

Kautilya's *Arthashastra*: Book III, "Concerning Law"

CHAPTER I. DETERMINATION OF FORMS OF AGREEMENT; DETERMINATION OF LEGAL DISPUTES.

IN the cities of Sangrahana, Dronamukha, and Stháníya, and at places where districts meet, three members acquainted with Sacred Law (*dharmasthas*) and three ministers of the king (*amátayas*) shall carry on the administration of Justice.

(Valid and Invalid Transactions.)

They shall hold as void agreements (*vyavahára*) entered into in seclusion, inside the houses, in the dead of night, in forests, in secret, or with fraud.

The proposer and the accessory shall be punished with the first amercement [A fine ranging from 48 to 96 *panas* is called first amercement; from 200 to 500 *panas*, the middlemost; and from 500 to 1,000 *panas* the highest amercement. See Chap. XVII, Book III]; the witnesses (*srotri* = voluntary hearers) shall each be punished with half of the above fine; and accepters shall suffer the loss they may have sustained.

But agreements entered into within the hearing of others, as well as those not otherwise condemnable shall be valid.

Those agreements which relate to the division of inheritance, sealed or unsealed deposits, or marriage; or those in which are concerned women who are either afflicted with disease or who do not stir out; as well as those entered into by persons who are not known to be of unsound mind shall be valid though they might be entered into inside houses.

Transactions relating to robbery, duel, marriage, or the execution of the king's order, as well as agreements entered into by persons who usually do their business during the first part of the night shall be valid though they might be done at night.

With regard to those persons who live most part of their life in forests, whether as merchants, cowherds, hermits, hunters, or spies, their agreements though entered into in forests shall be valid.

If fraudulent agreements, only such shall be valid as are entered into by spies.

Agreements entered into by members of any association among themselves shall be valid though entered into in private.

Such agreements (*i.e.*, those entered into in seclusion, etc.) except as detailed above shall be void.

So also agreements entered into by dependent or unauthorised persons, such as a father's mother, a son, a father having a son, an outcast brother, the youngest brother of a family of undivided interests, a wife having her husband or son, a slave, a hired labourer, any person who is too young or too old to carry on business, a convict (*abhisasta*), a cripple, or an afflicted person, shall not be valid. But it would be otherwise if he were authorised.

Even agreements entered into by an authorised person shall be void if he was at the time (of making the agreements) under provocation, anxiety, or intoxication, or if he was a lunatic or a haunted person.

In all these cases, the proposer, his accessory, and witnesses shall each be punished as specified above.

But such agreements as are entered into in person by any one with others of his own community in suitable place and time are valid provided the circumstances, the nature, the description, and the qualities of the case are credible.

Such agreements with the exception of orders (*Adesa*=probably a bill of exchange) and hypothecations may be binding though entered into by a third person. Thus the determination of the forms of agreement.

(*The Trial.*)

The year, the season, the month, the fortnight (*paksha*), the date, the nature and place of the deed, the amount of the debt as well as the country, the residence, the caste, the *gotra*, the name and occupation of both the plaintiff and the defendant both of whom must be fit to sue and defend (*kritasamarthāvasthayoh*), having been registered first, the statements of the parties shall be taken down in such order as is required by the case. These statements shall then be thoroughly scrutinised.

(*The offence of Parokta.*)

Leaving out the question at issue, either of the parties takes resort to another; his previous statement is not consistent with his subsequent one; he insists on the necessity of considering the opinion of a third person, though it is not worthy of any such consideration; having commenced to answer the question at issue, he breaks off at once, even though he is ordered to continue; he introduces questions other than those specified by himself; he withdraws his own statement; he does not accept what his own witnesses have deposed to; and he holds secret conversation with his witnesses where he ought not to do so.

These constitute the offence of *Parokta*.

(Punishment for Parokta.)

Fine for *parokta* is five times the amount (*paroktadandah panchabandah*).

Fine for self assertion (*svayamvádi* = asserting without evidence) is ten times the amount (*dasabandha*.)

(Payments for Witnesses.)

Fees for witnesses (*purushabhritih*) shall cover 1/8th of the amount (*astánga*). Provision proportional to the amount sued for may also be made for the expenses incurred by witnesses in their journey. The defeated party shall pay these two kinds of costs.

(Countersuits.)

In cases other than duel, robbery, as well as disputes among merchants or trade-guilds, the defendant shall file no countercase against the plaintiff. Nor can there be a countercase for the defendant.

(Adjournments.)

The plaintiff shall ('rejoin') reply soon after the defendant has answered the questions at issue. Else he shall be guilty of *parokta*, for the plaintiff knows the determining factors of the case. But the defendant does not do so. The defendant may be allowed three or seven nights to prepare his defence. If he is not ready with his defence within that time, he shall be punished with a fine ranging from 3 to 12 *panas*. If he does not answer even after three fortnights, he shall be fined for *parokta*, and the plaintiff shall recover out of the defendant's property the amount of the case. But if the plaintiff sues for a mere return of gratitude (*pratyupakarana*), then no (decree shall be passed).

The same punishment shall be meted out to such of the defendants as fail in their defence.

If the plaintiff fails to prove his case, he shall (also) be guilty of *parokta*. If he fails to substantiate his case against a dead or diseased defendant, he shall pay a fine and perform the (funeral) ceremonies of the defendant, as determined by the witnesses. If he proves his case, he may be permitted to take possession of the property hypothecated to him.

But if he is not a *Bráhma*n, he may, on his failure to prove his case, be caused to perform such ceremonials as drive out demons (*rakshoghna rakshitakam*.)

* In virtue of his power to uphold the observance of the respective duties of the four castes and of the four divisions of religious life, and in virtue of his power to guard

against the violation of the *Dharmas*, the king is the fountain of justice (*dharmappravartaka*.)

* Sacred law (*Dharma*), evidence (*Vyavahára*), history (*Charitra*), and edicts of kings (*Rájasásana*) are the four legs of Law. Of these four in order, the later is superior to the one previously named.

* *Dharma* is eternal truth holding its sway over the world; *Vyavahára*, evidence, is in witnesses; *Charitra*, history, is to be found in the tradition (*sangraha*), of the people; and the order of kings is what is called *sásana*.

* As the duty of a king consists in protecting his subjects with justice, its observance leads him to heaven. He who does not protect his people or upsets the social order wields his royal sceptre (*danda*) in vain.

* It is power and power (*danda*) alone which, only when exercised by the king with impartiality and in proportion to guilt either over his son or his enemy, maintains both this world and the next.

* The king who administers justice in accordance with sacred law (*Dharma*), evidence (*vyavahára*), history (*samsthá*) and edicts of kings (*Nyáya*) which is the fourth will be able to conquer the whole world bounded by the four quarters (*Chaturantám mahím*).

* Whenever there is disagreement between history and sacred law or between evidence and sacred law, then the matter shall be settled in accordance with sacred law.

* But whenever sacred law (*sástra*) is in conflict with rational law (*Dharmanyáya*=kings' law), then reason shall be held authoritative; for there the original text (on which the sacred law has been based) is not available.

* Self-assertion (*svayamváda*) on the part of either of the parties has often been found faulty. Examination (*anuyoga*), honesty (*árjava*), evidence (*hetu*) and asseveration by oath (*sapatha*)---these alone can enable a man to win his cause.

* Whenever by means of the deposition of witnesses, the statements of either of the parties are found contradictory, and whenever the cause of either of the parties is found through the king's spies to be false, then the decree shall be passed against that party.

[Thus ends Chapter I, "Determination of forms of Agreement; Determination of Legal Disputes" in Book III, "Concerning Law," of the *Arthasástra* of Kautilya. End of the fifty-eighth chapter from the beginning.]

CHAPTER II. CONCERNING MARRIAGE. THE DUTY OF MARRIAGE, THE PROPERTY OF A WOMAN, AND COMPENSATIONS FOR REMARRIAGE.

MARRIAGE precedes the other calls of life (*vyavahára*.) The giving in marriage of a maiden well-adorned is called *Bráhma*-marriage. The joint-performance of sacred duties (by a man and a woman) is known as *prájápatya* marriage.

(The giving in marriage of a maiden) for a couple of cows is called *Arsha*. (The giving in marriage of a maiden) to an officiating priest in a sacrifice is called *Daiva*. The voluntary union of a maiden with her lover is called *Gándharva*. Giving a maiden after receiving plenty of wealth (*súlka*) is termed *Asura*. The abduction of a maiden is called *Rákshasa*. The abduction of a maiden while she is asleep and in intoxication is called *Paisácha* marriage.

Of these, the first four are ancestral customs of old and are valid on their being approved of by the father. The rest are to be sanctioned by both the father and the mother; for it is they that receive the money (*súlka*) paid by the bridegroom for their daughter. In case of the absence by death of either the father or the mother, the survivor will receive the *súlka*. If both of them are dead, the maiden herself shall receive it. Any kind of marriage is approvable, provided it pleases all those (that are concerned in it.)

(*Property of Women.*)

Means of subsistence (*vritti*) or jewellery (*ábadhya*) constitutes what is called the property of a woman. Means of subsistence valued at above two thousand shall be endowed (on her name). There is no limit to jewellery. It is no guilt for the wife to make use of this property in maintaining her son, her daughter-in-law or herself whenever her absent husband has made no provision for her maintenance. In calamities, disease and famine, in warding off dangers and in charitable acts, the husband, too, may make use of this property. Neither shall there be any complaint against the enjoyment of this property by mutual consent by a couple who have brought forth a twin. Nor shall there be any complaint if this property has been enjoyed for three years by those who are wedded in accordance with the customs of the first four kinds of marriage. But the enjoyment of this property in the cases of *Gándharva* and *Asura* marriages shall be liable to be restored together with interest on it. In the case of such marriages as are called *Rákshasa* and *Paisacha*, the use of this property shall be dealt with as theft. Thus the duty of marriage is dealt with.

On the death of her husband a woman, desirous to lead a pious life, shall at once receive not only her endowment and jewellery (*sthápyábharanam*), but also the balance of *súlka* due to her. If both of these two things are not actually in her possession, though nominally given to her, she shall at once receive both of them together with interest (on their value.) If she is desirous of a second marriage (*kutumbakáma*), she shall be given on the occasion of her remarriage (*nivesakále*) whatever either her father-in-law or her husband or both had given to her. The time at which women can remarry shall be explained in connection with the subject of long sojourn of husbands.

If a widow marries any man other than of her father-in-law's selection (*svasuraprátilo- myenanivishtá*), she shall forfeit whatever had been given to her by her father-in-law and her husband.

The kinsmen (*gnátis*) of a woman shall return to her whatever property of her own she had placed in their custody. Whoever justly takes a woman under his protection shall equally protect her property. No woman shall succeed in her attempt to establish her title to the property of her husband.

If she lives a pious life, she may enjoy it (*dharmakámá bhunjíta*). No woman with a son or sons shall be at liberty to make free use of her own property (*strídhana*); for that property of hers her sons shall receive.

If a woman attempts to take possession of her own property under the plea of maintaining her sons, she shall be made to endow it in their name. If a woman has many male children, then she shall conserve her own property in the same condition as she had received from her husband. Even that property which has been given her with full powers of enjoyment and disposal she shall endow in the name of her sons.

A barren widow who is faithful to the bed of her dead husband may, under the protection of her teacher, enjoy her property as long as she lives: for it is to ward off calamities that women are endowed with property. On her death, her property shall pass into the hands of her kinsmen (*dáyáda*). If the husband is alive and the wife is dead, then her sons and daughters shall divide her property among themselves. If there are no sons, her daughters shall have it. In their absence her husband shall take that amount of money (*súlka*) which he had given her, and her relatives shall retake whatever in the shape of gift or dowry they had presented her. Thus the determination of the property of a woman is dealt with.

(Re-marriage of Males.)

If a woman either brings forth no (live) children, or has no male issue, or is barren, her husband shall wait for eight years, (before marrying another). If she bears only a dead child, he has to wait for ten years. If she brings forth only females, he has to wait for twelve years. Then if he is desirous to have sons, he may marry another. In case of violating this rule, he shall be made to pay her not only *sulka*, her property (*strídhana*) and an adequate monetary compensation (*ádhivedanikamartham*), but also a fine of 24 *panas* to the Government. Having given the necessary amount of *sulka* and property (*strídhana*) even to those women who have not received such things on the occasion of their marriage with him, and also having given his wives the proportionate compensation and an adequate subsistence (*vritti*), he may marry any number of women; for women are created for the sake of sons. If many or all of them are at the same time in menses, he shall lie with that woman among them, whom he married earlier or who has a living son. In case of his concealing the fact of her being in menses or neglecting to lie with any of them after her menses, he shall pay a fine of 96 *panas*. Of women who either have sons or are pious or barren, or bring forth only a dead child or are beyond the age of

menstruation, none shall be associated with against her liking. If a man has no inclination, he may not lie with his wife who is either afflicted with leprosy or is a lunatic. But if a woman is desirous of having sons, she may lie with men suffering from such disease.

