor can they inherit, under the early law of succession at least, which was subsequently modified so as to let the widow in as an heir, with certain restrictions, on failure of male posterity. All family property is supposed to be held in common by a sort of joint ownership (joint family), the father or manager being regarded as a head partner. The family members are kept together by the sacred oblations offered in common by its living head to its deceased members (see INHERITANCE [Hindu]). After the father's death the sons divide his property equally, or with a specific deduction for the eldest son; or the eldest succeeds to the whole estate, the others living under him as under their father. Twelve different kinds of sonship are recognized, each of the secondary sons succeeding in default of his superior in rank, whilst the real legitimate son excludes them all from inheriting. The passages in the law-books extolling the possession of a son for spiritual purposes, as saving his father from hell, generally relate to the real legitimate son. The gross usages relating to the affiliation of the subsidiary sons were discouraged by the legal writers, and no doubt the existence of these usages throws an unfavourable light on the constitution of the family in ancient India. Thus there is the *kṣetraja*, or son begotten by levirate (*niyoga*); the *gūdhaja*, or secretly born son of an adulterous wife; the *sahoḍha*, or son of the pregnant bride; the *kānīna*, or unmarried damsel's son; the *krīta*, or purchased son; the *apaviddha*, or deserted son. The more recent writers do not acknowledge as legitimate in the present age of sin (*Kaliyuga*) any but the true son, procreated in lawful marriage (*aurasa*), and the adopted son (*dattaka*) (see ADOPTION [Hindu]). There is diversity of opinion as to whether a widow may be allowed to adopt, with the assent of her husband given shortly before his death, this being the only case in which a sort of testamentary power of the owner of property is recognized. A father may, indeed, distribute his property among his sons during his lifetime; but, in doing so, he can exercise discretion only as to his self-acquired property, the ancestral property being held by father and sons in common, according to the joint-family principle.

Passing to criminal law, we find the suppression of crime recognized as a sovereign and a sacred function. There are hardly any survivals left of the right of private war and of the *wergild* (see BLOOD-FEUD [Hindu]). The removal of thorny weeds (*kaṇṭakaśodhana*), *i.e.* the suppression of criminals, is regarded as one of the principal duties of a ruler. Legal offences are also moral sins, and kings, by punishing the wicked and protecting the virtuous, obtain their own absolution. Punishment is personified as a god (see CRIMES AND PUNISHMENTS [Hindu]). A king in whose dominions there are no thieves, adulterers, calumniators, robbers, murderers, (after death) attains the world of Indra. Abuse, assault, theft, violence, including manslaughter and robbery, and sexual crimes, such as adultery, rape, seduction, and forbidden intercourse, are regarded as the five principal crimes. Theft and robbery seem to obtain special attention. A thief appearing before the king with flying hair, holding a club in his hand, and proclaiming his deed, is purified of his guilt, whether he be slain or pardoned; but, if the king does not strike, the guilt falls on him. Cattle-lifting appears to have been specially common, and the village to which the robbers were tracked was made answerable. The principle thus laid down has remained an effective part of the law down to our day, and elaborate rules are still in force in Kāthiāwār for following up the track from village to village, the Talukdar of the last being held primarily responsible. Stolen property in general must be restored by a king to its owner, according to Manu; and a ruler is even bound to make good the loss occasioned by his negligence. The king is required to cause taverns, shops, festive assemblies, old gardens, forests, and other places of retreat to be guarded by companies of soldiers, in order to keep away thieves, and to find out thieves with the aid of clever reformed thieves, and destroy them. The notion of theft and robbery is extended very far, so as to include cheating of every sort, forgery, bribery, jugglery, dishonest dealing in judicial proceedings, false gambling, etc. To steal gold belonging to a Brāhman is regarded as particularly punishable; but it is in the law of abuse and assault, of homicide, and of adultery, that the gradation of punishments according to the caste of the offender and of the offended comes out most clearly. Thus a low-caste man must suffer death for an intrigue with a guarded Brāhman woman, as a safeguard of caste purity, whereas adultery with a woman of inferior caste is punishable only with a fine. Fines are inflicted equally on Kṣatriyas and Vaiśyas who defame one of a higher caste, while the Śūdra offender incurs corporal punishment. Fines are the most common form of punishment, but there are many other forms (see CRIMES AND PUNISHMENTS [Hindu]). Barbarous cruelty, the prevalence of the *lex talionis*, and want of system characterize the Indian as well as other primitive codes. Death is prescribed by Manu for aggravated theft, for harbouring robbers, swindling, and kidnapping, for certain cases of adultery and insult—in short, for a great many more crimes than under more balanced systems. Death by torture was the punishment of a dishonest goldsmith, and mutilation that of the destroyer of a boundary-mark—which shows how great was the alarm at their offences. When we find that a red-hot iron spike ten fingers long is to be thrust into the mouth of a low-born wretch for reviling a Brāhman, we are reminded that the composers of these law-books were Brāhmans. Although the judges, like the jurists, were generally Brāhmans, it appears doubtful whether the privileges claimed by the sacerdotal class and incorporated with legal rules were actually accorded to them. Many of their rules belong to the moral sphere, and go beyond what we recognize as the proper province of the penal law. Excessive drinking is punished as a crime in itself, not only as a breach of public order. Gambling is viewed in the same light. There are rules for securing chastity and sexual purity. Hospitality is considered a duty to be enforced by law in certain cases. The practice of magic rites and incantations meant to destroy life is punishable by a fine. Every one must be strictly kept to the employment of his own caste. Matrimonial duties and family relations are elaborately regu-