* If a husband either is of bad character or is long gone abroad or has become a traitor to his king or is likely to endanger the life of his wife or has fallen from his caste or has lost virility, he may be abandoned by his wife.

[Thus ends Chapter II, "The Duty of Marriage, the Property of a Woman, and Compensation for Remarriage," in Book III, "Concerning Law," of the *Arthasástra* of Kautilya. End of the fifty-ninth chapter from the beginning.]

CHAPTER III. THE DUTY OF A WIFE; MAINTENANCE OF A WOMAN; CRUELTY TO WOMEN; ENMITY BETWEEN HUSBAND AND WIFE; A WIFE'S TRANSGRESSION; HER KINDNESS TO ANOTHER; AND FORBIDDEN TRANSACTIONS.

WOMEN, when twelve years old, attain their majority (*práptavyavahára*) and men when sixteen years old. If after attaining their majority, they prove disobedient to lawful authority (*asusrúsháyám*), women shall be fined 15 panas and men, twice the amount.

(Maintenance of a woman.)

A woman who has a right to claim maintenance for an unlimited period of time shall be given as much food and clothing (*grásacchádana*) as is necessary for her or more than is necessary in proportion to the income of the maintainer (*yatha-purushaparivápam vá*). If the period (for which such things are to be given to her) is limited, then a certain amount of money fixed in proportion to the income of the maintainer shall be given to her; so also if she has not been given her *sulka*, property, and compensation (due to her for allowing her husband to remarry). If after parting with her husband, she places herself under the protection of any one belonging to her father-in-law's family (*svasrakula*), or if she begins to live independently, then her husband shall not be sued for (for her maintenance). Thus the determination of maintenance is dealt with.

(Cruelty to women.)

Women of refractive nature shall be taught manners by using such general expressions as 'Thou, half naked; thou, fully naked; thou, cripple; thou, fatherless; thou, motherless, (*nagne vinagne nyange pitrke matrke vinagne ityanirdesena vinayagrahanam*). Or three beats either with a bamboo-bark or with a rope or with the palm of the hand may be given on her hips. Violation of the above rules shall be liable to half the punishment levied for defamation and criminal hurt. The same kind of punishment shall be meted out to a woman who, moved with jealousy or hatred, shows

cruelty to her husband. Punishments for engaging in sports at the door of, or outside her husband's house shall be as dealt with elsewhere. Thus cruelty to women is dealt with.

(Enmity between husband and wife.)

A woman, who hates her husband, who has passed the period of seven turns of her menses, and who loves another shall immediately return to her husband both the endowment and jewellery she has received from him, and allow him to lie down with another woman. A man, hating his wife, shall allow her to take shelter in the house of a mendicant woman, or of her lawful guardians or of her kinsmen. If a man falsely accuses his wife of adultery with one of her or his kinsmen or with a spy--an accusation which can only be proved by eyewitnesses (*drishtilinge*)--or falsely accuses her of her intention to deprive him of her company, he shall pay a fine of 12 *panas*. A woman, hating her husband, can not dissolve her marriage with him against his will. Nor can a man dissolve his marriage with his wife against her will. But from mutual enmity, divorce may be obtained (*parasparam dveshánmokshah*). If a man, apprehending danger from his wife desires divorce (*mokshamichhet*), he shall return to her whatever she was given (on the occasion of her marriage). If a woman, under the apprehension of danger from her husband, desires divorce, she shall forfeit her claim to her property; marriages contracted in accordance with the customs of the first four kinds of marriages cannot be dissolved.

(Transgression.)

If a woman engages herself in amorous sports, or drinking in the face of an order to the contrary, she shall be fined 3 *panas*. She shall pay a fine of 6 *panas* for going out at day time to sports or to see a woman or spectacles. She shall pay a fine of 12 *panas* if she goes out to see another man or for sports. For the same offences committed at night, the fines shall be doubled. If a woman abducts another woman while the latter is asleep or under intoxication (*suptamatta-pravrajane*), or if she drags her husband as far as the door of the house, she shall be fined 12 *panas*. If a woman leaves her house at night, she shall pay double the above fine. If a man and a woman make signs to each other with a view to sensual enjoyment, or carry on secret conversation (for the same purpose), the woman shall pay a fine of 24 *panas*, and the man, double the amount. A woman, holding out her hair, the tie of her dress round her loins, her teeth or her nails, shall pay the first amercement, and a man, doing the same, twice the first amercement.

For holding conversation in suspicious places, whips may be substituted for fines. In the centre of the village, an outcaste person (*chandála*) may whip such women five times on each of the sides of their body. She may get rid of being whipped by paying a *pana* for each whip (*panikam vá praharam mokshayet*). Thus transgression is dealt with.

(Forbidden transactions.)

With regard to a man and a woman who, though forbidden to carry on any mutual transaction, help each other, the woman shall be fined 12, 24 and 54 *panas* respectively according as the help consists of (i) small things, of (ii) heavy things and (iii) of gold or

gold-coin (*hiranyasuvarṇayoh*); and the man, at double the above rates. With regard to similar transaction between a man and a woman who cannot mix with each other (*agamvayoh*), half of the above punishment shall be levied. Similar punishment shall be meted out for any forbidden transaction with any men. Thus forbidden transactions are dealt with.

* Treason, transgression and wandering at will shall deprive a woman of her claim not only to (i) *strīdhana*, some form of subsistence of above 2,000 *panas* and jewellery, (ii) and *āhita*, compensation she may have obtained for allowing her husband to marry another woman, but also (iii) to *sulka*, money which her parents may have received from her husband.

[Thus ends Chapter III, “The Duty of a Wife; Maintenance of a Woman; Enmity between Husband and Wife; a Wife's Transgression; and Forbidden Transactions” in the section “Concerning Marriage,” in Book III, “Concerning Law” of the *Arthasāstra* of Kautilya. End of the sixtieth chapter from the beginning.]

CHAPTER IV. VAGRANCY, ELOPEMENT AND SHORT AND LONG SOJOURNMENTS.

IF under any other excuse than danger, a woman gets out of her husband's house, she shall be fined 6 *panas*. If she gets out against the order (of her husband) to the contrary, she shall be fined 12 *panas*. If she goes beyond her neighbouring house (*prativesagrihatigatāyah*), she shall be fined 6 *panas*. If she allows into her house her neighbour, takes into her house the alms of any mendicant, or the merchandise of any merchant, she shall be fined 12 *panas*. If she deals as above though expressly forbidden, she shall be punished with the first amercement. If she goes out beyond the surrounding houses (*parigrihātigatāyam*), she shall be fined 24 *panas*. If under any other excuse than danger, she takes into her house the wife of another man, she shall be fined 100 *panas*. But she will not be guilty if the entrance is effected without her knowledge or against her orders to the contrary.

My teacher says:--With a view to avoid danger, it is no offence for women to go to any male person who is a kinsman of her husband, or is a rich and prosperous gentleman (*sukhāvastha*), or is the head-man of the village or is one of her guardians (*anvādhikula*), or who belongs to the family of a mendicant woman, or to any one of her own kinsmen.

But Kautilya questions :--How is it possible for good women (*sādhvījana*) to know at least this fact that the family of her own kinsmen consisting of a number of males is good? It is no offence for women to go to the houses of kinsmen under the circumstances of death, disease, calamities, and confinement of women. Whoever prevents her going under such circumstances, shall be fined 12 *panas*. If a woman conceals herself under such circumstances, she shall forfeit her endowment. If her kinsmen conceal her (with a view to exempt her from giving her aid under such circumstances), they shall lose the

balance of *sulka*, money due to them from her husband for giving her in marriage. Thus vagrancy is dealt with.

(*Elopement or Criminal Rendezvous.*)

If leaving her husband's house, a woman goes to another village, she shall not only pay a fine of 12 *panas*, but also forfeit her endowment and jewels (*sthápyábharanalopascha*). If under any other excuse than receiving her subsistence or pilgrimage (*bharmádánatirthagamanábhyámanyatra*), a woman goes to any other place even in company with an associable man, she shall not only pay a fine of 24 *panas*, but also lose all kinds of social privileges (*sarvadharmalopascha*). But the man who allows such a woman to accompany him in his journey shall be punished with the first amercement. If both of them (man, and woman) have similar ideals in life (*tulyasreyasoh*) and are of sinful life (*pápiyasoh*), each of them shall be punished with the middle-most amercement. If he whom a woman accompanies in her journey is her near relative, he shall not be punished. If a relative allows a woman to accompany him, though he is forbidden, he shall be punished with half the above fine (middlemost amercement). If on a road, or in the middle of a forest, or in any other concealed places a woman falls into the company of any other man, or if, with a view to enjoyment, she accompanies a suspicious or forbidden man, she shall be guilty of elopement (*sangrahanam vidyát*). It is no offence for women to fall into the company of actors, players, singers, fishermen, hunters, herdsmen, vintners, or persons of any other kind who usually travel with their women. If a man takes a woman with him on his journey, though forbidden to do so, or if a woman accompanies a man though she is forbidden to do so, half of the above fines shall be meted out to them. Thus elopement is dealt with.

(*Re-marriage of women.*)

Wives who belong to *Súdra*, *Vaisya*, *Kshatriya* or *Bráhma*n caste, and who have not given birth to children should wait as long as a year for their husbands who have gone abroad for a short time; but if they are such as have given birth to children, they should wait for their absent husbands for more than a year. If they are provided with maintenance, they should wait for twice the period of time just mentioned. If they are not so provided with, their well-to-do *gnátis* should maintain them either for four or eight years. Then the *gnátis* should leave them to marry after taking what had been presented to them on the occasion of their marriages. If the husband is a *Bráhma*n, studying abroad, his wife who has no issue should wait for him for ten years; but if she has given birth to children, she should wait for twelve years. If the husband is of *Kshatriya* caste, his wife should wait for him till her death; but even if she bears children to a *savarna* husband, (*i.e.*, a second husband belonging to the same *gotra* as that of the former husband) with a view to avoid the extinction of her race, she shall not be liable to contempt thereof (*savarnatascha prajátá ná pavádam labheta*). If the wife of an absent husband lacks maintenance and is deserted by well-to-do *gnátis*, she may remarry one whom she likes and who is in a position to maintain her and relieve her misery.

A young wife (*kumári*) who is wedded in accordance with the customs of the first four kinds of marriage (*dharmaviváhát*), and whose husband has gone abroad and is heard of shall wait for him for the period of seven menses (*saptatirthányákánksheta*), provided she has not publicly announced his name; but she shall wait for him a year in case of her having announced the name of her absent husband who is heard of. In the case of a husband who is gone abroad but who is not heard of, his wife shall wait for the period of five menses, but if the absent husband is not heard of, his wife shall wait for him for the period of ten menses. In the case of a husband who is gone abroad and is not heard of, his wife shall, if she has received only a part of *sulka* from him, wait for him for the period of three menses; but if he is heard of, she shall wait for him for the period of seven menses. A young wife who has received the whole amount of *sulka* shall wait for the period of five menses for her absent husband who is not heard of; but if he is heard of, she shall wait for him for the period of ten menses. Then with the permission of judges (*dharmasthairvisrishatá*), she may marry one whom she likes; for neglect of intercourse with wife after her monthly ablution is, in the opinion of Kautilya, a violation of one's duty (*tirthoparodho hi dharmavadha iti Kautilyah*).

In the case of husbands who have long gone abroad (*dirgrhapravásinah*), who have become ascetics, or who have been dead, their wives, having no issue, shall wait for them for the period of seven menses; but if they have given birth to children, they shall wait for a year. Then (each of these women) may marry the brother of her husband. If there are a number of brothers to her lost husband, she shall marry such a one of them as is next in age to her former husband, or as is virtuous and is capable of protecting her, or one who is the youngest and unmarried. If there are no brothers to her lost husband, she may marry one who belongs to the same *gotra* as her husband's or relative. But if there are many such persons as can be selected in marriage, she shall choose one who is a nearer relation of her lost husband.

* If a woman violates the above rule by remarrying one who is not a kinsman (*dáyáda*) of her husband, then the woman and the man who remarry each other, those that have given her in remarriage and those who have given their consent to it shall all be liable to the punishment for elopement.

[Thus ends Chapter IV, "Vagrancy; Elopement; and Short and Long Sojournments," in the section "Concerning Marriage" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the Section "Concerning Marriage". End of the sixty-first chapter from the beginning.]

CHAPTER V. DIVISION OF INHERITANCE.

SONS whose fathers and mothers or ancestors are alive cannot be independent (*anísvarah*). After their time, division of ancestral property among descendants from the same ancestor shall take place, calculating per *sterpes* (according to fathers).

Self-acquired property of any of the sons with the exception of that kind of property which is earned by means of parental property is not divisible. Sons or grandsons till the fourth generation from the first parent shall also have prescribed shares (*amsabhājah*) in that property which is acquired by means of their undivided ancestral property; for the line (*pindah*) as far as the fourth generation is uninterrupted (*avichchinnah*). But those whose line or genealogy from the first ancestor is interrupted (*vichchinnapindāh*, i.e., those who are subsequent to the fourth generation), shall have equal divisions. Those who have been living together shall redivide their property whether they had already divided their ancestral property before or they had received no such property at all. Of sons, he who brings the ancestral property to a prosperous condition shall also have a share of the profit.

If a man has no male issue, his own brothers, or persons who have been living with him, (*saha jivino vā*), shall take possession of his movable property (*dravyam*); and his daughters, (born of marriages other than the first four), shall have his immovable property (*riktham*). If one has sons, they shall have the property; if one has (only) daughters born of such marriage as is contracted in accordance with the customs of any of the first four kinds of marriage, they shall have the property; if there are neither sons nor such daughters, the dead man's father, if living, shall have it; if he, too, is not alive, the dead man's brothers and the sons of his brothers shall have it; if there are many fatherless brothers, all of them shall divide it; and each of the many sons of such brothers shall have one share due to his father (*pitrekamamsam*); if the brothers (*sodarya*) are the sons of many fathers, they shall divide it calculating from their fathers.

Among a dead man's father, brother, and brother's sons, the succeeding ones shall depend on the preceding ones if living (for their shares); likewise the youngest or the eldest claiming his own share.

A father, distributing his property while he is alive, shall make no distinction in dividing it among his sons. Nor shall a father deprive without sufficient reason any of the sons of his share. Father being dead, the elder sons shall show favour to the younger ones, if the latter are not of bad character.

(Time of dividing inheritance.)

Division of inheritance shall be made when all the inheritors have attained their majority. If it is made before, the minors shall have their shares, free of all debts.

These shares of the minors shall be placed in the safe custody of the relatives of their mothers, or of aged gentlemen of the village, till they attain their majority. The same rule shall hold good in the case of those who have gone abroad. Unmarried brothers shall also be paid as much marriage cost as is equal to that incurred in the marriages of married brothers (*sannivishtasamamasannivishtebyonaivesanikam dadyuh*). Daughters, too, (unmarried) shall be paid adequate dowry (*prádānikam*), payable to them on the occasion of their marriages.

Both assets and liabilities shall be equally divided.

My teacher says that poor people (*nishkinchanáh*) shall equally distribute among themselves even the mud-vessels (*udapátram*).

In the opinion of Kautilya, it is unnecessary to say so (*chhalam*); for as a rule, division is to be made of all that is in existence, but of nothing that is not in existence. Having declared before witnesses the amount of property common to all (*sámánya*) as well as the property constituting additional shares (*amsa*) of the brothers (in priority of their birth), division of inheritance shall be carried on. Whatever is badly and unequally divided or is involved in deception, concealment or secret acquisition, shall be redivided.

Property for which no claimant is found (*ádáyádakam*) shall go to the king, except the property of a woman, of a dead man for whom no funeral rites have been performed, or of a niggardly man with the exception of that of a *Bráhma*n learned in the Vedas. That (the property of the learned) shall be made over to those who are well-versed in the three Vedas.

Persons fallen from caste, persons born of outcaste men, and eunuchs shall have no share; likewise idiots, lunatics, the blind and lepers. If the idiots, etc., have wives with property, their issues who are not equally idiots, etc., shall share inheritance. All these persons excepting those that are fallen from caste (*patitavarjah*) shall be entitled to only food and clothing.

* If these persons have been married (before they became fallen, etc.) and if their line is likely to become extinct, their relatives may beget sons for them and give proportional shares of inheritance to those sons.

[Thus ends Chapter V, "Procedure of Portioning Inheritance" in the section of "Division of Inheritance" in Book III, "Concerning law" of the *Arthasástra* of Kautilya. End of the sixty-second chapter from the beginning.]

CHAPTER VI. SPECIAL SHARES IN INHERITANCE.

GOATS shall be the special shares of the eldest of sons, born of the same mother, among, *Bráhmans*; horses among *Kshatriyas*; cows among *Vaisyas*; and sheep among *Súdras*. The blind of the same animals shall be the special shares to the middle-most sons; species of variegated colour of the same animals shall be the special shares to the youngest of sons. In the absence of quadruped, the eldest shall take an additional share of the whole property excepting precious stones; for by this act alone, he will be bound in his duty to his ancestors.

The above method is in accordance with the rules observed among the followers of *Usanas*.

The father being dead, his carriage and jewellery shall be the special share to the eldest; his bed, seat, and bronze plate in which he used to take his meals (*bhuktakámsyam*), to the middle-most; and black grains, iron, domestic utensils, cows and cart to the youngest. The rest of the property, or the above things, too, may be equally divided among themselves. Sisters shall have no claim to inheritance; they shall have the bronze plate and jewellery of their mother after her death. An impotent eldest son shall have only 1/3rd of the special share usually given to the eldest; if the eldest son follows a condemnable occupation or if he has given up the observance of religious duties, he shall have only ¼ of the special share; if he is unrestrained in his actions he shall have nothing.

The same rule shall hold good with the middlemost and youngest sons; of these two, one who is endowed with manliness (*mánushopetah*), shall have half the special share usually given to the eldest.

With regard to sons of many wives:--

Of sons of two wives of whom only one woman has gone through all the necessary religious ceremonials, or both of whom have not, as maidens, observed necessary religious rites, or one of whom has brought forth twins, it is by birth that *primogenitureship* is decided.

Shares in inheritance for such sons as *Súta*, *Mágadha*, *Vrátya* and *Rathakára* shall depend on the abundance of paternal property; the rest, *i.e.*, sons other than *Súta*, etc., of inferior birth, shall be dependent on the eldest for their subsistence. Dependent sons shall have equal divisions.

Of sons begotten by a *Bráhma*n in the four castes, the son of a *Bráhma*n woman shall take four shares; the son of a *Kshatriya* woman three shares; the son of a *Vaisya* woman two shares, and the son of a *Súdra* woman one share.

The same rule shall hold good in the case of *Kshatriya* and *Vaisya* fathers begetting sons in three or two castes in order.

An *Anantara* son of a *Bráhma*n, *i.e.* a son begotten by a *Bráhma*n on a woman of next lower caste, shall, if endowed with manly or superior qualities (*mánushopetah*), take an equal share (with other sons of inferior qualities); similarly *Anantara* sons of *Kshatriya* or *Vaisya* fathers shall if endowed with manly or superior qualities, take half or equal shares (with others). An only son to two mothers of different castes shall take possession of the whole property and maintain the relatives of his father. A *Palrasava* son begotten by a *Bráhma*n on a *Súdra* woman, shall take 1/3rd share; a *sapinda*, (an agnate) or a *kulya* (the nearest cognate), of the *Bráhma*n shall take the remaining two shares, being thereby obliged to offer funeral libation; in the absence of agnates or cognates, the deceased father's teacher or student shall take the two shares.

* Or on the wife of such a *Bráhma*n shall a *sagotra*, relative bearing the same family name, or a (*mátribandha*) relative of his mother, beget a natural son (*kshetraja*), and this son may take that wealth.

[Thus ends Chapter VI, "Special Shares of Inheritance" in the section of "Division of inheritance" in Book III, "Concerning law" of the *Arthasástra* of Kautilya. End of the sixty-third chapter from the beginning.]

CHAPTER VII. DISTINCTION BETWEEN SONS.

MY preceptor says that the seed sown in the field of another shall belong to the owner of that field. Others hold that the mother being only the receptacle for the seed (*mátá bhastrá*), the child must belong to him from whose seed it is born. Kautilya says that it must belong to both the living parents.

The son begotten by a man on his wife who has gone through all the required ceremonials is called *aurasa*, natural son; equal to him is the son of an appointed daughter (*putrikáputra*); the son begotten on a wife by another man, appointed for the purpose, and of the same *gotra* as that of the husband; or of a different *gotra*, is called *kshetraja*; on the death of the begetter, the *kshetraja* son will be the son to both the fathers, follow the *gotras* of both, offer funeral libations to both, and take possession of the immovable property (*riktha*) of both of them; of the same status as the *kshetraja* is he who is secretly begotten in the house of relatives and is called *gúdhaja*, secretly born; the son cast off by his natural parents is called *apaviddha* and will belong to that man who performs necessary religious ceremonials to him; the son born of a maiden (before wedlock) is called *kánína*; the son born of a woman married while carrying is called *sahodha*; the son of a remarried woman (*punarbhátáyáh.*) is called *paunarbhava*. A natural son can claim relationship both with his father and his father's relatives; but a son born to another man can have relationship only with his adopter. Of the same status as the latter is he who is given in adoption with water by both the father and mother and is called *datta*. The son who, either of his own accord or following the intention of his relatives, offers himself to be the son of another, is called *upagata*. He who is appointed as a son is called *kritaka*; and he who is purchased is called *kríta*.

On the birth of a natural son, *savarna* sons shall have 1/3rd of inheritance while *savarna* sons shall have only food and clothing.

Sons begotten by *Bráhmans* or *Kshatriyas* on women of next lower caste (*anantaráputráh*) are called *savarnas*; but on women of castes lower by two grades are called *asavarnas*. (Of such *asavarna* sons), the son begotten by a *Bráhma*n on a *Vaisya* woman is called *Ambashtha*; on a *Súdra* woman is called *Nisháda* or *Párasava*. The son begotten by a *Kshatriya* on a *Súdra* woman is known as *Ugra*; the son begotten by a *Vaisya* on a *Súdra* woman is no other than a *Súdra*. Sons begotten by men of impure life of any of the four castes on women of lower castes next to their own are called *Vrátyas*.

The above kinds of sons are called *anuloma*, sons begotten by men of higher on women of lower castes.

Sons begotten by a *Súdra* on women of higher castes are *Ayogava*, *Kshatta*, and *Chandála*; by a *Vaisya*, *Mágadha*, and *Vaidehaka*; and by a *Kshatriya*, *Súta*. But men of the, names, *Súta* and *Mágadha*, celebrated in the *Puránas*, are quite different and of greater merit than either *Bráhmans* or *Kshatriyas*. The above kinds of sons are *pratiloma*, sons begotten by men of lower on women of higher castes, and originate on account of kings violating all *dharmas*.

The son begotten by an *Ugra* on a *Nisháda* woman is called *kukkuta* and the same is called *Pulkasa*, if begotten in the inverse order. The son begotten by an *Ambhashtha* on a *Vaidehaka* woman is named *Vaina*; the same in the reverse order is called *Kusílava*. An *Ugra* begets on a *Kshatta* woman as *vapáka*. These and other sons are of mixed castes (*Antarálas*).

A *Vainya* becomes a *Rathakára*, chariot-maker, by profession. Members of this caste shall marry among themselves. Both in customs and avocations they shall follow their ancestors. They may either become *Súdras* or embrace any other lower castes excepting *Chandálas*.

The king who guides his subjects in accordance with the above rules will attain to heaven; otherwise he will fall into the hell.

Offsprings of mixed castes (*Antarálas*) shall have equal divisions of inheritance.

* Partition of inheritance shall be made in accordance with the customs prevalent in the country, caste, guild (*sangha*), or the village of the inheritors.

[Thus ends Chapter VII "Distinction between Sons" in the section of "Division of Inheritance" in Book III, "Concerning law" of the *Arthasástra* of Kautilya. End of "Division of Inheritance". End of the sixty-fourth chapter from the beginning.]

CHAPTER VIII. BUILDINGS.

DISPUTES concerning *Vástu* are dependent for settlement on the evidences to be furnished by people living in the neighbourhood.