lated. The proper province of moral obligations and delinquencies, however, is the ecclesiastical law, with its long lists of offences and religious penances and austerities (see EXPIATION AND ATONEMENT [Hindu]). Punishment and penance may be combined, as when the slayer of a milch-cow or of a bull (these being sacred animals) has to pay a fine first and do penance afterwards, or when, in cases of sexual criminality, the king inflicts punishment and the sin committed is expiated by a penance. Should an offender fail to perform the penance prescribed for his offence, he is at once expelled from his caste by the ceremony of *ghaṭasphoṭa*, 'the breaking of the water-pot'—a ceremony which is performed down to the present day in such cases. Punishment by itself is also supposed to have a purifying effect, as in the above-mentioned case of a thief who appears before the king of his own accord and is struck down by him.

Judicial procedure is simple and patriarchal. It presents the open court method of investigating accusations for crime, the king, attended by learned Brāhmans, entering his court of justice every morning, and there, after having seated himself on the judgment-seat and having worshipped the gods, undertaking the trial of the causes brought before him. The king has to fast for one whole day if a criminal deserving punishment is allowed to go free, and for three days if an innocent man is punished. The more recent law-books mention a number of other members of a court of justice besides the king—the king's domestic priest, his chief judge, who may also represent him if absent, his ministers of State, the assessors of the court, who are required to state their opinion of the case unreservedly and in accordance with the dictates of justice, the accountant, the scribe, the beadle. Gold and fire are used in the administration of oaths and ordeals, and water for refreshment. In giving a decision, the king must attend to local usage, written law, and the practice of the virtuous, if not opposed to local, family, or caste usages. Villages, tribes, and castes have also tribunals of their own, corresponding to the modern Pañchāyats; but from these an appeal to the king is possible. There is no essential difference between the trial of civil and criminal suits, except perhaps that the character and other qualifications of a reliable witness are not examined so strictly in criminal cases as in civil ones, and that the defendant in a criminal case cannot be represented by a substitute. The litigants must always be heard in person, and the king or the judge watches their countenances and their conduct carefully. Witnesses are watched in the same way, the depositions of witnesses being regarded as the most important part of the evidence. Certain persons are not admissible as witnesses on account of their personal relations with the litigant parties, or on account of age, dignity, sex, devotion to religion, moral or personal defects. There are also some provisions as to the number of witnesses, as that there shall not be less than three. In the event of a conflict of testimony, that of the majority generally prevails. The witnesses are solemnly adjured to speak the truth; and, if they should happen to meet with a calamity within seven days after making their deposition, this is held to prove its falsehood. Perjured witnesses are severely punished, and have to endure fearful pangs in a future existence, and destroy their own relatives through their wickedness. Perjury, however, is tolerated where an accused person may be saved from death by it.

The later law-books give special prominence to documents, and make written prevail over oral evidence, the plaint and the answer of the defendant having, likewise, to be stated in writing. The trial is to be conducted discreetly and skilfully, for liars may have the appearance of veracious men and veracious men may resemble liars, or documents may be forged. If human proof should fail, divine test is to be resorted to, of which there are many kinds, such as the water and fire ordeals, the ordeal by poison, the ordeal by hot metal (a gold coin has to be taken out of a vessel filled with boiling oil and butter), the ordeal by drawing lots, and the ordeal by sacred libation. The deities are invoked to supervise these proceedings, and are believed to establish the innocence or guilt of the accused. In less important cases, oaths are to be administered, the accused swearing by the head or feet of a Brāhman, or of his wife or son, or of an idol, and his innocence being established if within a certain period he should not meet with an extraordinary calamity, such as an illness, or the loss of a son or of his fortune. The custom of performing ordeals has survived down to very modern times; and oaths by an idol, a Brāhman, etc., are even now in vogue, an accident happening to the person afterwards being considered to prove his guilt. The decision of the judge in a suit is to be stated in writing, and a copy of it is to be handed to the victorious party. 'When lawsuits are decided properly, the members of the court are cleared from guilt. But where justice, wounded by injustice, approaches, and the judges do not extract the dart, then they also are wounded by that dart of injustice' (Nārada, p. 17; Manu, viii. 12).