Houses, fields, gardens, building of any kind (*setubandhah*), lakes and tanks are each called *Vástu*.

The fastening of the roof of a house to the transverse beam by means of iron bolts is called *setu* (*karna-kílaya- sabandho' nugriham setuh*). In conformity to the stability of

the *setu*, houses shall be constructed. Not encroaching upon what belongs to others, new houses may be constructed.

Foundation (*pade bandhah*) shall be 2 *aratnis* by 3 *padas*. Except in the case of temporary structures for the confinement of women for ten days, all permanent houses shall be provided with a dunghill (*avaskara*), water course (*bhrama*), and a well (*udapánum*). Violation of this rule shall be punished with the first amercement.

The same rule shall hold good regarding the necessity of constructing closets, pits and water courses on festive occasions.

From each house a water course of sufficient slope and 3 *padas* or 11 *aratnis* long shall be so constructed that water shall either flow from it in a continuous line or fall from it (into the drain).

Violation of this rule shall be punished with a fine of 54 *panas*.

Beginning with a *pada* or an *aratni*, an apartment measuring 3 *padas* by 4 *padas* shall be made for locating the fire for worship (*agnishtham*), or a waterbutt, (*udanjaram*), or a corn-mill (*rochaním*), or a mortar (*kuttinín*).

Violation of this rule shall be punished with a fine of 24 *panas*.

Between any two houses or between the extended portions of any two houses, the intervening space shall be 4 *padas*, or 3 *padas*. The roofs of adjoining houses may either be 4 *angulas* apart, or one of them may cover the other. The front door (*anidváram*) shall measure a *kishku*; there shall be no impediment inside the house for opening one or the other of the folds of the door. The upper story shall be provided with a small but high window. [If a (neighbouring) house is obstructed by it, the window should be closed.] The owners of houses may construct their houses in any other way they collectively like, but they shall avoid whatever is injurious. With a view to ward off the evil consequences of rain, the top of the roof (*vánalatyaschordhvam*) shall be covered over with a broad mat, not blowable by the wind. Neither shall the roof be such as will easily bend or break. Violation of this rule shall be punished with the first amercement. The same punishment shall be meted out for causing annoyance by constructing doors or windows facing those of others houses except when these houses are separated by the king's road or the high road.

If a pit, steps, water-course, ladder, dung-hill, or, any other parts of a house offer or cause annoyance to outsiders, or in any way obstruct the enjoyment of others (*bhoganigrahe cha*), or cause water to collect and thereby injure the wall of a neighbouring house, the owner shall be punished with a fine of 12 *panas*. If the annoyance is due to feces and urine, the fine shall be double the above. The water-course or gutter shall offer free passage for water; otherwise the fine shall be 12 *panas*.

The same fine (12 *panas*) shall be meted out not only to a tenant who, though asked to evacuate, resides in the house, but also to the owner who forces out a renter who has paid his rent (from his house), unless the renter is involved in such acts as defamation, theft, robbery, abduction, or enjoyment with a false title. He who voluntarily evacuates a house shall pay the balance of the annual rent.

If any one of a party does not take part in the construction of a building which is intended for the common use of all the members of that party or if any one obstructs another member of a party in making use of any part of such a building, he shall be fined 12 *panas*. Similarly if any one mars another's enjoyment of such a building, he shall be fined double the above.

* With the exception of private rooms and parlours, (*angana*) all other open parts of houses as well as apartments where fire is ever kindled for worship or a mortar is situated shall be thrown open for common use.

[Thus ends Chapter VIII, "House-building" in the section of "Buildings" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the sixty-fifth chapter from the beginning.]

CHAPTER IX. SALE OF BUILDINGS, BOUNDARY DISPUTES, DETERMINATION OF BOUNDARIES, AND MISCELLANEOUS HINDRANCES.

RICH persons among kinsmen or neighbours shall in succession go for the purchase of land and other holdings. Neighbours of good family, forty in number and different from the purchasers above mentioned, shall congregate in front of the building for sale and announce it as such. Accurate description of the exact boundaries of fields, gardens, buildings of any kind, lakes or tanks shall be declared before the elders of the village or of the neighbourhood. If, on crying aloud thrice 'Who will purchase this at such and such a price'? no opposition is offered, the purchaser may proceed to purchase the holding in question. If at this time the value of the property is increased by bidding even among persons of the same community, the increased amount together with the toll on the value shall be handed over into the king's treasury. The bidder (*vikrayapratikroshṭá*) shall pay the toll. Bidding for a property in the absence of its owner shall be punished with a fine of 24 *panas*. If the owner does not come forward even on the expiration of seven nights, the bidder may take possession of the property. Sale of building, etc., (*vástu*) to other than the bidder shall be punished with a fine of 200 *panas*; if the property is other than buildings, etc., (*vástu*), the fine for the above offence shall be 24 *panas*. Thus the sale of buildings is dealt with.

(*Boundary disputes.*)

In all disputes regarding the boundary between any two villages, neighbours or elders of five or ten villages (*panchagrámí dasagrámí vá*) shall investigate the case on the evidence to be furnished from natural or artificial boundary marks.

Elders among cultivators and herdsmen, or outsiders who have had the experience of former possession in the place, or one or many persons (not) personally acquainted with the boundary marks under dispute shall first describe the boundary marks, and then, wearing unusual dress (*viparítaveshah*), shall lead the people (to the place). If the boundary marks just described are not found, a fine of 1,000 *panas* shall be imposed (on the misleading or guilty person). If, however, they arrive at the exact spot, the party who have either encroached upon the boundary or have destroyed the boundary marks shall be similarly punished.

The king shall beneficially distribute among others those holdings which have no boundary-marks or which have ceased to be enjoyed by any person.

(Disputes about fields.)

Disputes concerning fields shall be decided by the elders of the neighbourhood or of the village. If they are divided in their opinions, decision shall be sought for from a number of pure and respectable people, or, the disputants may equally divide the disputed holding among themselves. If both of these methods fail, the holding (*vástu*) under dispute shall be taken possession of by the king. The same rule shall hold good in the case of a holding for which no claimant is forthcoming; or it may beneficially be distributed among the people. Occupation of a holding (*vástu*) by force shall be punished as theft.

If a holding is taken possession of by another on some reasonable grounds, he shall be made to pay to the owner some rent, the amount of which is to be fixed after mature considerations of what is necessary for the subsistence of the cultivator of the holding by him.

Encroachment upon boundaries shall be punished with the first amercement. Destruction of boundaries shall be punished with a fine of 24 *panas*. The same rules shall hold good in disputes concerning hermitage in forests, pasture lands, high roads, cremation-grounds, temples, sacrificial places, and places of pilgrimage. Thus the determination of boundaries is dealt with.

(Miscellaneous hindrances.)

All kinds of disputes shall depend for their settlement on the evidence to be furnished by neighbours. Of pasture lands, fields (*kedára*), flower gardens, a threshing-floor (*khala*), houses, and stables of horses (*váhanakoshtha*), hindrance to any one coming first in order shall be removed in preference to the one or more coming later in the series. With the exception of people in forests of *Bráhmans* and of *Soma*-plants, temples, and places of sacrifice and pilgrimage, any person causing, while making use of

a by-path to go to tanks, rivers, or fields, damage to the seeds sown in the fields of others, shall pay as much compensation to the sufferers as is equivalent to the damage.

If the owner of any one of the following, *viz.*, wet-fields, parks, or any kinds of buildings, causes damage to the rest owned by others, the fine shall be double the value of the damage.

The water of a lower tank shall not submerge the field irrigated by a higher tank.

The natural flow of water from a higher to a lower tank shall not be stopped unless the lower tank has ceased to be useful for three consecutive years. Violation of this rule shall be punished with the first amercement. The same punishment shall be meted out for emptying a tank of its water (*tatákavámanam cha*). Buildings of any kind (*setubandha*), neglected for five consecutive years shall be forfeited, except in calamities.

(*Remission of taxes.*)

In the case of construction of new works, such as tanks, lakes, etc., taxes (on the lands below such tanks) shall be remitted for five years (*panchavárshikah parihárah*). For repairing neglected or ruined works of similar nature, taxes shall be remitted for four years. For improving or extending water-works, taxes shall be remitted for three years. In the case of acquiring such newly started works by mortgage or purchase, taxes on the lands below such works shall be remitted for two years. If uncultivated tracts are acquired (for cultivation) by mortgage, purchase or in any other way, remission of taxes shall be for two years. Out of crops grown by irrigation by means of wind power or bullocks (*vátapravartimanandinibandháyatana*) or below tanks, in fields, parks, flower gardens, or in any other way, so much of the produce as would not entail hardship on the cultivators may be given to the Government. Persons who cultivate the lands below tanks, etc., of others at a stipulated price (*prakraya*), or for annual rent (*avakraya*), or for certain number of shares of the crops grown (*bhága*) or persons who are permitted to enjoy such lands free of rent of any kind, shall keep the tanks, etc., in good repair; otherwise they shall be punished with a fine of double the loss.

* Persons, letting out the water of tanks, etc., at any other place than their sluice gate (*apáre*), shall pay a fine of 6 *panas*; and persons who recklessly obstruct the flow of water from the sluice-gate of tanks shall also pay the same fine.

[Thus ends Chapter IX, "Sale of buildings, boundary disputes, determination of boundaries, and miscellaneous hindrances" in the section of "Buildings" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the sixty-sixth chapter from the beginning.]

CHAPTER X. DESTRUCTION OF PASTURE-LANDS, FIELDS AND ROADS, AND NON-PERFORMANCE OF AGREEMENTS.

PERSONS who obstruct, or make any kind of mischief with the flow of water intended for cultivation shall be punished with the first amercement. Construction in the sites belonging to others, of any buildings with a view to attract pilgrims thereto, of abodes of worship (*chaitya*), or of temples of gods; as also the sale or mortgage, or causing the sale or mortgage, of any long continued charitable building (*púrvánuvrittam dharmasetum*) shall be punished with the middlemost amercement. Those who are witnesses to such transactions shall be punished with the highest amercement excepting in the case of neglected or ruined buildings. In the absence of claimants to dilapidated religious buildings, villagers (*grámáh*), or charitable people (*punyasíláva*) may repair them.

(*Blocking the roads.*)

Forms of roads and paths have been dealt with in connection with the construction of forts. (First Chapter, Book II).

Obstruction to roads for inferior beasts or men shall be punished with a fine of 12 *panas*; to roads for superior beasts 24 *panas*; to roads for elephants or to those leading to fields, 54 *panas*; to those leading to any buildings or forests (*setuvanapatham*), 600 *panas*; to those for burial grounds or villages, 200 *panas*; to those for *dronamukha*, a fortress, 500 *panas*; and those leading to *sthániya*, country parts, or pasture grounds, 1,000 *panas*. The same fines shall be meted out in case of ploughing the several roads too deep (*atikarshane chaishám*); and $\frac{1}{4}$ th of the same fines for ploughing merely on their surface.

If a cultivator or a neighbour makes encroachment upon a field during the time of sowing seeds, he shall be fined 12 *panas*, unless the encroachment is due to evils, calamities or intolerable occurrences arising otherwise from the field (*anyatra doshopanipatávisahyebhyah*).

(*Settling in villages.*)

Taxpayers shall sell or mortgage their fields to taxpayers alone; *Bráhmans* shall sell or mortgage their *Brahmadaya* or gifted lands only to those who are endowed with such lands; otherwise they shall be punished with the first amercement. The same punishment shall be meted out to a taxpayer who settles in a village not inhabited by taxpayers. If a taxpayer takes the place of another taxpayer, he shall enjoy all the holdings but the house of the latter. Even the house may be given to the new settler. If a person cultivates an inalienable land of another person who does not cultivate it, such a person shall restore the same after five years enjoyment on taking a certain amount of compensation equivalent to the improvement he made on the lands. Persons who are not taxpayers and who sojourn abroad shall retain the right of ownership (*bhogam*) of their lands.

(*The Head-man of the village.*)

When the head-man of a village has to travel on account of any business of the whole village, the villagers shall by turns accompany him.

Those who cannot do this shall pay $1\frac{1}{2}$ *panas* for every *yojana*. If the headman of a village sends out of the village any person except a thief, or an adulterer, he shall be punished with a fine of 24 *panas*, and the villagers with the first amercement (for doing the same).

Re-entrance into a village for a person previously sent out of it (*nirastasya*), is explained by 'settlement of persons in villages' (treated of above).

At a distance of 800 *angulas* around every village, an enclosure with timber posts shall be constructed.

(Trespassing cattle.)

Pasture lands, plains, and forests may be availed of for grazing cattle.

For camels or buffaloes allowed to stray after grazing in pasture grounds, the fine shall be $\frac{1}{4}$ th of a *pana*; for cows, horses, or asses, $\frac{1}{8}$ th of a *pana*; for inferior quadrupeds $\frac{1}{16}$ th of a *pana*; and for cattle found lying thereon after grazing, fines shall be double the above; for cattle ever found to live in the vicinity of pasture grounds, the fines shall be four times the above.

Bulls, let out in the name of the village deity (*grámadevavrishah*), cows which have not passed ten days inside the enclosure after calving, or bulls or bullocks kept for crossing cows shall not be punished. If crops are eaten away by animals, the owner or owners of them shall, if proved guilty, be made to pay twice as much as the loss. Persons driving their cattle through a field without intimating the owner shall be fined 12 *panas*. Any person who allows his cattle to stray shall be fined 24 *panas*; cowherds doing the same with the cattle under their care shall be fined half the above. The same punishment shall be meted out for letting cattle graze in flower gardens. For breaking the fence of fields, the punishment shall be double the above. If cattle are allowed to stray and eat the grains stored in houses, a threshing floor, or a court yard, the owners of the cattle shall pay adequate compensation. If beasts maintained in reserve-forests are found grazing in a field, they shall be brought to the notice of the forest officers and the beasts shall be driven out without being hurt or killed. Stray cattle shall be driven out by the use of ropes or whips. Persons hurting them in any way shall be liable to the punishment for assault or violence. Persons who invite (cattle to graze in the fields of others) or who are caught while committing such offences shall by all means be put down. Thus the destruction of pasture lands, fields, and roads is dealt with.

(Non-performance of agreement.)

The fine levied on a cultivator who arriving at a village for work, does not work shall be taken by the village itself. He shall refund not only double the amount of the

wages he received promising to work, but also double the value of food and drink with which he has been provided. If the work is one of sacrificial performance (*prahavaneshu*), then also he shall pay double the amount of the wages. Any person who does not cooperate in the work of preparation for a public show, shall, together with his family, forfeit his right to enjoy the show (*prekshá*). If a man who has not cooperated in preparing for a public play or spectacle is found hearing or witnessing it under hiding, or if any one refuses to give his aid in a work beneficial to all, he shall be compelled to pay double the value of the aid due from him. The order of any person attempting to do a work beneficial to all shall be obeyed. Disobedience in such a case shall be punished with a fine of 12 *panas*. If others unitedly beat or hurt such a person so ordering, each of them shall pay double the amount of the fine usually levied for such offence. If among the above offenders one is a *Bráhma*n or a person superior to a *Bráhma*n, he shall first be punished. If a *Bráhma*n does not take part in the combined performance of any sacrifice of his village, he shall not be violated, but may be persuaded to pay a share.

The above rules shall also apply to non-performance of agreements among countries (*desa*), castes, families, and assemblies.

* Those who, with their united efforts construct on roads buildings of any kind (*setubandha*) beneficial to the whole country and who not only adorn their villages, but also keep watch on them shall be shown favourable concessions by the king.

[Thus ends Chapter X "Destruction of pasture lands, fields, and roads," in the section of "Buildings" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya; end of "Buildings"; and of non-performance of agreements.' End of the sixty-seventh chapter from the beginning.]

CHAPTER XI. RECOVERY OF DEBTS.

AN interest of a *pana* and a quarter per month per cent is just. Five *panas* per month per cent is commercial interest (*vyávahárikí*). Ten *panas* per month per cent prevails among forests. Twenty *panas* per month per cent prevails among sea-traders (*sámudránám*). Persons exceeding, or causing to exceed the above rate of interest shall be punished with the first amercement; and hearers of such transactions shall each pay half of the above fine.

The nature of the transactions between creditors and debtors, on which the welfare of the kingdom depends, shall always be scrutinised. Interest in grains in seasons of good harvest shall not exceed more than half when valued in money. Interest on stocks (*prakshepa*) shall be one-half of the profit and be regularly paid as each year expires. If it is allowed to accumulate owing either to the intention or to the absence abroad (of the receiver or payer), the amount payable shall be equal to twice the share or principal (*múlyadvigunah*). A person claiming interest when it is not due, or representing as

principal the total amount of his original principal and the interest thereon shall pay a fine of four times the amount under dispute (*bandhachaturgunah*).

A creditor who sues for four times the amount lent by him shall pay a fine of four times the unjust amount.

Of this fine, the creditor shall pay $\frac{3}{4}$ ths and the debtor $\frac{1}{4}$ th. Interest on debts due from persons who are engaged in sacrifices taking a long time (*dírghasatra*), or who are suffering from disease, or who are detained in the houses of their teachers (for learning), or who are either minors or too poor, shall not accumulate.

A creditor refusing to receive the payment of his debt shall pay a fine of 12 *panas*. If the refusal is due to some (reasonable) cause, then the amount free from interest (for subsequent time) shall be kept in the safe custody of others. Debts neglected for ten years, except in the case of minors, aged persons, diseased persons, persons involved in calamities, or persons who are sojourning abroad or have fled the country and except in the case of disturbances in the kingdom (*rájyavibhrama*), shall not be received back.

Sons of a deceased debtor shall pay the principal with interest (*kusí dam*). (In the absence of sons), kinsmen claiming the share of the dead man or sureties, such as joint partners of the debt, (*sahagráhinah pratibhuvo vá*) shall pay the same. No other kind of surety is valid (*na prátibhavyamanyat*); a minor, as surety, is inefficient (*bálaprátibhavyam asáram* = surety of a minor is not strong).

A debt, the payment of which is not limited by time or place or both (*asamkhyáta-desakálam*), shall be paid by the sons, grandsons or any other heirs of the dead debtor. Any debt, the payment of which is not limited by time or place or both and for which life, marriage, or land is pledged, shall be borne by sons or grandsons.

(Regarding many debts against one.)

Excepting the case of a debtor going abroad, no debtor shall simultaneously be sued for more than one debt by one or two creditors. Even in the case of a debtor going abroad, he shall pay his debts in the order in which he borrowed them or shall first pay his debts due to the king or a learned *Bráhma*n.

Debts contracted from each other by either a husband or wife, either a son or a father, or by any one among brothers of undivided interests shall be irrecoverable.

Cultivators or government servants shall not be caught hold of for debts while they are engaged in their duties (or at work).

A wife, though she has (not) heard of the debt (*pratisrávaní*), shall not be caught hold of for the debt contracted by her husband, excepting in the case of herdsmen and joint cultivators (*gopálakárdhasítikebhayah*). But a husband may be caught for the debt contracted by his wife. If it is admitted that a man fled the country without providing for

the debt contracted by his wife, the highest amercement shall be meted out; if not admitted, witnesses shall be depended upon.

(*Witnesses.*)

It is obligatory to produce three witnesses who are reliable, honest and respected. At least two witnesses acceptable to the parties are necessary; never one witness in the case of debts.

Wife's brothers, copartners, prisoners (*ábaddha*), creditors, debtors, enemies, maintained persons, or persons once punished by the Government shall not be taken as witnesses. Likewise persons legally unfit to carry on transactions, the king, persons learned in the Vedas, persons depending for their maintenance on villages (*grámabhritaka*), lepers, persons suffering from bodily eruptions, outcast persons, persons of mean avocation, the blind, the deaf, the dumb, egotistic persons, females, or government servants shall not be taken as witnesses excepting in the case of transactions in one's own community. In dispute concerning assault, theft, or abduction, persons other than wife's brothers, enemies, and co-partners, can be witnesses. In secret dealings, a single woman or a single man who has stealthily heard or seen them can be a witness, with the exception of the king or an ascetic. On the side of prosecution masters against servants, priests or teachers against their disciples, and parents against their sons can be witnesses (*nigrahanasákshyam kuryuh*); Persons other than these may also be witnesses in criminal cases. If the above persons (masters and servants, etc.) sue each other (*parasparábhiyoge*), they shall be punished with the highest amercement. Creditors guilty of *parokta* shall pay a fine of 10 times the amount (*dasabandha*) but if incapable to pay so much, they shall at least pay five times the amount sued for (*panchabandham*); thus the section on witnesses is dealt with.

(*Taking oaths.*)

Witness shall be taken before *Bráhmans*, vessels of water and fire. A *Bráhman* witness shall be told 'Tell the truth'; a *Kshatriya* or a *Vaisya* witness shall be told thus:-- 'If thou utterest falsehood, thou, do not attain the fruit of thy sacrificial and charitable deeds; but having broken the array of thy enemies in war, thou, do go a beggar with a skull in thy hand.'

A *Súdra* witness thus:-- 'Whatever thy merits are, in thy former birth or after thy death, shall they go to the king and whatever sins the king may have committed, shall they go to thee, if thou utterest falsehood; fines also shall be levied on thee, for facts as they have been heard or seen will certainly be subsequently revealed.'

If in the course of seven nights, witnesses are found to have unanimously made a false consent among themselves, a fine of 12 *panas* shall be levied. If they are thus found in the course of three fortnights, they shall pay the amount sued for (*abhiyogam dadyuh*).

If witnesses differ, judgment may be given in accordance with the statements of a majority of pure and respectable witnesses; or the mean of their statements may be followed; or the amount under dispute may be taken by the king. If witnesses give testimony for a less amount, the plaintiff shall pay a fine proportional to the increased amount; if they attest to a greater amount, the excess shall go to the king. In cases where the plaintiff proves himself stupid, or where bad hearing (on the part of witnesses at the time of the transaction) or bad writing is the cause of difficulty, or where the debtor is dead, the evidence of witnesses alone shall be depended on (*sákshipratyayameva syát*).

"Only," say the followers of *Usanas*, "in those cases where witnesses prove themselves to have been stupid or senseless and where the investigation of the place, time or nature of the transaction is of no avail, the three ameracements shall be levied."

"False witnesses," say the followers of *Manu*, "shall be fined ten times the amount which, no matter whether it is true or false, they cause to be lost."

"If," say the followers of *Brihaspati*, "owing to their having been stupid, they render a case suspicious, they shall be tortured to death."

"No" says *Kautilya*:--It is the truth that witnesses have to hear (when they are called to attest to any transaction); if they have not minded it, they shall be fined 24 *panas*; if they have attested to a false case (without scrutinising), they shall be fined half of the above fine.

* Parties shall themselves produce witnesses who are not far removed either by time or place; witnesses who are very far removed either by time or place; witnesses who are very far, or who will not, stir out, shall be made to present themselves by the order of the judges.

[Thus ends Chapter XI, "Recovery of debts" in Book III, "Concerning Law" of the *Arthasástra* of *Kautilya*. End of the sixty-eighth chapter from the beginning.]

CHAPTER XII. CONCERNING DEPOSITS.

THE rules concerning debts shall also apply to deposits. Whenever forts or country parts are destroyed by enemies or wild tribes; whenever villages, merchants, or herds of cattle are subjected to the inroads of invaders; whenever the kingdom itself is destroyed; whenever extensive fires or floods bring about entire destruction of villages, or partly destroy immovable properties, movable properties having been rescued before; whenever the spread of fire or rush of floods is so sudden that even movable properties could not be removed; or whenever a ship laden with commodities is either sunk or plundered (by pirates); deposits lost in any of the above ways shall not be reclaimed. The depositary who has made use of the deposit for his own comfort shall not only pay a compensation (*bhogavetanam*) to be fixed after considering the circumstances of the place and time but

also a fine of 12 *panas*. Not only shall any loss in the value of the deposit, due to its use, be made good, but a fine of 24 *panas* also be paid. Deposits damaged or lost in any way shall also be made good. When the depositary is either dead or involved in calamities, the deposit shall not be sued for. If the deposit is either mortgaged or sold or lost, the depositary shall not only restore four times its value, but pay a fine of five times the stipulated value (*pancbabandho dandah*). If the deposit is exchanged for a similar one (by the depositary), or lost in any other way, its value shall be paid.

(*Pledges.*)

The same rules shall hold good in the case of pledges whenever they are lost, used up, sold, mortgaged, or misappropriated.

A pledge, if productive, *i.e.* (a usufructory mortgage), shall never be lost to the debtor (*nádhisopakárassidet*), nor shall any interest on the debt be charged; but if unproductive (*i.e.*, hypothecation), it may be lost, and interest on the debt shall accumulate. The pledgee who does not re-convey the pledge when the debtor is ready for it shall be fined 12 *panas*.