The sources of the sacred law, according to Manu (ii. 6, 12), consist of the whole Veda, the *Smṛti*, or tradition, the customs of holy men, and self-satisfaction (where there is no other guide). The four Vedas, together with auxiliary literature, all of which is believed to be eternal and inspired, are confined to the consideration of religious rites, and contain very little about secular law, though they are considered the fountainhead of the whole law. *Dharmaśāstras* or *Smṛtis* are the real sources of law from a legal point of view. The term *Smṛti* means literally 'recollection,' and is used to denote a work or the whole body of Sanskrit works in which the sages of antiquity set down their recollections of the divine precepts regarding the duty of man. In reality, the earliest law-books were composed in and for the Brāhmanical schools studying the various parts of the Veda, and have been preserved as portions of the manuals of Vedic lore used in those schools, or as independent works. Such compositions are the *Dharmaśāstras* or *Dharmasūtras* of Āpastamba, Baudhāyana, Gautama, Vasiṣṭha, Viṣṇu, and some others. They are composed in the aphoristic Sūtra style, either entirely in prose or, more usually, in mixed prose and verse. Some of these works are supposed to have been written in the 5th or 6th cent. B.C., or even earlier, but they may have undergone many changes since then. Their contents are mainly religious, but the positive law is also treated in them, and they are very useful for tracing the gradual development of legal institutions in India.

From these aphoristic treatises we pass to the versified works, composed in the *śloka* metre, such as the celebrated Code of Manu, the Magna Charta of Brāhmanism; the Code of Yājñavalkya, distinguished for its concise and systematic treatment of the whole law, in three books, on *āchāra*, *i.e.* religious rites and duties, *vyavahāra*, *i.e.* jurisprudence, and *prāyaśchitta*, *i.e.* sins and their atonement; and the Code of Nārada, unique in its being confined to jurisprudence alone, which it treats with great fullness of detail. The opening verses of the Code of Manu narrate how Manu, the descendant of Brahmā, gave the great sages an account of the creation, and afterwards transferred the task of expounding the Institutes of the Sacred Law, which he had learned from Brahmā,

to Bhrgu, one of his ten mind-born sons. There is an ancient proverb that 'all Manu said is medicine,' and another maxim stating that 'a *smṛti* or rule of law that is opposed to the sense of Manu's Institutes is not approved.' The great number of learned Commentaries composed on the Code of Manu, from the 8th or 9th cent. downwards, also testifies to the very particular authority early assigned to this codification of the religious and secular law, which may have originated in the first centuries A.D., if not earlier. There are also many *Smṛtis* which have not been preserved in a separate and complete form, and are known to us only from the passages of law cited in the Sanskrit Commentaries and Digests; but the authenticity of these texts is somewhat doubtful. The mythological poems called *Purāṇas* are also cited a great deal, particularly on the subject of vows, gifts, and other parts of the religious law, though they are said to be inferior in authority to the *Smṛtis*. The Commentaries and systematic works on law, being posterior in time to the *Smṛtis* and *Purāṇas*, have gradually come to supersede them in authority, especially the celebrated *Mitākṣarā*, a Commentary on the *Smṛti* of Yājñavalkya composed by the ascetic Vijñāneśvara, *c.* A.D. 1100, at Kalyāṇapura, in the Deccan. The *Smṛtichandrikā* of Devaṇṇa-bhaṭṭa, the *Sarasvatīvilāsa* of king Rudradeva, the *Vīramitrodaya* of Mitramiśra, the *Mayūkhas* of Nīlakaṇṭha, and other learned compositions are used concurrently with the *Mitākṣarā* in the several provinces; in Bengal alone the *Dāyabhāga* of Jīmūtavāhana has superseded the *Mitākṣarā* as far as the law of inheritance is concerned. Customs which are, like written codes, considered a source of law have to a certain extent been embodied in the codes. Recent collections of customs were instituted by the British Government—*e.g.*, A. Steele, *The Law and Customs of Hindu Castes*, London, 1868; C. L. Tupper, *Punjab Customary Law*, Calcutta, 1881; C. Boulnois and W. H. Rattigan, *Notes on Customary Law as administered in the Courts of the Punjab*, Lahore, 1876.