In the absence of the creditor or mediator (*prayojahásannidhána*), the amount of the debt may be kept in the custody of the elders of the village and the debtor may have the pledged property redeemed; or with its value fixed at the time and with no interest chargeable for the future, the pledge may be left where it is. When there is any rise in the value of the pledge or when it is apprehended that it may be depreciated or lost in the near future, the pledgee may, with permission from the judges (*dharmasthas*), or on the evidence furnished by the officer in charge of pledges (*ádhipálapratyayo vá*), sell the pledge either in the presence of the debtor or under the presidency of experts who can see whether such apprehension is justified.

An immovable property, pledged and enjoyable with or without labour (*prayásabhogyah phalabhogyová*), shall not be caused to deteriorate in value while yielding interest on the money lent, and profit on the expenses incurred in maintaining it.

The pledgee who enjoys the pledge without permission shall not only pay the net profit he derived from it, but also forfeit the debt. The rules regarding deposits shall hold good in other matters connected with pledges.

(*Property entrusted to another for delivery to a third person.*)

The same rules shall apply to orders (*ádesa*), and property entrusted for delivery to a third person (*anvádhi*).

If, through a merchant, a messenger is entrusted with a property for delivery to a third person (*anvádhihastá*) and such messenger does not reach the destined place, or is robbed of the property by thieves, the merchant shall not be responsible for it; nor shall a kinsman of the messenger who dies on his way be responsible for the property.

For the rest, the rules regarding deposits shall also hold good here.

(Borrowed or hired properties.)

Properties either borrowed (*yáchitakam*) or hired (*avakrítakam*) shall be returned as intact as they were when received. If owing to distance in time or place, or owing to some inherent defects of the properties or to some unforeseen accidents, properties either borrowed or hired are lost or destroyed, they need not be made good. The rules regarding deposits shall also apply here.

(Retail sale.)

Retail dealers, selling the merchandise of others at prices prevailing at particular localities and times shall hand over to the wholesale dealers as much of the sale proceeds and profit as is realised by them. The rules regarding pledges shall also apply here. If owing to distance in time or place there occurs any fall in the value of the merchandise, the retail dealers shall pay the value and profit at that rate which obtained when they received the merchandise.

Servants selling commodities at prices prescribed by their masters shall realise no profit. They shall only return the actual sale proceeds. If prices fall, they shall pay only as much of the sale proceeds as is realised at the low rate.

But such merchants as belong to trade-guilds (*samvyavaharikeshu*) or are trustworthy and are not condemned by the king need not restore even the value of that merchandise which is lost or destroyed owing to its inherent defects or to some unforeseen accidents. But of such merchandise as is distanced by time or place, they shall restore as much value and profit as remains after making allowance for the wear and tear of the merchandise.

For the rest the rules regarding deposits shall apply here. It explains retail sale.

(Sealed deposits.)

The rules laid down concerning unsealed deposits (*upanidhis*) shall apply to sealed deposits also. A man handing over a sealed deposit to other than the real depositor shall be punished. In the case of a depositary's denial of having received a deposit, the antecedent circumstances (*púrvápadánam*) of the deposit and (the character and social position of) the depositor are the only evidences. Artisans (*káravah*) are naturally of impure character. It is not an approved custom with them to deposit for some reliable reason.

When a depositary denies having received a sealed deposit which was not, however, deposited for any reasonable cause, the depositor may obtain secret permission (from the judges) to produce such witnesses as he might have stationed under a wall (*gúdhabhitti*) while depositing.

In the midst of a forest or in the middle of a voyage an old or afflicted merchant might with confidence put in the custody of a depositary some valuable article with certain secret mark, and go on his way. On his sending this information to his son or brother, the latter may ask for the sealed deposit. If the depositary does not quietly return it, he shall not only forfeit his credit, but be liable to the punishment for theft besides being made to restore the deposit.

A reliable man, bent on leaving this world and becoming an ascetic, may place a certain sealed deposit with some secret mark in the custody of a man, and, returning after a number of years, ask for it. If the depositary dishonestly denies it, he shall not only be made to restore it, but be liable to the punishment for theft.

A childish man with a sealed deposit with some secret mark may, while going through a street at night, feel frightened at his being captured by the police for untimely walking, and, placing the deposit in the custody of a man, go on his way. But subsequently put into the jail, he may ask for it. If the depositary dishonestly denies, he shall not only be made to restore it, but be liable to the punishment for theft.

By recognising the sealed deposit in the custody of a man, any one of the depositor's family may probably ask not only for the deposit, but also for information as to the whereabouts of the depositor. If the custodian denies either, he shall be treated as before.

In all these cases, it is of first importance to inquire how the property under dispute came in one's possession, what are the circumstances connected with the various transactions concerning the property and what is the status of the plaintiff in society as to wealth (*arthasámarthyam*).

The above rules shall also apply to all kinds of transaction between any two persons (*mithassamaváyah*).

* Hence before witnesses and with no secrecy whatever, shall all kinds of agreements be entered into; either with one's own or different people, shall the circumstances of the time and place be minutely considered first.

[Thus ends Chapter XII "Concerning Deposits" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the sixty-ninth chapter from the beginning.]

CHAPTER XIII. RULES REGARDING SLAVES AND LABOURERS.

THE selling or mortgaging by kinsmen of the life of a *Súdra* who is not a born slave, and has not attained majority, but is an *Arya* in birth shall be punished with a fine of 12 *panas*; of a *Vaisya*, 24 *panas*; of a *Kshatriya*, 36 *panas*; and of a *Bráhma*n, 48 *panas*. If persons other than kinsmen do the same, they shall be liable to the three ameracements and capital punishment respectively: purchasers and abettors shall likewise be punished. It is

no crime for *Mlechchhas* to sell or mortgage the life of their own offspring. But never shall an Arya be subjected to slavery.

But if in order to tide over family troubles, to find money for fines or court decrees, or to recover the (confiscated) household implements, the life of an Arya is mortgaged, they (his kinsmen) shall as soon as possible redeem him (from bondage); and more so if he is a youth or an adult capable of giving help.

Any person who has once voluntarily enslaved himself shall, if guilty of an offence (*nishpatitah*), be a slave for life. Similarly, any person whose life has been twice mortgaged by others shall, if guilty of an offence, be a slave for life. Both of these two sorts of men shall, if they are once found desirous to run away to foreign countries, be slaves for life.

Deceiving a slave of his money or depriving him of the privileges he can exercise as an Arya (*Aryabhava*), shall be punished with half the fine (levied for enslaving the life of an Arya).

A man who happens to have taken in mortgage the life of a convict, or of a dead or an afflicted man shall be entitled to receive back (from the mortgager) the value he paid for the slave.

Employing a slave to carry the dead or to sweep ordure, urine, or the leavings of food; keeping a slave naked; or hurting or abusing him; or violating (the chastity of) a female slave shall cause the forfeiture of the value paid for him or her. Violation (of the chastity) of nurses, female cooks, or female servants of the class of joint cultivators or of any other description shall at once earn their liberty for them. Violence towards an attendant of high birth shall entitle him to run away. When a master has connection with a nurse or pledged female slave against her will, he shall be punished with the first amercement; a stranger doing the same shall be punished with the middlemost amercement. When a man commits or helps another to commit rape with a girl or a female slave pledged to him, he shall not only forfeit the purchase value, but also pay a certain amount of money (*sulka*) to her and a fine of twice the amount (of *sulka* to the Government).

The offspring of a man who has sold off himself as a slave shall be an Arya. A slave shall be entitled to enjoy not only whatever he has earned without prejudice to his master's work, but also the inheritance he has received from his father.

On paying the value (for which one is enslaved), a slave shall regain his *Aryahood*. The same rule shall apply either to born or pledged slaves.

The ransom necessary for a slave to regain his freedom is equal to what he has been sold for. Any person who has been enslaved for fines or court decrees (*dandapranitah*) shall earn the amount by work. An Arya, made captive in war shall for his freedom pay a

certain amount proportional to the dangerous work done at the time of his capture, or half the amount.

If a slave who is less than eight years old and has no relatives, no matter whether he is born a slave in his master's house, or fell to his master's share of inheritance, or has been purchased or obtained by his master in any other way, is employed in mean avocations against his will or is sold or mortgaged in a foreign land; or if a pregnant female slave is sold or pledged without any provision for her confinement, his or her master shall be punished with the first amercement. The purchaser and abettors shall likewise be punished.

Failure to set a slave at liberty on the receipt of a required amount of ransom shall be punished with a fine of 12 *panas*; putting a slave under confinement for no reason (*samrodhaschákaránát*) shall likewise be punished.

The property of a slave shall pass into the hands of his kinsmen; in the absence of any kinsmen, his master shall take it.

When a child is begotten on a female slave by her master, both the child and its mother shall at once be recognised as free. If for the sake of subsistence, the mother has to remain in her bondage, her brother and sister shall be liberated.

Selling or mortgaging the life of a male or a female slave once liberated shall be punished with a fine of 12 *panas* with the exception of those who enslave themselves. Thus the rules regarding slaves.

(Power of Masters over their hired servants.)

Neighbours shall know the nature of agreement between a master and his servant. The servant shall get the promised wages. As to wages not previously settled the amount shall be fixed in proportion to the work done and the time spent in doing it (*karmakálánurúpam* = at the rate prevailing at the time.) Wages being previously unsettled, a cultivator shall obtain 1/10th of the crops grown, a herdsman 1/10th of the butter clarified, a trader 1/10th of the sale proceeds. Wages previously settled shall be paid and received as agreed upon.

Artisans, musicians, physicians, buffoons, cooks, and other workmen, serving of their own accord, shall obtain as much wages as similar persons employed elsewhere usually get or as much as experts (*kusaláh*) shall fix.

Disputes regarding wages shall be decided on the strength of evidences furnished by witnesses. In the absence of witnesses, the master who has provided his servant with work shall be examined. Failure to pay wages shall be punished with a fine of ten times the amount of wages (*dasabandhah*), or 6 *panas*; misappropriation of wages shall be punished with a fine of 12 *panas* or of five times the amount of the wages (*panchabandho vá*).

Any person who, while he is being carried away by floods, or is caught in a fire, or is in danger from elephants or tigers, is rescued on his promise to offer to his rescuer not only the whole of his property, but also his sons, wife, and himself as slaves, shall pay only as much as will be fixed by experts. This rule shall apply to all cases where help of any kind is rendered to the afflicted.

* A public woman shall surrender her person as agreed upon; but insistence on the observance of any agreement which is ill-considered and improper shall not succeed.

[Thus ends Chapter XIII, "Rules regarding slaves" in the section of "Rules regarding slaves" and the "Right of Masters" in the section of "Rules regarding Labourers" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the seventieth chapter from the beginning.]

CHAPTER XIV. RULES REGARDING LABOURERS; AND CO-OPERATIVE UNDERTAKING.

A servant neglecting or unreasonably putting off work for which he has received wages shall be fined 12 *panas* and be caught-hold of till the work is done. He who is incapable to turn out work, or is engaged to do a mean job, or is suffering from disease, or is involved in calamities shall be shown some concession or allowed to get the work done by a substitute. The loss incurred by his master or employer owing to such delay shall be made good by extra work.

An employer may be at liberty to get the work done by (another) provided there is no such adverse condition that the former shall not employ another servant to execute the work, nor shall the latter go elsewhere for work.

An employer not taking work from his labourer or an employee not doing his employers work shall be fined 12 *panas*. An employee who has received wages to do a certain work which is however, not brought to termination shall not, of his own accord, go elsewhere for work.

My preceptor holds that not taking work on the part of an employer from his employee when the latter is ready, shall be regarded as work done by the labourer.

But *Kautilya* objects to it; for wages are to be paid for work done, but not for work that is not done. If an employer, having caused his labourer to do a part of work, will not cause him to do the rest for which the latter may certainly be ready, then also the unfinished portion of the work has to be regarded as finished. But owing to consideration of changes that have occurred in time and place or owing to bad workmanship of the labourer, the employer may not be pleased with what has already been turned out by the labourer. Also the workman may, if unrestrained, do more than agreed upon and thereby cause loss to the employer.

The same rules shall apply to guilds of workmen (*sanghabhritáh.*)

Guilds of workmen shall have a grace of seven nights over and above the period agreed upon for fulfilling their engagement. Beyond that time they shall find substitutes and get the work completed. Without taking permission from their employer, they shall neither leave out anything undone nor carry away anything with them from the place of work. They shall be fined 24 *panas* for taking away anything and 12 *panas* for leaving out anything undone. Thus the Rules regarding labourers.

Guilds of workmen (*sanghabhritáh*, workmen employed by Companies) as well as those who carry on any cooperative work (*sambhúya samutthátarah*) shall divide their earnings (*vetanam* = wages) either equally or as agreed upon among themselves.

Cultivators or merchants shall, either at the end or in the middle of their cultivation or manufacture, pay to their labourers as much of the latter's share as is proportional to the work done. If the labourers, giving up work in the middle, supply substitutes, they shall be paid their wages in full.

But when commodities are being manufactured, wages shall be paid out according to the amount of work turned out; for such payment does not affect the favourable or unfavourable results on the way (*i.e.*, in the sale of merchandise by peddlars).

A healthy person who deserts his company after work has been begun shall be fined 12 *panas*; for none shall, of his own accord, leave his company. Any person who is found to have neglected his share of work by stealth shall be shown mercy (*abhayam*) for the first time and given a proportional quantity of work anew with promise of proportional share of earnings as well. In case of negligence for a second time or of going elsewhere, he shall be thrown out of the Company (*pravásanam*). If he is guilty of a glaring offence (*maháparádhe*), he shall be treated as the condemned.

(*Co-operation in sacrificial acts.*)

Priests cooperating in a sacrifice shall divide their earnings either equally or as agreed upon excepting what is especially due to each or any of them. If a priest employed in such sacrifices as *Agnishtoma*, etc., dies after the ceremony of consecration, (his claimant) shall get 1/5th of the promised or prescribed present (*dakshiná*); after the ceremony consecrating the purchase of Soma, 1/4th of the present; after the ceremony called *Madhyamopasad*; or *Pravargyodvásana*, 1/3rd of the present; and after the ceremony called *Maya*, 1/2 of the share. If in the sacrifice called *Sutya*, the same thing happens after the ceremony called *Prátassavana*, 3/4ths, of the share shall be paid; after the ceremony called *Madhyandina*, the present shall be paid in full; for by that time the payment of presents shall be over. In every sacrifice except the one called *Brihaspatisavana*, it is usual to pay presents. The same rule shall apply to the presents payable in *Aharganas*, sacrifices so called.

The surviving priests carrying the balance of the present or any other relatives of a dead priest shall perform the funeral ceremony of the dead for ten days and nights.

If the sacrificer himself (he who has instituted the sacrifice) dies, then the remaining priests shall complete the sacrifice and carry away the presents. If a sacrificer sends out any priest before completing the sacrifice, he shall be punished with the first amercement. If a sacrificer sending out a priest happens to be a person who has not kept the sacrificial fire, or to be a preceptor or one who has already performed sacrifices, then the fines shall be 100, 1000, and 1000 *panas* respectively.

* As it is certain that sacrificial merits fall in value when performed in company with a drunkard, the husband of a *Súdra* woman, a murderer of a *Bráhma*n, or one who has violated the chastity of the wife of his preceptor, a receiver of condemnable gifts, or is a thief, or one whose performance of sacrificial acts is condemnable, it is no offence to send out such a priest.

[Thus ends Chapter XIV, "Rules regarding labourers, and Co-operative undertaking" in the section of "Rules regarding slaves and labourers," in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the seventy-first chapter from the beginning.]

CHAPTER XV. RESCISSION OF PURCHASE AND SALE.

A merchant refusing to give his merchandise that he has sold shall be punished with a fine of 12 *panas*, unless the merchandise is naturally bad, or is dangerous, or is intolerable.

That which has inherent defects is termed naturally bad; whatever is liable to be confiscated by the king, or is subject to destruction by thieves, fire, or floods is termed as being dangerous; and whatever is devoid of all good qualities, or is manufactured by the deceased is called intolerable.

Time for rescission of a sale is one night for merchants; 3 nights for cultivators; 5 nights for herdsmen; and with regard to the sale or barter of precious things and articles of mixed qualities (*vivrittivikraye*), 7 nights.

Merchandise which is likely to perish sooner may, if there is no loss to others, be shown the favour of early disposal by prohibiting the sale elsewhere of similar merchandise which is not likely to perish so soon. Violation of this rule shall be punished with a fine of 24 *panas* or 1/10th of the value of the merchandise sold against this rule.

A person who attempts to return an article purchased by him shall if the article is other than what is naturally bad, or is dangerous, or is intolerable, be punished with a fine of 12 *panas*. The same rescission rules that apply to a seller shall apply to the purchaser also.

(*Marriage Contracts*)

[As regards marriages among the three higher castes, rejection of a bride before the rite of *pánigrahana*, clasping of hands, is valid; likewise among the *Súdras*, observing religious rites. Even in the case of a couple that has gone through the rite of *pánigrahana*,] rejection of a bride whose guilt of having lain with another man has been afterwards detected is valid. But never so in the case of brides and bridegrooms of pure character and high family. Any person who has given a girl in marriage without announcing her guilt of having lain with another shall not only be punished with a fine of 96 *panas*, but also be made to return the *sulka* and *strídhana*. Any person receiving a girl in marriage without announcing the blemishes of the bridegroom shall not only pay double the above fine, but also forfeit the *sulka* and *strídhana* (he paid for the bride).

(*Sale of bipeds, etc.*)

Sale of bipeds and quadrupeds as strong, healthy, and clean though they are either unclean or actually suffering from leprosy and other diseases, shall be punished with a fine of 12 *panas*. The time of rescission of sale is three fortnights for quadrupeds and one year for men; for it is possible to know by that time their good or bad condition.

* An assembly convened for the purpose shall, in the matter of rescinding sales or gifts, decide in such a way that neither the giver nor the receiver shall be injured thereby.

[Thus ends Chapter XV, “Rescission of purchase and sale” in Book III, “Concerning Law” of the *Arthasástra* of Kautilya. End of the seventy-second chapter from the beginning.]

CHAPTER XVI. RESUMPTION OF GIFTS, SALE WITHOUT OWNERSHIP AND OWNERSHIP.

RULES concerning recovery of debts shall also apply to resumption of gifts. Invalid gifts shall be kept in the safe custody of some persons. Any person who has given as gift not only his whole property, his sons, and his wife, but also his own life shall bring the same for the consideration of rescissors. Gifts or charitable subscriptions to the wicked or for unworthy purposes, monetary help to such persons as are malevolent or cruel, and promise of sexual enjoyment to the unworthy shall be so settled by rescissors that neither the giver nor the receiver shall be injured thereby.

Those who receive any kind of aid from timid persons, threatening them with legal punishment, defamation, or loss of money, shall be liable to the punishment for theft; and the persons who yield such aids shall likewise be punished.

Co-operation in hurting a person, and showing a haughty attitude towards the king shall be punished with the highest amercement. No son, or heir claiming a dead man's

property shall, against his own will, pay the value of the bail borne by the dead man (*prátibhavyadanda*), the balance of any dowry (*sulkasesha*), or the stakes of gambling; nor shall he fulfill the promise of gifts made by the dead man under the influence of liquor or love. Thus resumption of gifts is dealt with.

(*Sale without ownership.*)

As regards sale without ownership:--On the detection of a lost property in the possession of another person, the owner shall cause the offender to be arrested through the judges of a court. If time or place does not permit this action, the owner himself shall catch hold of the offender and bring him before the judges. The judge shall put the question; how the offender came by the property. If he narrates how he got it, but cannot produce the person who sold it to him, he shall be left off, and shall forfeit the property. But the seller, if produced, shall not only pay the value of the property, but also be liable to the punishment for theft.

If a person with a stolen property in his possession runs away or hides himself till the property is wholly consumed, he shall not only pay the value, but also be liable to the punishment for theft.

After proving his claim to a lost property (*svakaranam kritva*), its owner shall be entitled to take possession of it. On his failure to prove his title to it, he shall be fined 5 times the value of the property, (*panchabandhadandah*), and the property shall be taken by the king.

If the owner takes possession of a lost article without obtaining permission from the court, he shall be punished with the first amercement.

Stolen or lost articles shall, on being detected, be kept in the toll-gate. If no claimant is forthcoming within three fortnights, such articles shall be taken by the king.

He who proved his title to a lost or stolen biped shall pay 5 *panas* towards ransom (before taking possession of it). Likewise the ransom for a single-hoofed animal shall be 4 *panas*; for a cow or a buffalo, 2 *panas*, for minor quadrupeds $\frac{1}{4}$ th of a *pana*; and for articles such as precious stones, superior or inferior raw materials, five per cent of their value.

Whatever of the property of his own subjects the king brings back from the forests and countries of enemies, shall be handed over to its owner. Whatever of the property of citizens robbed by thieves the king cannot recover, shall be made good from his own pocket. If the king is unable to recover such things, he shall either allow any self-elected person (*svayamgráha*) to fetch them, or pay an equivalent ransom to the sufferer. An adventurer may enjoy whatever the king graciously gives him out of the booty he has plundered from an enemy's country, excepting the life of an Arya and the property belonging to gods, *Bráhmans* or ascetics. Thus sale without ownership is dealt with.

(Ownership.)

As to the title of an owner to his property :--The owners who have quitted their country where their property lies shall continue to have their title to it. When the owners other than minors, the aged, those that are afflicted with decease or calamities, those that are sojourning abroad, or those that have deserted their country during national disturbances, neglect for ten years their property which is under the enjoyment of others, they shall forfeit their title to it.

Buildings left for 20 years in the enjoyment of others shall not be reclaimed. But the mere occupation of the buildings of others during the absence of the king by kinsmen, priests, or heretics shall not give them the right of possession. The same shall obtain with regard to open deposits, pledges, treasure trove (*nidhi*), boundary, or any property belonging to kings or priests (*srotriyas*).

Ascetics and heretics shall, without disturbing each other, reside in a large area. A new comer shall, however, be provided with the space occupied by an old resident. If not willing to do so, the old occupier shall be sent out.

The property of hermits, (*vánaprastha*) ascetics (*yati*), or bachelors learning the Vedas (*Brahmachári*) shall on their death be taken by their preceptors, disciples, their brethren (*dharmabhrátri*), or class-mates in succession.

Whenever hermits, etc., have to pay any fines, they may, in the name of the king, perform penance, oblation to gods, fireworship, or the ritual called *Mahákachchhavadhana* for as many nights as the number of *panas* of their fines. Those heretics (*páshandáh*) who have neither gold nor gold-coin shall similarly observe their fasts except in the case of defamation, theft, assault and abduction of women. Under these circumstances, they shall be compelled to undergo punishment.

* The king shall, under penalty of fines, forbid the wilful or improper proceedings of ascetics: for vice overwhelming righteousness will in the long run destroy the ruler himself.

[Thus ends Chapter XVI, "Resumption of gifts, sale without ownership, and ownership" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the seventy-third chapter from the beginning.]

CHAPTER XVII. ROBBERY.

SUDDEN and direct seizure (of person or property) is termed *sáhasa*; fraudulent or indirect seizure (*niranvaye'pavyayanecha*) is theft.

The school of Manu hold that the fine for the direct seizure of precious stones and superior or inferior raw materials shall be equal to their value. It is equal to twice the value of the articles according to the followers of *Usanas*.

But Kautilya holds that it shall be proportional to the gravity of the crime.

In the case of such articles of small value as flowers, fruits, vegetables, roots, turnips, cooked rice, skins, bamboo, and pots (earthenware) the fine shall range from 12 to 24 *panas*; for articles of great value such as iron (*káláyasa*), wood, roping materials, and herds of minor quadrupeds, the fine shall range from 24 to 48 *panas*; and for such articles of still greater value as copper, brass, bronze, glass, ivory and vessels, etc., it shall range from 48 to 96 *panas*. This fine is termed the first amercement.

For the seizure of such as big quadrupeds, men, fields, houses, gold, gold-coins, fine fabrics, etc., the fine shall range from 200 to 500 *panas*, which is termed the middle-most amercement.

My preceptor holds that keeping or causing to keep by force either men or women in prison, or releasing them by force from imprisonment, shall be punished with fines ranging from 500 to 1,000 *panas*. This fine is termed the highest amercement.

He who causes another to commit *sáhasa* after the plans prepared by himself shall be fined twice the value (of the person or property seized). An abettor who employs a hireling to comit *sáhasa* by promising 'I shall pay thee as much gold as thou makest use of,' shall be fined four times the value.