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LAW (Iranian).—The term *daēna*, the later *dīn*, which is commonly and conveniently translated 'law,' is perhaps the most characteristic and best known term in the Avestic system. It also indicates the religion itself; in fact, in accord with the entire mentality of the ancient Iranians, as of so many other Eastern peoples, there was no distinction between religious and civil law. Another term which may be translated 'law' is *dāta*, and in the Pahlavi treatise, the *Dīnkart*, we read the assertion, *Aīrāno dāṯo dīno Māzdayasno* (*Dīnkart*, ed. Peshotan B. Sanjana, Bombay, 1874 ff., ch. 28), which we may render, 'the Mazdean religion is the law of Irān.' As Geiger remarks, it is highly probable that with the ancient Iranians, as with other Indo-European peoples, the early form of judicial process was the simple one of a village council of elders. His surmise, that in the word *vīcira* (the origin of the modern Persian *vazīr*, or, as we say, 'vizier') we have a Gāthic term for 'judge,' does not seem to be tenable, although *vīcira* certainly bears the meaning of 'deciding.' In the later Avesta the term *ṯkaēsha*, sometimes with the qualificative *dātō-rāza*, 'giving or administrating law' (*Ys.* ix. 10), certainly indicates the judge. In the passage just quoted it is especially applied to Urvākhshaya, the son of Thrita, who is considered apparently as a kind of Iranian Numa. According to Geiger's view, the priestly code, which we know as the *Vendīdād*, represents only that portion of legislation 'in which the priesthood reserved for themselves jurisdiction, or else added ecclesiastical penalties to those of the secular tribunal.' There are distinct traces in the Avesta of blood *vendetta*, and, still more, of *wergild*; indeed, the prescriptions for the latter are fairly full (see *Vend.* iv. 44). Such usages were no doubt pre-Zoroastrian. The legislation contained in the *Vendīdād*, agreeably with the underlying principles of the system, does not make any real distinction between what we should call civil jurisprudence and religious or ritual law. If we accept J. H. Moulton's theory of the Magian element in later Zoroastrianism (*Early Zoroastrianism*, London, 1913, lectures vi., vii.), then the whole ritual legislation must be attributed to this, as he maintains, non-Aryan race. In the code, however, moral, ritual, and civic, even hygienic, crimes and their respective punishments are mingled together. As we should expect from the fundamental and traditional love of truth and hatred of falsehood which, even by the testimony of their Greek foes, always characterized the ancient Iranian people, the highest value is attached to the observance of contracts (*mithra*), and breach of contract is severely condemned, even when towards unbelievers. Contracts are said to be confirmed in six ways—by word of mouth, by hand-grasp, or by the pledging of a sheep, an ox, a man, or a piece of land, respectively (*Vend.* iv. 2 ff.). Crimes of personal violence are carefully graduated according to the seriousness of the injuries done and the number of times committed, the penalties being fixed on a sliding scale of (apparently) scourgings. Capital punishment, curiously enough, is prescribed, not for taking life, but for performing irregularly and without sufficient knowledge certain priestly functions. The ordinary unit, so to speak, of corporal chastisement for all kinds of crimes is *upāzana*, which is generally translated 'stroke' or 'blow' with a horsewhip or scourge. A difficulty arises from the enormous number of these units which are prescribed for certain crimes, rising to hundreds and even thousands, which it would be quite impossible for any human being to bear. As, however, there was apparently a scale of monetary equivalents for corporal chastisements, it may be that these impossible numbers are simply meant as a guide to fix the amount of such wergild. As a matter of fact, far more serious punishments are assigned to what we should consider slight ritual or ceremonial transgression than to crimes of violence. In the opinion of Spiegel and Geiger, these *upāzana* may possibly mean simply blows with an instrument for the slaying of noxious insects and other creatures of the Evil Spirit, whose destruction was supposed to atone for a certain degree of crime.

As the *Vendīdād* was exclusively a priestly code of the Magians, 'it is self-evident why transgressions of religious precepts are most severely punished. If the penalty consisted only in the delivery of slain *khrafstras*, it might of course reach very high sums. It is probable that, quite early, persons could be relieved of their obligation by the payment of money compensation to the priest. The scourge could never have assumed such dimensions without provoking opposition' (Geiger, *Ostīrān. Kultur*, p. 459).

Be this as it may, the system of an equivalent fine in money for successive degrees of corporal punishment seems to have subsisted down to Sasanian times, inasmuch as in the Pahlavi treatise, *Shāyast lā-Shāyast* (lit. 'licet non-licet'), which is the standard text of later Mazdean casuistry, in its comment on the above-quoted 4th Fargard of the *Vendīdād*, the scale of lashes for various degrees of violence, rising from five to two hundred, is given with equivalents in *dirhams*