The school of *Brihaspati* are of opinion that if with the promise 'I will pay thee this amount of gold,' an abettor causes another to commit *sáhasa*, the former shall be compelled to pay the promised amount of gold and a fine. But Kautilya holds that if an abettor extenuates his crime by pleading anger, intoxication or loss of sense (*moham*), he shall be punished as described above.

* In all kinds of fines below a hundred *panas*, the king shall take in addition to the fine 8 per cent more as *rúpa* and in fines above hundred, five per cent more; these two kinds of exaction, are just inasmuch as the people are full of sins on the one hand, and kings are naturally misguided on the other.

[Thus ends Chapter XVII, "Robbery" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the seventy-fourth chapter from the beginning.]

CHAPTER XVIII. DEFAMATION.

CALUMNY, contemptuous talk, or intimidation constitutes defamation.

Among abusive expressions relating to the body, habits, learning, occupation, or nationalities, that of calling a deformed man by his right name such as 'the blind', 'the lame', etc. shall be punished with a fine of 3 *panas*; and by false name 6 *panas*. If the blind, the lame, etc., are insulted with such ironical expressions as 'a man of beautiful eyes', 'a man of beautiful teeth', etc. the fine shall be 12 *panas*. Likewise when a person is taunted for leprosy, lunacy, impotency and the like. Abusive expressions in general, no matter whether true, false, or reverse with reference to the abused, shall be punished with fines ranging above 12 *panas*, in the case of persons of equal rank.

If persons abused happen to be of superior rank, the amount of the fines shall be doubled; if of lower rank, it shall be halved. For calumniating the wives of others, the amount of the fines shall be doubled.

If abuse is due to carelessness, intoxication, or loss of sense, etc., the fines shall be halved.

As to the reality of leprosy and lunacy, physicians or neighbours shall be authorities.

As to the reality of impotency, women, the scum of urine, or the low specific gravity of faeces in water (the sinking of faeces in water) shall furnish the necessary evidence.

(Speaking ill of habits.)

If among *Bráhmans*, *Kshatriyas*, *Vaisyas*, *Súdras*, and outcastes (*antávasáyins*), any one of a lower caste abuses the habits of one of a higher caste, the fines imposed shall increase from 3 *panas* upwards (commencing from the lowest caste). If any one of a higher caste abuses one of a lower caste, fines imposed shall decrease from 2 *panas*.

Contemptuous expressions such as 'a bad *Bráhman*' shall also be punished as above.

The same rules shall apply to calumnies regarding learning (*sruta*), the profession of buffoons (*vágjívana*), artisans, or musicians, and relating to nationalities such as *Prájjunaka*, *Gándhára*, etc.

(Intimidation.)

If a person intimidates another by using such expressions as 'I shall render thee thus', the bravado shall be punished with half as much fine as will be levied on him who actually does so.

If a person, being unable to carry his threat into effect, pleads provocation, intoxication, or loss of sense as his excuse, he shall be fined 12 *panas*.

If a person capable to do harm and under the influence of enmity intimidates another, he shall be compelled to give life-long security for the well-being of the intimidated.

* Defamation of one's own nation or village shall be punished with the first amercement; that of one's own caste or assembly with the middlemost; and that of gods or temples (*chaitya*) with the highest amercement.

[Thus ends Chapter XVIII, "Defamation" in Book III, "Concerning Law" of the *Arthasástra* of Kautilya. End of the seventy-fifth chapter from the beginning.]

CHAPTER XIX. ASSAULT.

TOUCHING, striking, or hurting constitutes assault.

When a person touches with hand, mud, ashes or dust the body of another person below the naval, he shall be punished with a fine of 3 *panas*; with some but unclean things, with the leg, or spittle, 6 *panas*; with saliva (*Chhardi*), urine, faeces, etc. 12 *panas*. If the same offence is committed above the navel, the fines shall be doubled; and on the head, quadrupled.

If the same offence is committed on persons of superior rank, the fines shall be twice as much: and on persons of lower rank, half of the above fines. If the same offence is committed on the women of others, the fines shall be doubled.

If the offence is due to carelessness, intoxication, or loss of sense, the fines shall be halved.

For catching hold of a man by his legs, clothes, hands or hair, fines ranging above 6 *panas* shall be imposed. Squeezing, rounding with arms, thrusting, dragging, or sitting over the body of another person shall be punished with the first amercement.

Running away after making a person fall, shall be punished with half of the above fines.

That limb of a *Súdra* with which he strikes a *Bráhma*n shall be cut off.

(*Striking.*)

For striking compensation is to be paid and half of the fines levied for touching. This rule shall also apply to *Chandalas* and other profane persons (committing the same offence). Striking with the hand, shall be punished with fines below 3 *panas*, with the leg twice as much as the above fine; and striking with an instrument so as to cause swellings shall be punished with the first amercement; and striking so as to endanger life shall be punished with the middle-most amercement.

(*Hurting.*)

Causing a bloodless wound with a stick, mud, a stone, an iron bar, or a rope shall be punished with a fine of 24 *panas*. Causing the blood to gush out excepting bad or diseased blood shall be punished with double the fine.

Beating a person almost to death, though without causing blood, breaking the hands, legs, or teeth, tearing off the ear or the nose, or breaking open the flesh of a person except in ulcers or boils shall be punished with the first amercement. Causing hurt in the thigh or the neck, wounding the eye, or hurting so as to impede eating, speaking, or any other bodily movements shall not only be punished with the middlemost amercement, but also be made liable to the payment (to the sufferer) of such compensation as is necessary to cure him.

If time or place does not permit the immediate arrest of an offender, he shall be dealt with as described in Book IV, treating of the measures to suppress the wicked.

Each one of a confederacy of persons who have inflicted hurt on another person shall be punished with double the usual fine.

My preceptor holds that quarrels or assaults of a remote date shall not be complained of.

But Kautilya holds that there shall be no acquittal for an offender.

My preceptor thinks that he who is the first to complain of a quarrel wins inasmuch as it is pain that drives one to law.

But Kautilya objects to it; for whether a complaint is lodged first or last, it is the evidence of witnesses that must be depended upon. In the absence of witnesses, the nature of the hurt and other circumstances connected with the quarrel in question shall be evidences. Sentence of punishment shall be passed the very day that a defendant accused of assault fails to answer the charge made against him.

(Robbery in quarrels.)

A person stealing anything under the tumult of a quarrel shall be fined 10 *panas*. Destruction of articles of small value shall be punished with a fine equal to the value of the articles besides the payment (to the sufferer) of an adequate compensation. Destruction of big things with a compensation equal to the value of the articles and a fine equal to twice the value. In the case of destruction of such things as clothes, gold, gold-coins, and vessels or merchandise, the first amercement together with the value of the articles shall be levied.

Causing damage to a wall of another man's house by knocking shall be fined 3 *panas*; breaking open or demolishing the same shall be fined 6 *panas*, besides the restoration of the wall.

Throwing harmful things inside the house of a man shall be fined 12 *panas*; and throwing such things as endanger the lives of the inmates shall be punished with the first amercement.

For causing pain with sticks, etc., to minor quadrupeds one or two *panas* shall be levied; and for causing blood to the same, the fine shall be doubled. In the case of large quadrupeds, not only double the above fines, but also an adequate compensation necessary to cure the beasts shall be levied.

For cutting off the tender sprouts of fruit-trees, flower-trees or shady trees in the parks near a city, a fine of 6 *panas* shall be imposed; for cutting off the minor branches of the same trees, 12 *panas*; and for cutting off the big branches, 24 *panas* shall be levied. Cutting off the trunks of the same shall be punished with the first amercement; and felling the same shall be punished with the middle-most amercement.

In the case of plants which bear flowers, fruits, or provide shade, half of the above fines shall be levied.

The same fines shall be levied in the case of trees that have grown in places of pilgrimage, forests of hermits, or cremation or burial grounds.

* For similar offences committed in connection with the trees which mark boundaries, or which are worshipped or observed (*chaityeshvákshiteshucha*.) or trees which are grown in the king's forests, double the above fines shall be levied.

[Thus ends Chapter XIX, "Assault" in Book III, "Concerning law" of the *Arthasástra* of Kautilya. End of the seventy-sixth chapter from the beginning.]

CHAPTER XX. GAMBLING AND BETTING AND MISCELLANEOUS OFFENCES.

WITH a view to find out spies or thieves, the Superintendent of gambling shall, under the penalty of a fine of 12 *panas* if played elsewhere, centralise gambling.

My preceptor is of opinion that in complaints regarding gambling, the winner shall be punished with the first amercement and the vanquished with the middle-most amercement; for though not skillful enough to win as ardently desired by him, the vanquished fellow does not tolerate his defeat.

But Kautilya objects to it: for if the punishment for the vanquished were to be doubled, none would complain to the king. Yet gamblers are naturally false players.

The Superintendents of gambling shall, therefore, be honest and supply dice at the rate of a *kákani* of hire per pair. Substitution by tricks of hand of dice other than thus

supplied shall be punished with a fine of 12 *panas*. A false player shall not only be punished with the first amercement and fines leviable for theft and deceit, but also be made to forfeit the stakes he has won.

The Superintendent shall take not only 5 per cent of the stakes won by every winner, and the hire payable for supplying dice and other accessories of diceplay, but also the fee chargeable for supplying water and accommodation, besides the charge for license.

He can at the same time carry on the transactions of sale or mortgage of things. If he does not forbid tricks of hand and other deceitful practices, he shall be punished with twice the amount of the fine (levied from the deceitful gamblers.)

The same rules shall apply to betting and challenging except those in learning and art.

(Miscellaneous offences.)

As regards miscellaneous offences:--

When a person does not return in required place or time the property he has borrowed or hired, or placed in his custody as a deposit, sits under the shade for more than one and a quarter of an hour (*ayāma*) as prescribed, evades under the excuse of being a *Bráhma*n the payment due while passing military stations or crossing rivers, and bawls out or invites others to fight against his neighbours, he shall be punished with a fine of 12 *panas*.

When a person does not hand over the property entrusted to him for delivery to a third person, drags with his hand the wife of his brother, has connection with a public woman kept by another, sells merchandise that is under ill repute, breaks open the sealed door of a house, or causes hurt to any of the forty-house-holders or neighbours, a fine of 48 *panas* shall be imposed.

When a person misappropriates the revenue he collects as the agent of a household, violates by force the chastity of a widow of independent living, when an outcast (*chandála*) person touches an Arya woman, when a person does not run to render help to another in danger, or runs without a cause, and when a person entertains, in dinner dedicated to gods or ancestors Buddhists (*sákya*), *Ajívakas*, *Súdras* and exiled persons, (*pravrajita*) a fine of 100 *panas* shall be imposed.

When an unauthorised person examines (an offender) on oath, executes Government work though not a Government servant, renders minor quadrupeds impotent, or causes abortion to a female slave by medicine, he shall be punished with the first amercement.

When between father and son, husband and wife brother and sister, maternal uncle and nephew or teacher and student, one abandons the other while neither of them is an

apostate; and when a person abandons in the centre of a village another person whom he brought there for his own help, the first amercement shall be levied.

When a person abandons his companion in the midst of a forest, he shall be punished with the middle-most amercement.

When a person threatens and abandons his companion in the midst of a forest, he shall be punished with the highest amercement.

Whenever persons who have started together on some journey abandon one another as above, half of the above fine shall be levied.

When a person keeps or causes to keep another person in illegal confinement, releases a prisoner from prison, keeps or causes another to keep a minor in confinement, he shall be punished with a fine of 1000 *panas*.

The rates of fines shall vary in accordance with the rank of persons concerned and the gravity of the crimes.

Such persons as a pilgrim, an ascetic engaged in penance, a diseased person, any one suffering from hunger, thirst, or fatigue from journey, a villager from country parts, any one that has suffered much from punishment and a money-less pauper shall be shown mercy.

Such transactions as pertain to gods, *Bráhmans*, ascetics, women, minors, aged persons, diseased persons and helpless creatures shall, though not be complained of, be settled by the judges themselves; and in such transactions as the above, excuses due to time, place, or possession shall not be pleaded.

Such persons as are noted for their learning, intelligence, bravery, high birth, or magnificent works shall be honoured.

* Judges shall thus settle disputes free from all kinds of circumvention, with mind unchanged in all moods or circumstances, pleasing and affable to all.

[Thus ends Chapter XX, “Gambling, Betting, and Miscellaneous”, in Book III, “Concerning Law” of the *Arthasástra* of Kautilya. End of the seventy-seventh chapter from the beginning. With this, ends the third Book “Concerning Law” of the *Arthasástra* of Kautilya.]

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